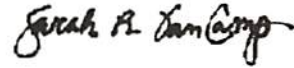


TAX INCREMENT DISTRICT NO. 11
DEVELOPMENT AGREEMENT

Document #: **2230912**
Date: **04-16-2021** Time: **1:20 PM**
Pages: **32** Fee: **\$30.00**
County: **OUTAGAMIE COUNTY** State: **WI**



SARAH R VAN CAMP, REGISTER OF DEEDS
Return via **MAIL (REGULAR)**
APPLETON, CITY OF

Record and return to:
City of Appleton – City Attorney’s Office
100 North Appleton Street
Appleton, WI 54911-4799

Tax Key No: 31-2-0243-00

32

ENVELOPE

This instrument was drafted by:
Christopher R. Behrens, City Attorney
City of Appleton

TAX INCREMENT DISTRICT NO. 11 DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the 24th day of March, 2021, by and among 318 College Ave LLC, a Wisconsin limited liability company ("Developer") and the City of Appleton, a Wisconsin municipal corporation (the "City").

RECITALS

Developer and the City acknowledge the following:

A. Developer owns or will acquire the real property located 318 W. College Avenue, (Parcel 31-2-0243-00) Appleton, WI more particularly described in Exhibit A, attached hereto (hereafter the "Property").

B. The Property is located within the City in Tax Increment District #11 (the "District") which was created in 2017 pursuant to Section 66.1105, Wis. Stats. along with a plan for the redevelopment of the District (the "District Plan") that provides for, among other things, the financial assistance set forth in this Agreement.

C. Subject to obtaining the financial assistance set forth herein, Developer has proposed improvements to the Property to create an approximately one floor of commercial/retail space and four floors consisting of approximately thirty-nine (39) market rate living units offering one, two and three bedrooms with approximate square footage ranging from 750 to 1,460 per unit (the "Project"). All references to the Project include the Property.

D. The City has determined that the Project will spur economic development, expand the City's tax base and create new jobs; that such financial assistance is a Project Cost under the Tax Incremental Law; that the amount of financial assistance provided pursuant to this Agreement is the amount necessary to induce development of the Project; and, that the Project will not proceed without the financial assistance set forth in this Agreement.

E. Subject to obtaining financial assistance as set forth herein, Developer intends to undertake a redevelopment of the property that will increase the value of the Property and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole, consistent with the District Plan. The City finds that this redevelopment of the Property and the fulfillment, generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents and serves a public purpose in accordance with state and local law.

F. The City, pursuant to Common Council Action dated March 17, 2021 has approved this Agreement and authorized the execution of this Agreement by the proper City officers on the City's behalf.

G. The Developer has approved this Agreement and authorized the appropriate officers to execute this Agreement on the Developer's behalf.

H. The base value of the Property for purposes of this Agreement, including calculating increment generated by the Project, is Eight Hundred Twenty-Seven Thousand Dollars (\$827,000). The Developer estimates the project will create up to an additional Seven Million Two Hundred Seventy-Three Thousand Dollars (\$7,273,000) in incremental value.

I. All terms that are capitalized but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals and the promises and undertakings set forth herein, the parties mutually agree and covenant as follows:

ARTICLE I UNDERTAKINGS OF THE DEVELOPER

1.1 Developer's Project shall include improvements to, and development of, the Property as set forth in Exhibit B that will result in an increase in the Property's assessed value. All aspects of the Project shall be in accordance with all applicable City zoning and building codes, ordinances and regulations.

1.2 Project Costs shall include, without limitation, costs incurred after approval of this agreement for the construction of improvements (including infrastructure improvements), environmental remediation costs, demolition, interior remodeling and development of the project.

1.3 Developer warrants and represents to the City that but for the assistance provided by the City under Article II, herein, Developer would not be able to proceed with the Project.

1.4 Developer and City acknowledge that several of the specific undertakings of the parties may require approvals from directors, boards or the City Council as applicable. The parties' agreements are conditioned upon the obtaining of all such approvals in the manner required by law. The parties cannot assure that all such approvals will be obtained; however, they agree to use their best good faith efforts to obtain them on a timely basis.

ARTICLE II UNDERTAKINGS OF THE CITY

2.1 The City shall appropriate sufficient funds for the performance of the City's obligations under this Agreement.

2.2 City shall cooperate with Developer throughout the Project and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances.

2.3 Subject to all of the terms, covenants and conditions of this Agreement and applicable provisions of law, and as an inducement by the City to Developer to carry out the Project, upon completion of the Project (which shall be defined as issuance of occupancy permits for all floors of the Project (hereafter "completion")) the City will provide payments to Developer solely from the future Tax Increments (derived from both real and personal property) to assist with Developer's Project Costs. The City's total payment of Tax Increment Revenue to the Developer shall not exceed the lesser of i) \$1,309,140 or ii) Eighteen percent (18%) of the Tax Increment Value as of January 1, 2023, plus interest thereon (the "Contribution").

The Contribution will be paid to Developer as follows:

2.3.1 As the sole source for payment of the Contribution, the City agrees to pay the Developer an amount equal to ninety percent (90%) of the Tax Increment Revenue attributable to, and actually received from, the Property during the calendar year.

2.3.2 Payments under this Agreement shall be due in annual installments on August 15 of the calendar year following the first tax year after completion of the Project and continuing on each August 15 thereafter for a period of time described in Sec. 4.2

2.3.3 Interest on the Contribution shall begin to accrue upon completion of the Project. The interest rate on the Contribution shall be lesser of 1) the interest rate paid by the Developer to the primary lender for the Project, as evidenced by the note indicating the loan amount; or, 2) five percent (5%).

2.3.4 The Contribution shall be a special and limited obligation of the City and not a general obligation. Payments shall first apply to accrued interest and then to the principal balance of the Contribution. Unpaid interest in any year shall be added to the principal balance of the Contribution and accrue interest. The City may prepay the Contribution, in its sole discretion, at any time, with no prepayment penalty.

2.4 This Agreement fully evidences the City's obligation to pay the Contribution. No separate instrument will be prepared to evidence the City's obligation to pay the Contribution. The Contribution shall not be included in the computation of the City's statutory debt limitation because the Contribution is limited and conditional and no taxes will be levied or pledged for its payment. Nothing in this Agreement shall be deemed to change the nature of the City's obligation from a limited and conditional obligation to a general obligation.

2.5 The City covenants to Developer that until the Contribution plus interest thereon has been paid in full, the City shall not close the District prior to its statutory expiration date.

2.6 The City shall, upon Developer's request, provide to Developer an accounting of the status of the District including, but not limited to, the outstanding principal balance of the Contribution and annual Tax Increments received from the District.

2.7 Developer hereby acknowledges that, as a result of the special and limited nature of the City's obligation to pay the Contribution, Developer's recovery of the full amount of the Contribution depends on factors including, but not limited to, future mill rates, changes in the assessed value of the Property, the failure of the Property to generate the Tax Increments at the rate expected by Developer, reduction in Tax Increments caused by revenue-sharing, changes in the Tax Increment Law, and other factors beyond the City's and/or Developer's control.

ARTICLE III PAYMENT OF TAXES

3.1 As long as the District is in existence, the Property and all buildings and improvements thereon shall be owned and taxable for real estate tax and special assessment purposes. The City may waive any or all of the restrictions upon execution of a payment in lieu of taxes (PILOT) agreement on a form acceptable to the City.

3.2 Throughout the duration of this agreement, all ad valorem property taxes properly assessed against the Property will be paid timely and in full.

3.3 In the event that any property owned by Developer within the District becomes exempt from ad valorem property taxes during the life of the District, then for the remaining life of the District, the Developer will make (or cause to be made) annual payments in lieu of taxes in amounts equal to what the ad valorem property taxes would have been for such other property had it not been exempt. If the Developer conveys the Property within the District to any party (related or unrelated), the terms of such sale shall impose as a covenant upon all successor owners of the property the foregoing obligation for payments in lieu of taxes during the life of the District. The City shall be a beneficiary of such covenant and entitled to enforce same against the successor owners.

ARTICLE IV CONDITIONS TO PAYMENT; TERMINATION OF AGREEMENT

4.1 The City shall have no obligation to pay any portion of the Contribution to Developer unless and until all of the following conditions shall have been met:

4.1.1 The Project's completion on or before December 31, 2022 subject to reasonable extensions, not to exceed six (6) months each, for Force Majeure which shall include, but not be limited to, any delays caused by pandemic or other acts beyond the reasonable control of the Developer. Such extensions shall be by mutual written agreement and, in considering any requested extension, the City and Developer agree that each will act in good faith, cooperate in expeditious and timely approvals, and said extensions shall not be unreasonably withheld, conditioned or delayed by City.

4.1.2 The Property's assessed value is no less than Eight Million One Hundred Thousand Dollars (\$8,100,000) on or after January 1, 2023.

4.2 This Agreement, and the City's obligation to make, or continue, any payments of the Contribution, shall terminate when any of the following shall have occurred:

4.2.1 The conditions in Section 4.1 are not met.

4.2.2 The Contribution is paid in full or August 15, 2039, whichever occurs first.

ARTICLE V CONFLICT OF INTEREST

5.1 No member, officer or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

ARTICLE VI WRITTEN NOTICES

6.1 Any written notice required under this Agreement shall be sent to the following individuals:

FOR THE CITY:

**City of Appleton
Community and Economic Development Department
100 North Appleton Street
Appleton, WI 54911-4799
Attention: Director**

With a copy to:

**City of Appleton
City Attorney's Office
100 North Appleton Street
Appleton, WI 54911-4799
Attn: City Attorney**

FOR DEVELOPER:

**318 College Ave LLC
c/o Matthew Cole
2761 Contour Road
Missoula, MT 59802**

**ARTICLE VII
ASSIGNMENT**

7.1 No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of the other party.

**ARTICLE VIII
NO PARTNERSHIP OR VENTURE**

8.1 Developer and its contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between the City and Developer or any contractor or subcontractor employed by Developer in the construction of the Project.

**ARTICLE IX
MISCELLANEOUS**

9.1 Under no circumstances shall any officer, official, director, member, manager, commissioner, agent, or employee of City or Developer have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

9.2 The laws of the State of Wisconsin shall govern this Agreement.

9.3 This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

9.4 No modification, alteration, or amendment of this Agreement shall be binding upon any party until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement.


9.5 Any captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any of the provisions of this Agreement.

9.6 If any provisions of this Agreement shall be held or deemed to be inoperative or unenforceable as applied in any particular case in any jurisdiction because it conflicts with any other provision or provisions of this Agreement or any constitution or statute or rule of public policy, or for any other reason, then such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. To the maximum extent possible, this Agreement shall be construed in a manner consistent with the powers of the City, including but not limited to, the City's powers under the Blight Elimination and Slum Clearance Law and the Tax Increment Law, to achieve its intended purpose. Reference is made to Section 66.1333(17) of the Wisconsin Statutes and Chapter 105, Laws of 1975 § 4, which provide that the Blight Elimination and Slum Clearance Law and the Tax Increment Law should be construed liberally to effectuate their purposes.


[Signatures on following pages]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF APPLETON:

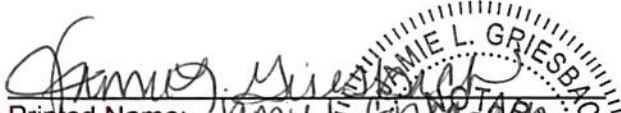

By: 
Jacob A. Woodford, Mayor

ATTEST:


By: 
Kami L. Lynch, City Clerk

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

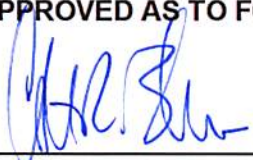
Personally came before me this 8 day of April, 2021, Jacob A. Woodford, Mayor and Kami L. Lynch, City Clerk, of the City of Appleton respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.


Printed Name: JAMIE L. GRIESBACH
Notary Public, State of Wisconsin
My commission expires 11/11/2021


PROVISION HAS BEEN MADE TO PAY FOR OBLIGATIONS INCURRED PURSUANT TO THIS AGREEMENT:


Anthony Saucerman, Finance Director

APPROVED AS TO FORM:


Christopher R. Behrens, City Attorney
Dated: March 18, 2021
By: Christopher R. Behrens
City Law A21-0070

SCHEDULE OF EXHIBITS

- A. Legal Description of Property
- B. Proposed Improvements

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The North 46.17 feet of Lot Ten (10) less the North Ten (10) feet thereof; The East 60 feet of the South 120 feet of Lot Ten (10); and the West 1/2 of Lot Eleven (11) less the North Ten (10) feet thereof; All being in Block 25, APPLETON PLAT, City of Appleton, Outagamie County, Wisconsin, according to the recorded Assessor's Map of said City.

EXHIBIT B

PROPOSED IMPROVEMENTS

The project budget is approximately eight million five hundred thousand (\$8,500,000) plus the building purchase price of one million sixty five thousand (\$1,065,000) for a total of nine million five hundred sixty five thousand (\$9,565,000). This does not include carrying costs.

(Copy of Plans/Design docs follow)

Matthew Cole
318 College Ave LLC
414.477.4979
matthewgiancole@gmail.com

December 1, 2020,

RE: PARK CENTRAL - EXECUTIVE SUMMARY

318 College Ave, LLC (the “Developer”) has been established to undertake the successful purchase, rehabilitation and redevelopment of the Park Central building, located at 318 West College Avenue in downtown Appleton, Wisconsin.

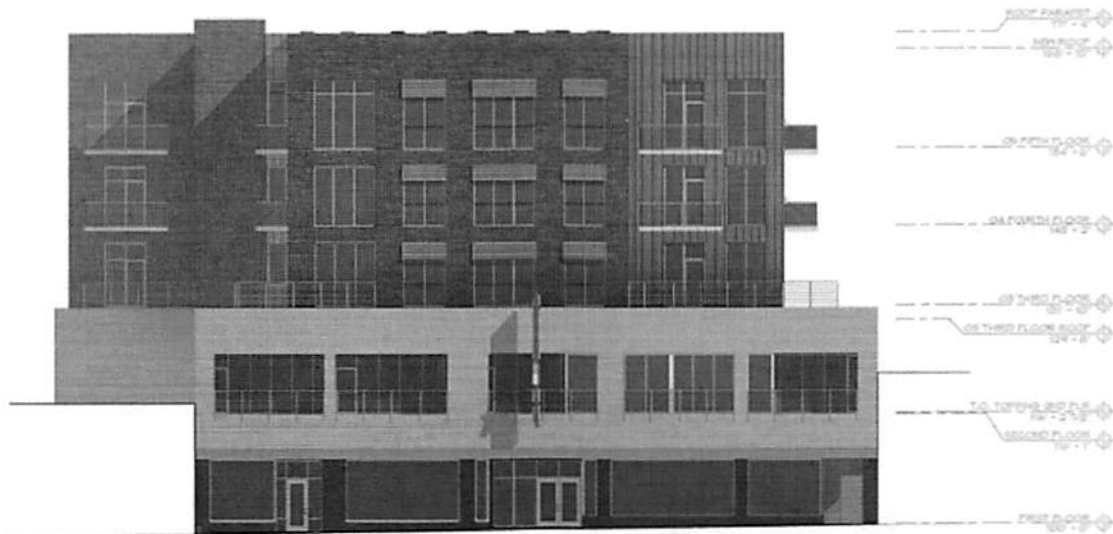
The Developer believes in the City of Appleton’s past and current efforts to attract and retain businesses and residents while improving the community with growth management and capital projects. We intend to serve a current housing need and enhance the community by re-developing this property and holding it as a viable, long term investment.

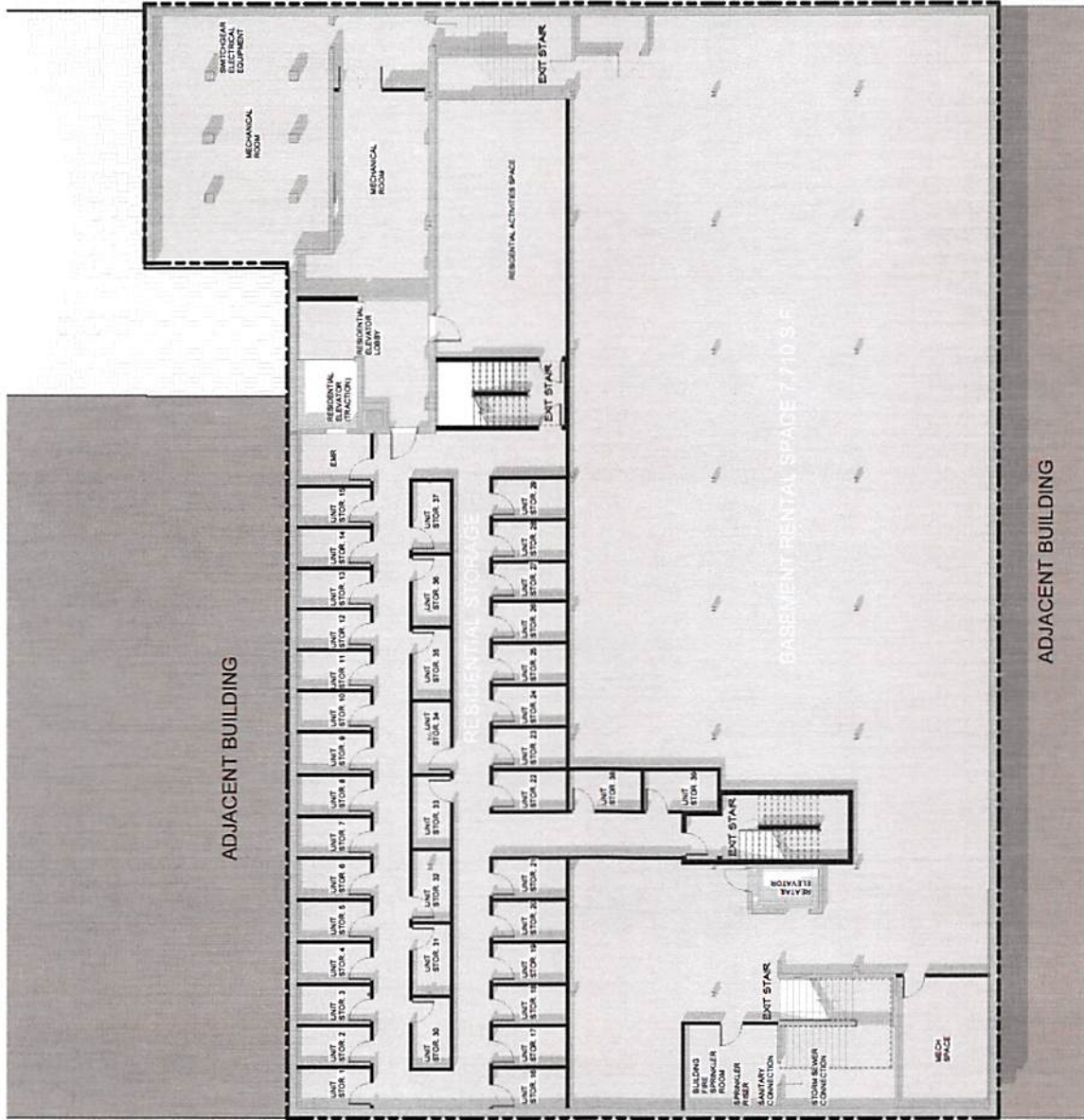
The Park Central property is located in the heart of the Central Business District in Appleton, and will be transformed into a state-of-the-art 75,000 sq. ft. building with over 16,500 square feet of Class A commercial space sub divided for multiple business occupants. The mixed-use improvements to Park Central will include a redeveloped second floor and an additional three floors of IIIB new construction slated for rental apartment use. The new apartments will offer a mix of one, two and three-bedroom units, yielding a total of 51 bedrooms in 39 apartments. Through careful planning, design and the use of quality construction techniques, and premium building materials, including glass, steel, brick and high-end finishes, we will provide modern, luxurious yet affordable residential units and commercial spaces serving Appleton residents and businesses.

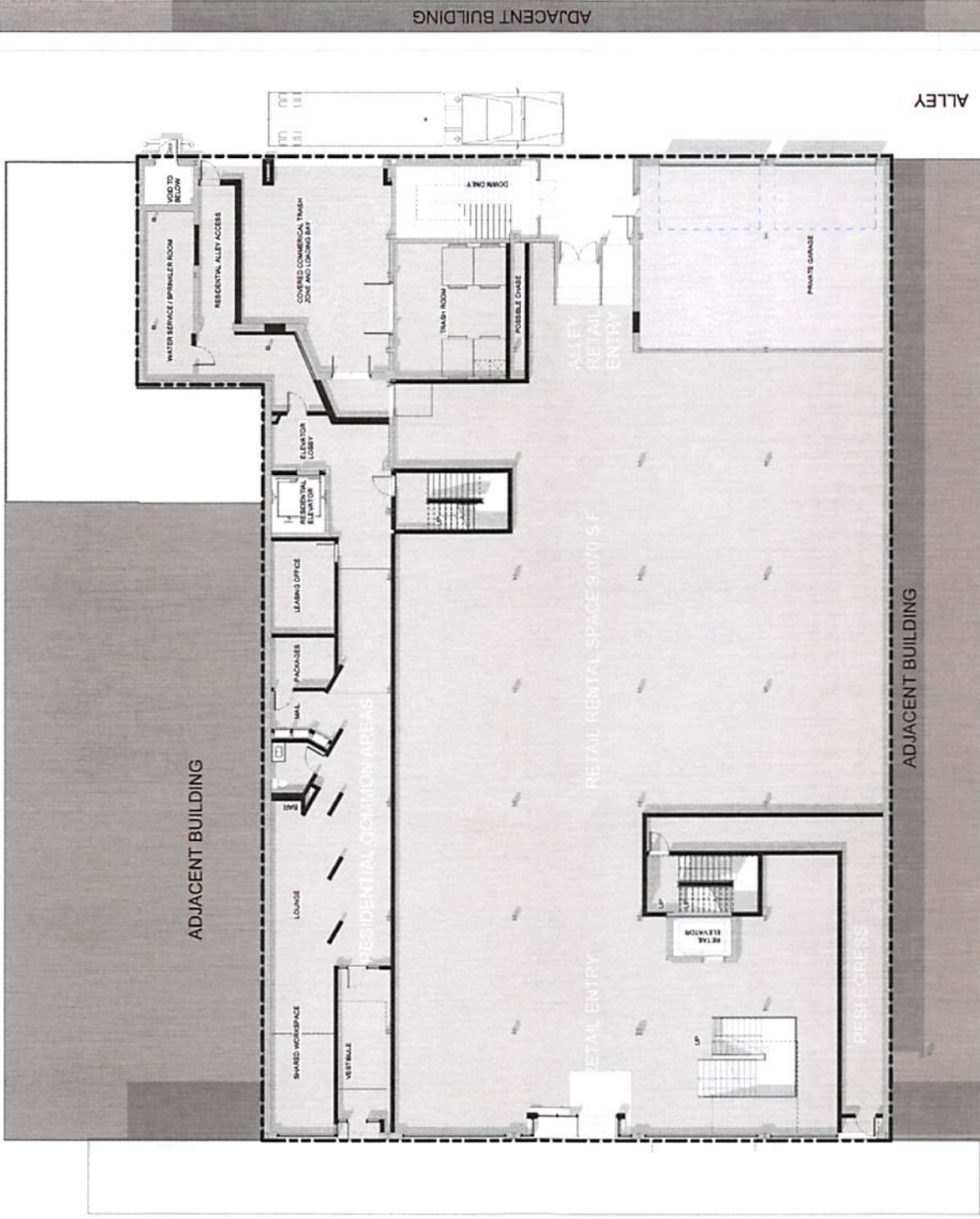
Our vision for the building at 318 W. College Ave is to provide an iconic structure for the Fox Valley and downtown Appleton. The Park Central development will become a staple in the community through an energetic and vibrant atmosphere for the commercial businesses and a welcoming home to the residents with a focus on security, cutting edge technology, desired amenities, convenience and a positive environment for all tenants. The apartments will cater to many demographics including retirees/empty nesters, young professionals, young families, and students. Park Central will feature unmatched levels of customer service and attention to detail with dedicated on-site property management, building amenities and secure residential access.

The existing structure is a two story over basement ~45,000 sq. ft. building in need of significant structural, mechanical, and aesthetic repairs. The building was purchased for \$1,065,000.00 in June of 2019. The 30,000 sq. ft. addition and improvements in the development project are estimated to be completed by Fall of 2022 at a cost of ~\$8.5MM plus the purchase price and carrying costs. This project will come to fruition in partnership with local Gries Architecture Group, Performa Architects & Engineers and Blue Sky Contractors. Estimated project cost breakdown are provided below;

The renderings below provide a preliminary representation of the completed structure.







PARK CENTRAL
SCHEMATIC DESIGN

FIRST FLOOR
SCALE: 1/8" = 1'-0"

Performa
ARCHITECTS + ENGINEERS



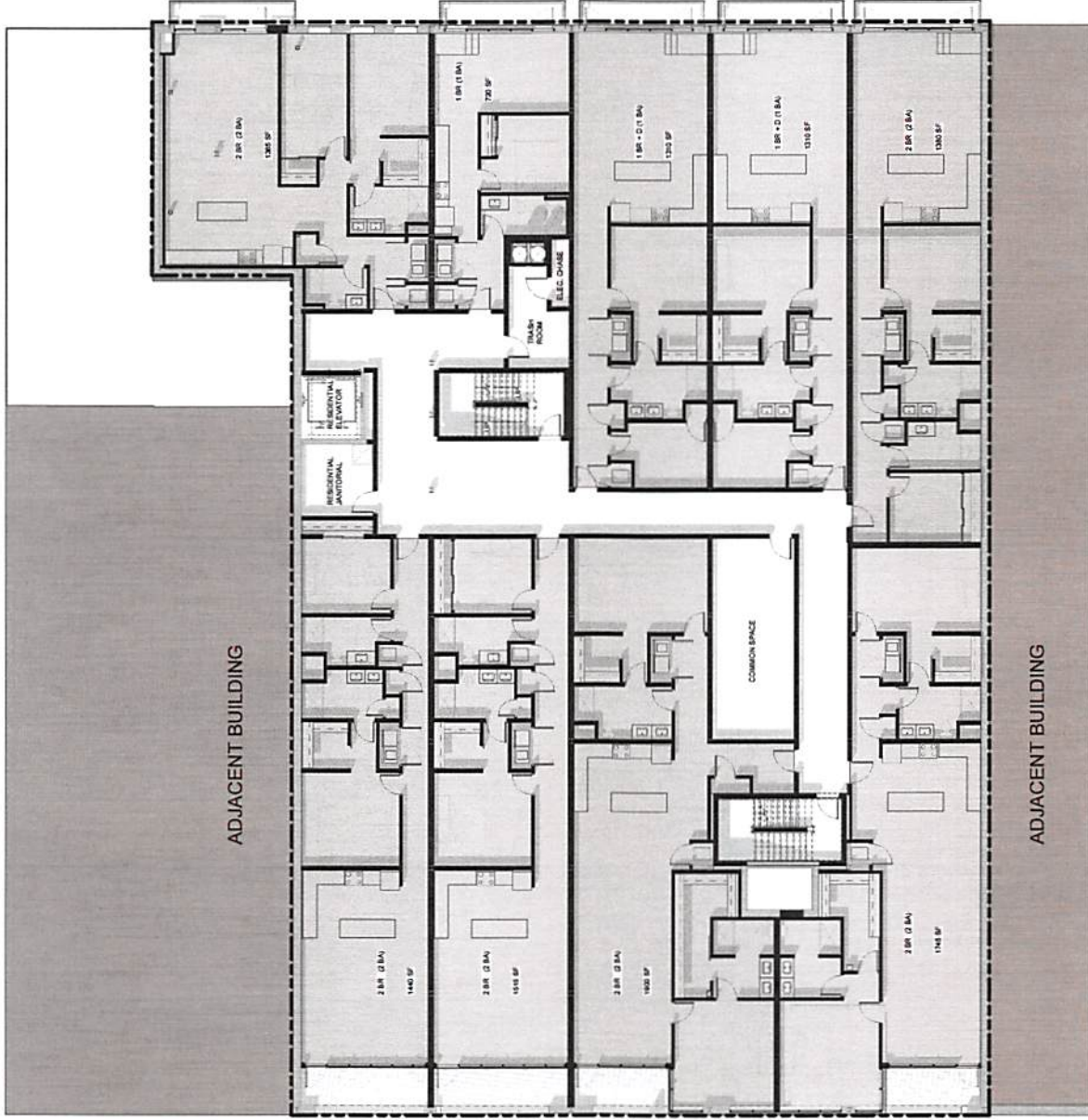
Gries
Architectural Group Inc.
07/09/2020

ADJACENT BUILDING

ALLEY

ADJACENT BUILDING

COLLEGE AVENUE



ADJACENT BUILDING

ADJACENT BUILDING

COLLEGE AVENUE

ADJACENT BUILDING

ALLEY

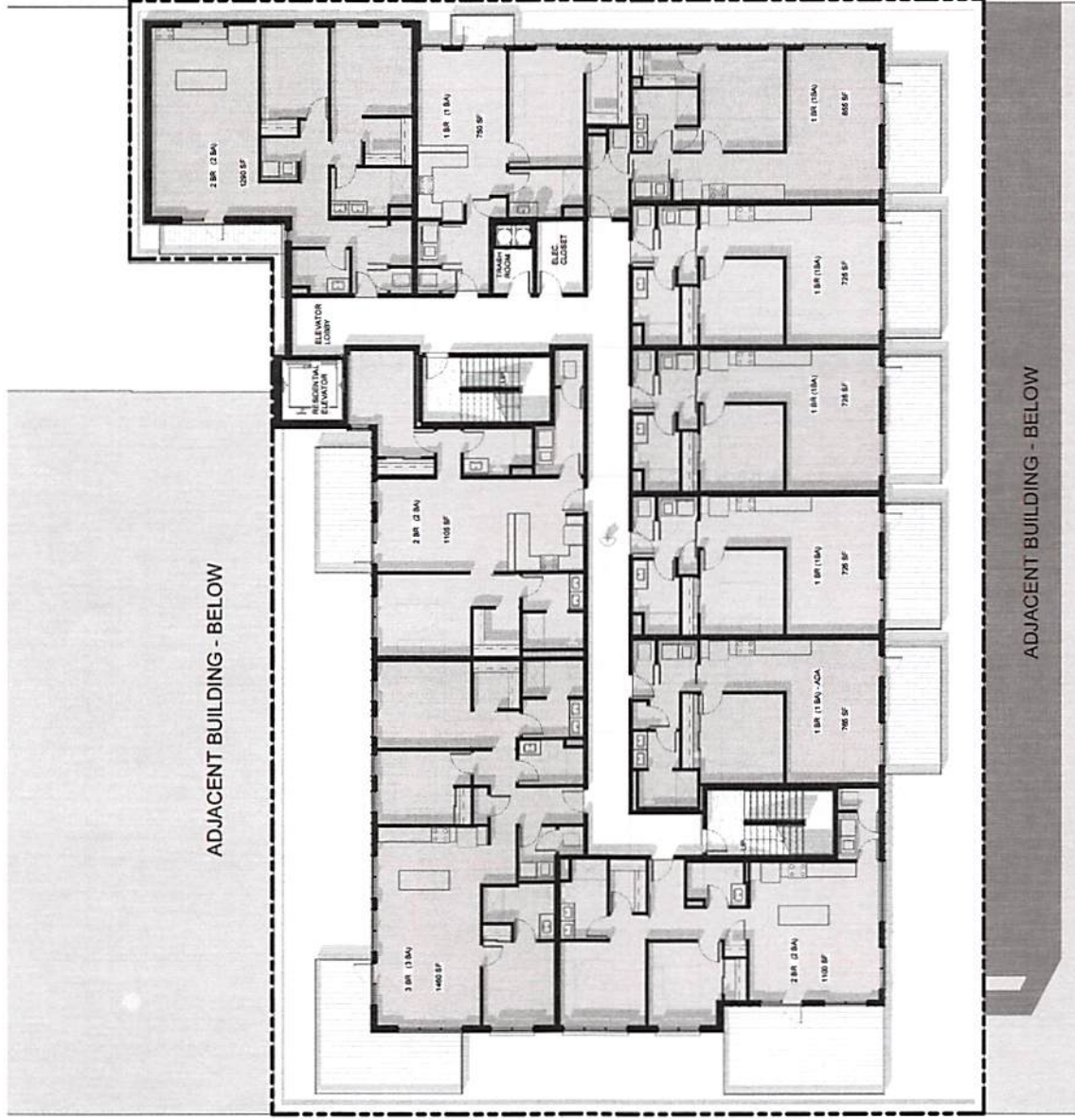
PARK CENTRAL
SCHEMATIC DESIGN

SECOND FLOOR
SCALE: 1/8" = 1'-0"

Performa
ARCHITECTS + ENGINEERS



Gries
Architectural Group Inc.
06/26/2020

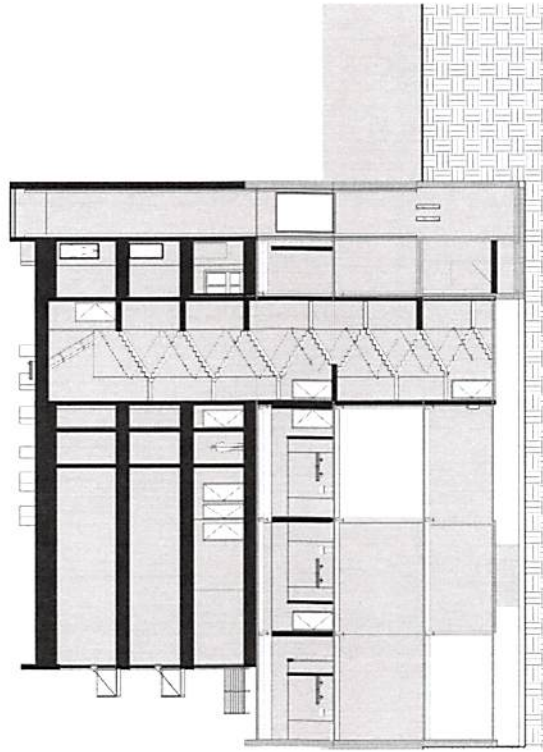


ADJACENT BUILDING - BELOW

ADJACENT BUILDING - BELOW

PARK CENTRAL
SCHEMATIC DESIGN

THIRD FLOOR (SAME 03,04,05)
SCALE 1/8" = 1'-0"

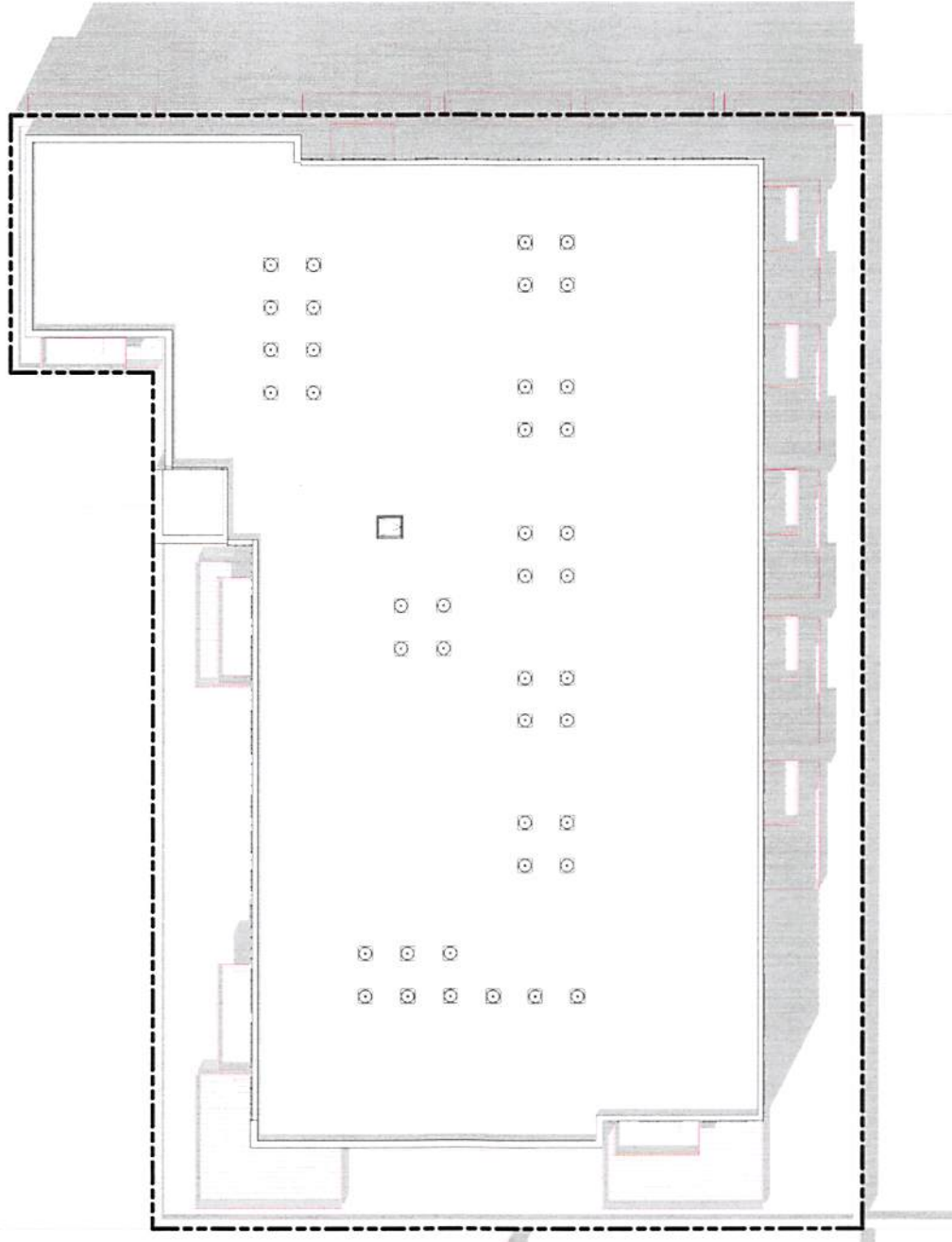


- ◆ NGA ROOF
186' - 0"
- ◆ 05 FIFTH FLOOR
154' - 6"
- ◆ 04 FOURTH FLOOR
143' - 2"
- ◆ 03 THIRD FLOOR
131' - 0"
- ◆ 03 THIRD FLOOR ROOF
121' - 8"
- ◆ TO TOPPING 2ND FLR
110' - 2" @
- ◆ 02 SECOND FLOOR
116' - 1"
- ◆ FIRST FLOOR
100' - 0"
- ◆ BASEMENT
87' - 4"

PARK CENTRAL
SCHEMATIC DESIGN

BUILDING SECTION
SCALE: 3/32" = 1'-0"





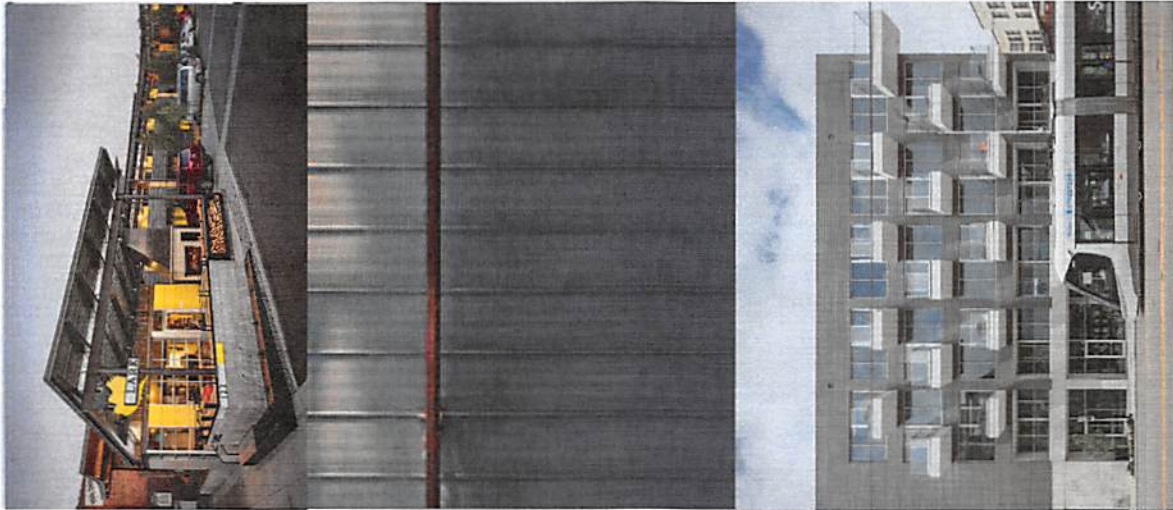
PARK CENTRAL
SCHEMATIC DESIGN

ROOF
SCALE: 1/8" = 1'-0"

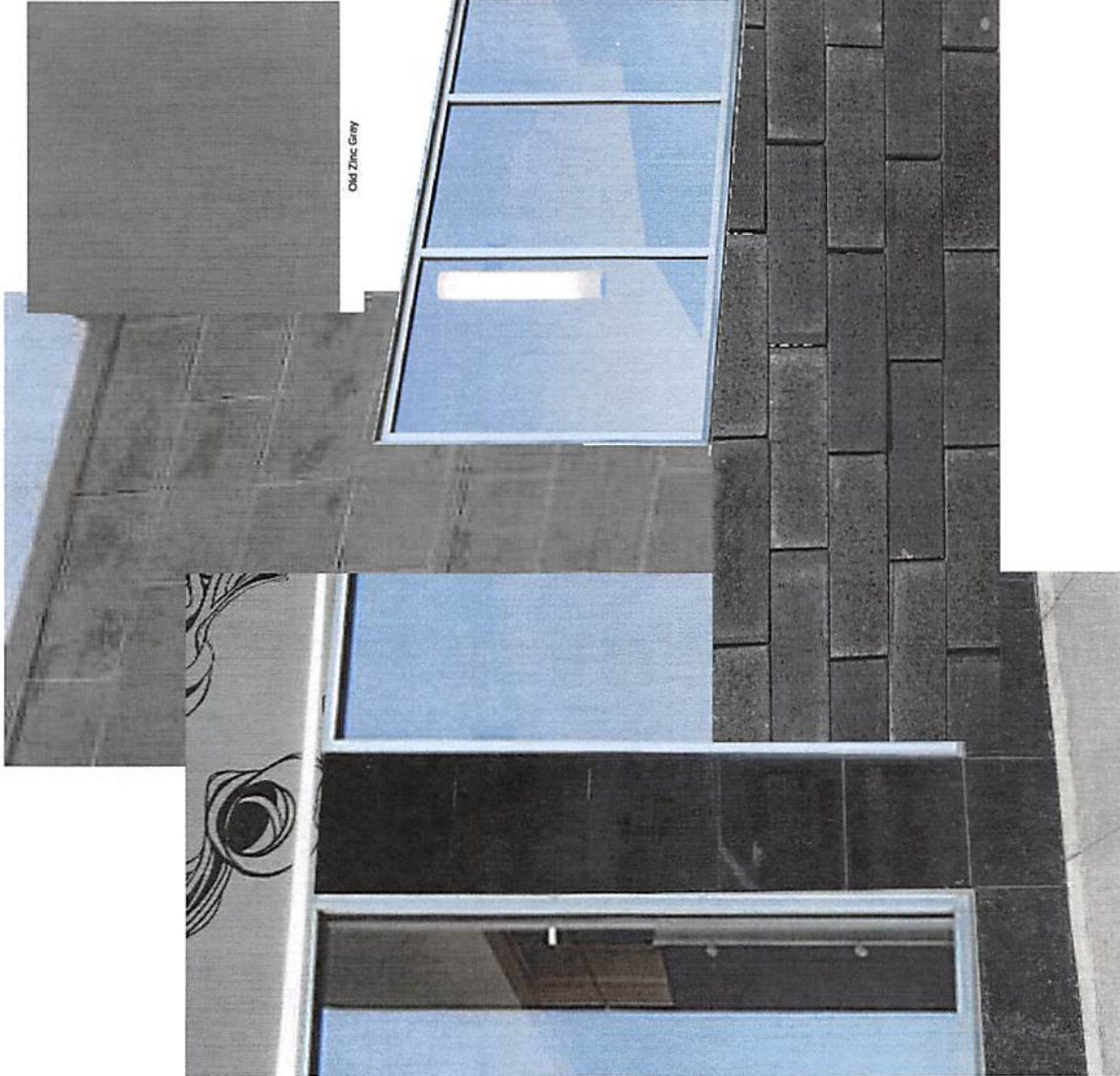
Performa
ARCHITECTS + ENGINEERS



Gries
Architectural Group Inc.
07/02/2020



PARK CENTRAL
SCHEMATIC DESIGN



Old Zinc Gray

MATERIALS
SCALE

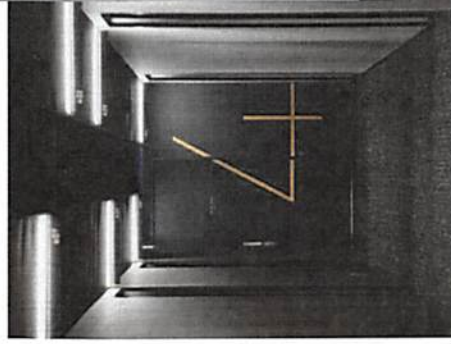




LOBBY



UNITS



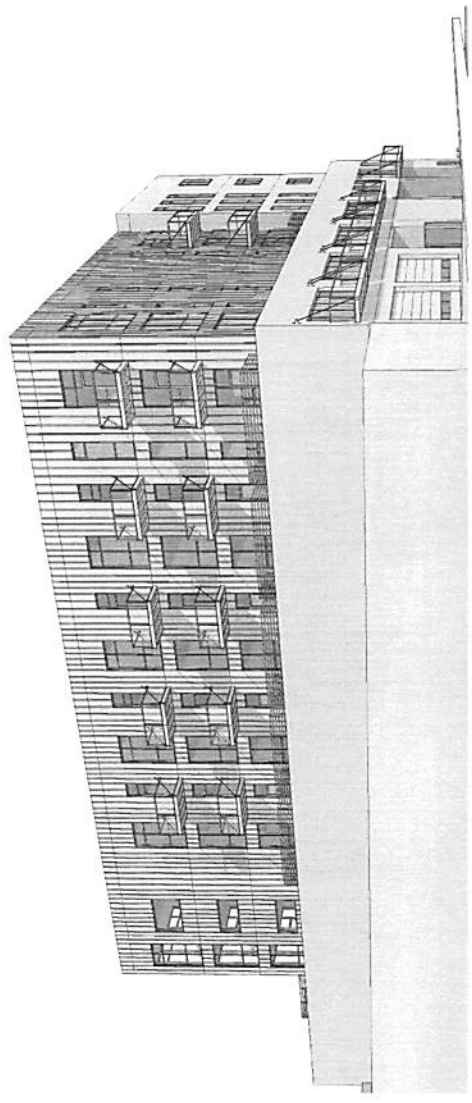
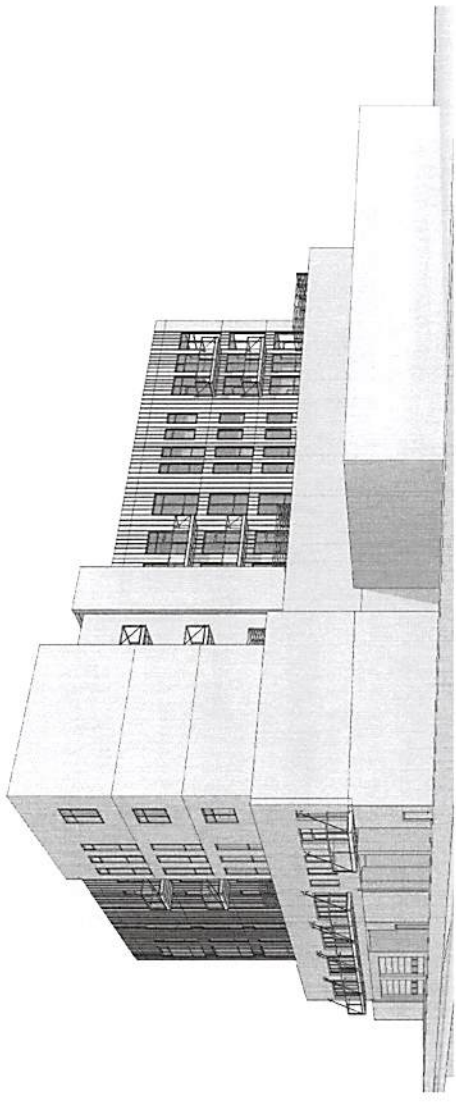
CORRIDORS

PARK CENTRAL
SCHEMATIC DESIGN

INTERIOR INSPIRATION
SCALE



07/06/2020

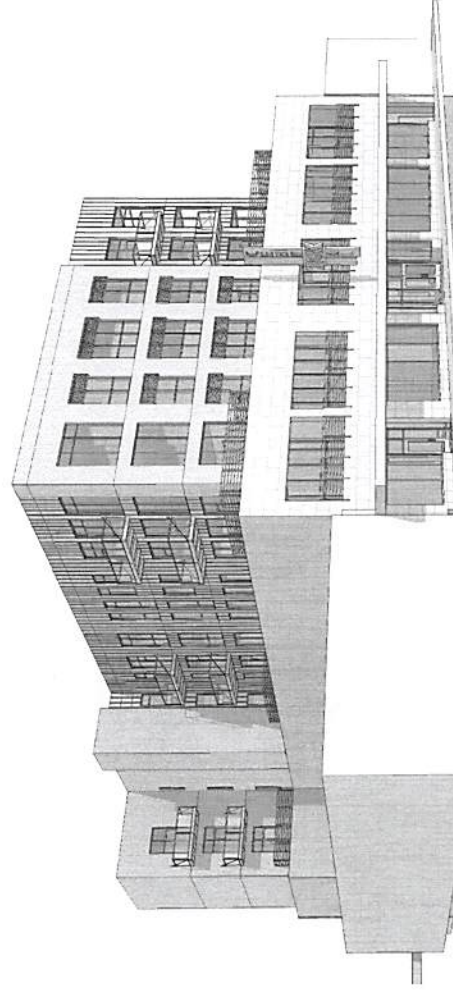
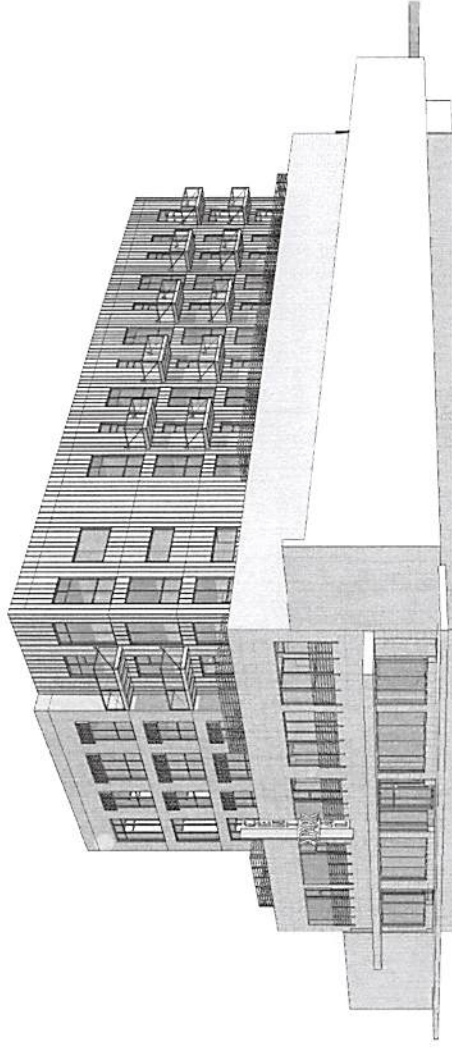


PARK CENTRAL
SCHEMATIC DESIGN

PEDESTRIAN PERSPECTIVES
SCALE



Gries
Architectural Group Inc.
07/06/2020

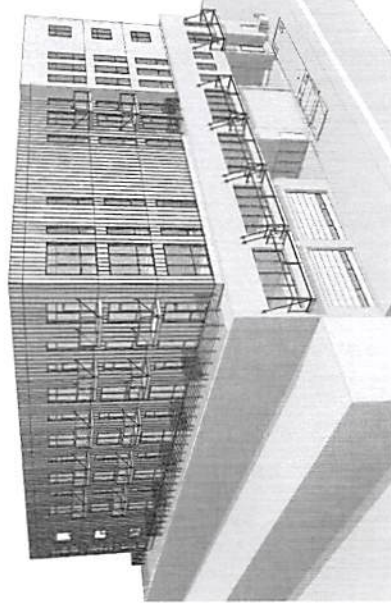
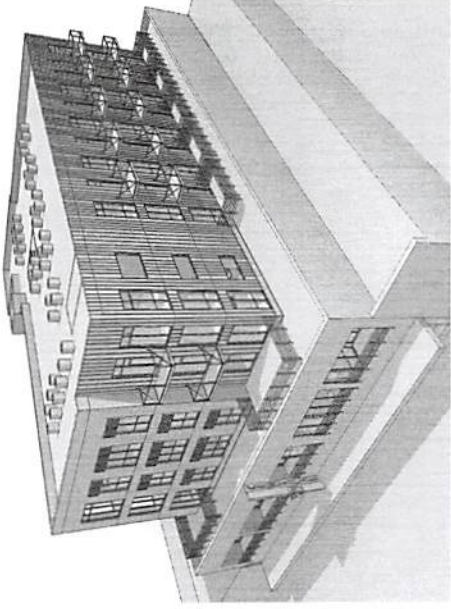
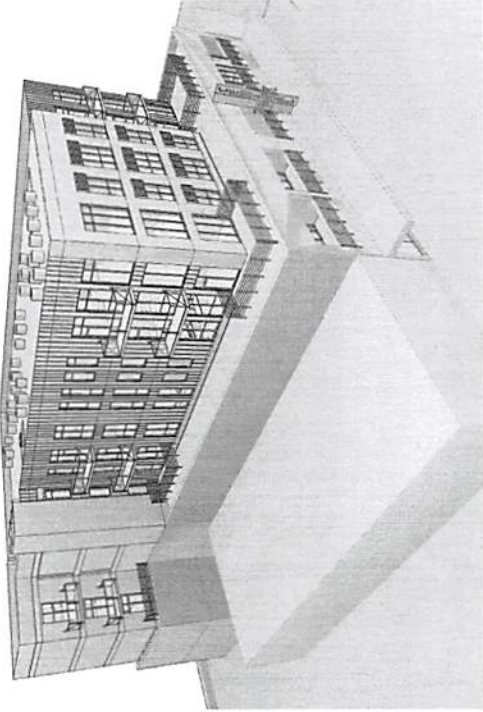


PARK CENTRAL
SCHEMATIC DESIGN

PEDESTRIAN PERSPECTIVE
SCALE



Gries
Architectural Group Inc.
07/06/2020



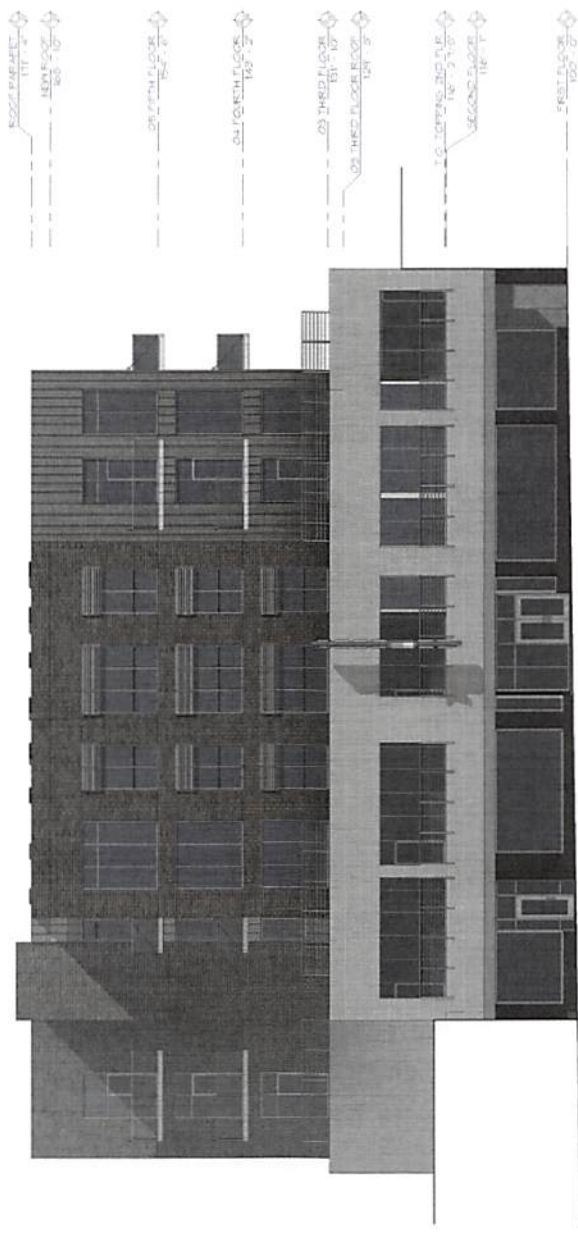
PARK CENTRAL
SCHEMATIC DESIGN

AERIAL 3D
SCALE

Performa
ARCHITECTS + ENGINEERS



Gries
Architectural Group Inc.
07/06/2020



PARK CENTRAL
SCHEMATIC DESIGN

SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



Gries
Architectural Group Inc.
07/09/2020



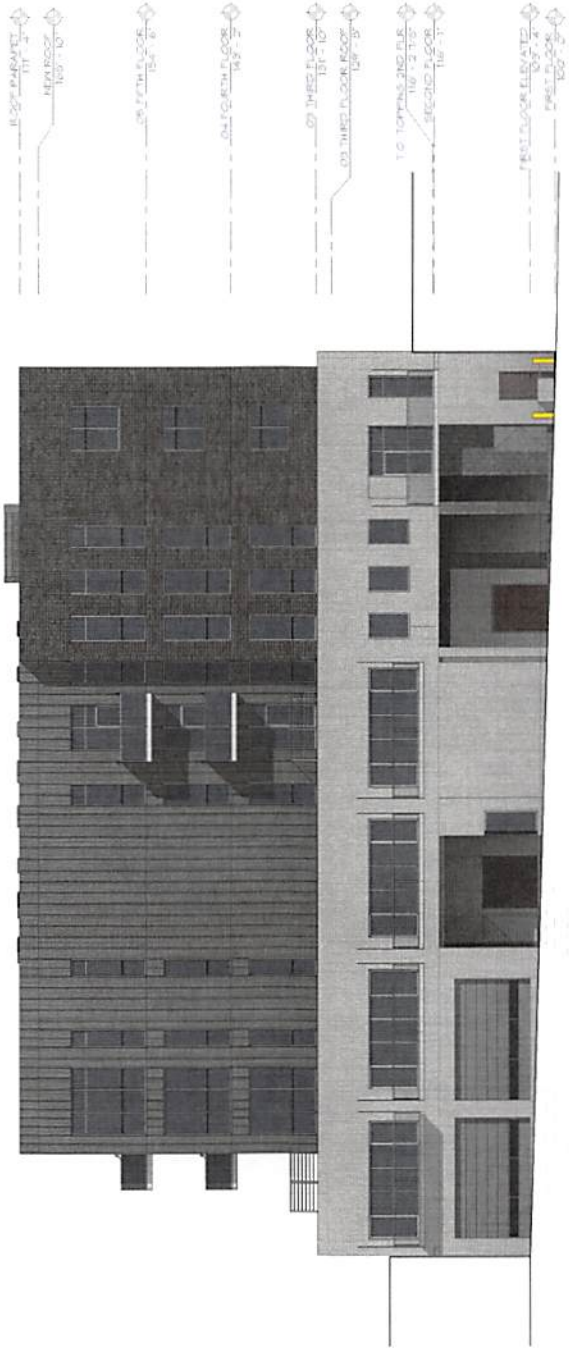
PARK CENTRAL
SCHEMATIC DESIGN

EAST ELEVATION
SCALE: 1/8" = 1'-0"

Performa
ARCHITECTS + ENGINEERS



Gries
Architectural Group Inc.
07060200



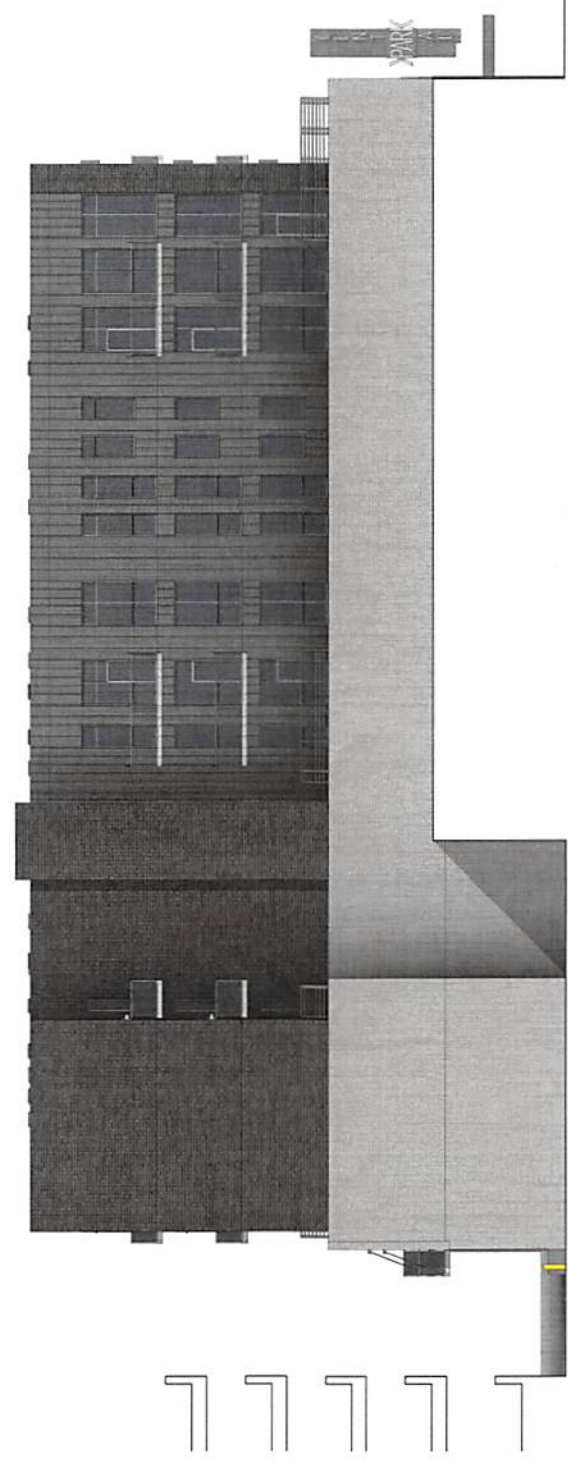
PARK CENTRAL
SCHEMATIC DESIGN

NORTH ELEVATION
SCALE: 1/8" = 1'-0"



Criss
Architectural Group Inc.
07/02/2020

FLOOR PARALLEL TO THE
 SECTION LINE
 SEVENTH FLOOR
 SIXTH FLOOR
 FIFTH FLOOR
 FOURTH FLOOR
 THIRD FLOOR
 SECOND FLOOR
 FIRST FLOOR



PARK CENTRAL
 SCHEMATIC DESIGN

WEST ELEVATION
 SCALE: 1/8" = 1'-0"



Gries
 Architectural Group Inc.
 07/06/2020

