



To: Ramon Trias

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in black ink, appearing to be "C. Leen", is written over the name of the City Attorney.

RE: Legal Opinion Regarding Allowed Height Along Altara Avenue

Date: September 4, 2014

I have reviewed the matter, and the attached drawing (presenting a development with 10 stories (100 feet) along Altara Avenue), and hereby provide the following opinion as to the question of what is the lawfully allowed height along Altara Avenue, assuming the design/aesthetic for the development is approved through the appropriate procedures:

In the applicable resolution addressing a mixed-use development with commercial, residential, and municipal uses, the City Commission approved relief under the Zoning Code, which included allowing the development to be up to 8 stories (87 feet) in height along LeJeune and up to 10 stories (100 feet) in height along Laguna. The relief was provided based on the Commission's finding that all eight factors in section 3-1805(A)(1)(a-h) of the Zoning Code were present here, and that "[c]onsistent with the findings discussed herein, these development requests have been granted to facilitate resolution of matters relating to Title VI of the Civil Rights Act." The resolution did not expressly address the height along Altara Avenue, which connects LeJeune and Laguna, and which a portion of the development runs along. It is also my understanding from City staff that the aesthetic of the design is much preferable if the building can be 10 stories (100 feet) in height along Altara.

In considering the question presented, I would first note that it is well-established that remedial action should be interpreted broadly to effectuate its purpose. See *Golf Channel v. Jenkins*, 752 So. 2d 561, 565-66 (Fla. 2000) ("This interpretation also comports with the principle of statutory construction that remedial statutes should be liberally construed in favor of granting access to the remedy provided by the Legislature.") In my opinion, this principle supports finding that the resolution allows for 100 feet along Altara, which facilitates implementation of the resolution, including the Commission's allowance of 100 feet along Laguna, which intersects with Altara. In addition, I would also note that the Commission's purpose/intent in approving a resolution is a very important factor to consider in determining how to interpret that resolution. See generally

Tyson v. Lanier, 156 So. 2d 833, 836 (Fla. 1963). Here, the Commission made its intent/purpose clear throughout the proceedings that the design and aesthetics were key here. Indeed, the Commission made a point of emphasizing staff's review of the design, and directed that the design be subject to review and approval by the Board of Architects. Finally, I would note that the proposed 100 feet along Altara does not exceed the maximum height allowed by the Commission in the resolution (which was 100 feet along Laguna). Accordingly, pursuant to section 2-201(e)(8) of the City Code, on behalf of the City, I interpret the resolution to lawfully allow up to 10 stories (100 feet) along Altara, assuming the design/aesthetic for the development is approved through the appropriate procedures.

Parramore, Carol

From: Leen, Craig
Sent: Thursday, September 04, 2014 11:50 AM
To: Osle, Zilma; Parramore, Carol
Cc: Thornton, Bridgette; Figueroa, Yaneris
Subject: FW: City Attorney Opinion
Attachments: Preliminary Floor Plans -- R2 Comments - color _ 08-22-14.pdf

Please place in the opinion folder.

Craig E. Leen, City Attorney
*Board Certified by the Florida Bar in
City, County and Local Government Law*
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

From: Leen, Craig
Sent: Thursday, September 04, 2014 11:45 AM
To: Trias, Ramon
Subject: City Attorney Opinion

Ramon,

I have reviewed the matter, and the attached drawing (presenting a development with 10 stories (100 feet) along Altara Avenue), and hereby provide the following opinion as to the question of what is the lawfully allowed height along Altara Avenue, assuming the design/aesthetic for the development is approved through the appropriate procedures:

In the applicable resolution addressing a mixed-use development with commercial, residential, and municipal uses, the City Commission approved relief under the Zoning Code, which included allowing the development to be up to 8 stories (87 feet) in height along LeJeune and up to 10 stories (100 feet) in height along Laguna. The relief was provided based on the Commission's finding that all eight factors in section 3-1805(A)(1)(a-h) of the Zoning Code were present here, and that "[c]onsistent with the findings discussed herein, these development requests have been granted to facilitate resolution of matters relating to Title VI of the Civil Rights Act." The resolution did not expressly address the height along Altara Avenue, which connects LeJeune and Laguna, and which a portion of the development runs along. It is also my understanding from City staff that the aesthetic of the design is much preferable if the building can be 10 stories (100 feet) in height along Altara.

In considering the question presented, I would first note that it is well-established that remedial action should be interpreted broadly to effectuate its purpose. *See Golf Channel v. Jenkins*, 752 So. 2d 561, 565-66 (Fla. 2000) ("This interpretation also comports with the principle of statutory construction that remedial statutes should be liberally construed in favor of granting access to the remedy provided by the Legislature.") In my opinion, this principle supports finding that the resolution allows for 100 feet along Altara, which facilitates implementation

of the resolution, including the Commission's allowance of 100 feet along Laguna, which intersects with Altara. In addition, I would also note that the Commission's purpose/intent in approving a resolution is a very important factor to consider in determining how to interpret that resolution. *See generally Tyson v. Lanier*, 56 So. 2d 833, 836 (Fla. 1963). Here, the Commission made its intent/purpose clear throughout the proceedings that the design and aesthetics were key here. Indeed, the Commission made a point of emphasizing staff's review of the design, and directed that the design be subject to review and approval by the Board of Architects. Finally, I would note that the proposed 100 feet along Altara does not exceed the maximum height allowed by the Commission in the resolution (which was 100 feet along Laguna). Accordingly, pursuant to section 2-201(e)(8) of the City Code, on behalf of the City, I interpret the resolution to lawfully allow up to 10 stories (100 feet) along Altara, assuming the design/aesthetic for the development is approved through the appropriate procedures.

Craig E. Leen, City Attorney

*Board Certified by the Florida Bar in
City, County and Local Government Law*
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

From: Garcia-Serra, Mario [<mailto:MGarcia-Serra@gunster.com>]
Sent: Friday, August 29, 2014 4:49 PM
To: Leen, Craig; SHelfman@wsh-law.com; Birdsill, Cynthia
Cc: 'DimondA@gtlaw.com'; kolayat@gtlaw.com
Subject: FW: (Gunster) Merrick Manor ---- Preliminary Floor Plans (2nd - 10th)

Dear Craig, Steve, and Cindy,

If you go the last page of the attached PDF, you will see where the 9th and 10th floors are proposed to extend along the Altara Avenue elevation.

Best regards,

Mario



Mario Garcia-Serra | Shareholder
600 Brickell Avenue
Brickell World Plaza
Suite 3500
Miami, Florida 33131

P 305-376-6061 F 786-425-4104
gunster.com

From: Philip Parenteau [<mailto:philip@astorcompanies.com>]
Sent: Friday, August 29, 2014 8:40 AM
To: Garcia-Serra, Mario
Cc: Henry Torres
Subject: (Gunster) Merrick Manor ---- Preliminary Floor Plans (2nd - 10th)

Mario,
See attached FYI and use at today's meeting.
Let us know if any further information is needed.
Thanks.

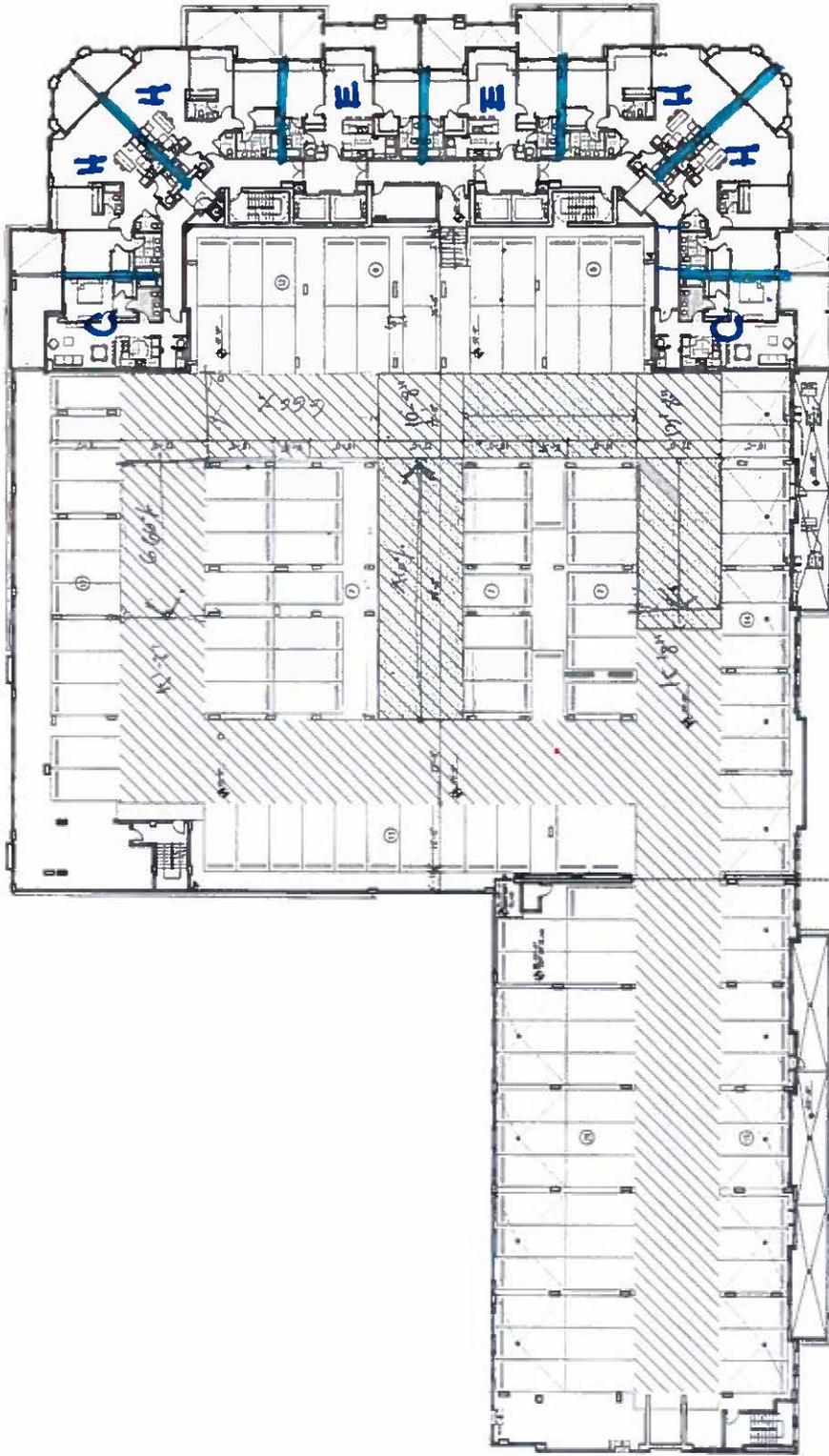
Philip J. Parenteau . Property Development and Design Manager
The Astor Companies

P. 786.623.2808
F. 305.858.6934
E. philip@astorcompanies.com
w. www.astorcompanies.com

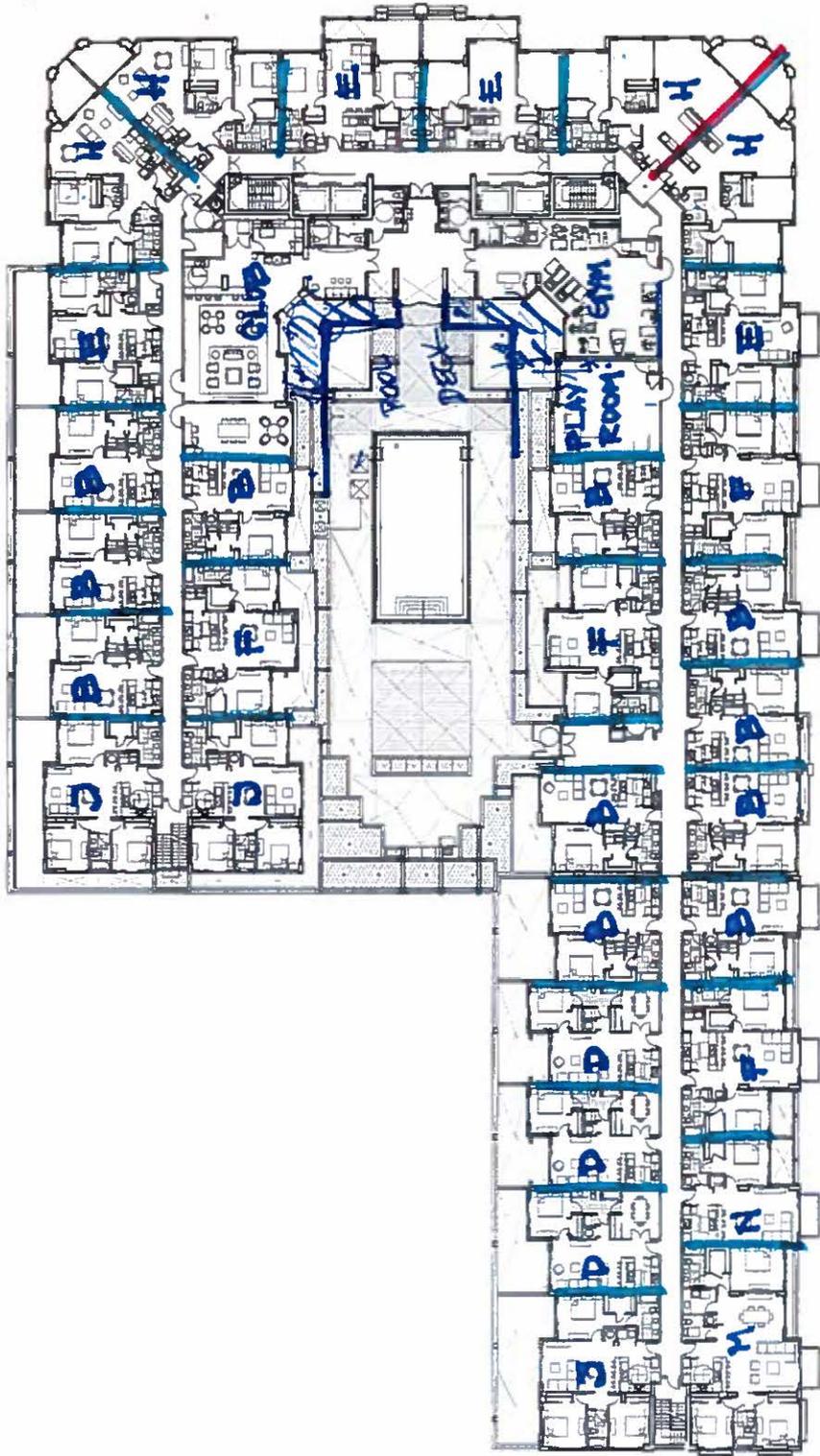


THINK GREEN! Please do not print this email unless it is necessary.

This e-mail transmission contains information intended only for the use of the recipient(s) named above. Further, it contains information that may be privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message (including any attachments) is strictly prohibited. If you have received this e-mail in error, please notify the sender by reply e-mail and then delete this message from your mail system. Thank you for your compliance.



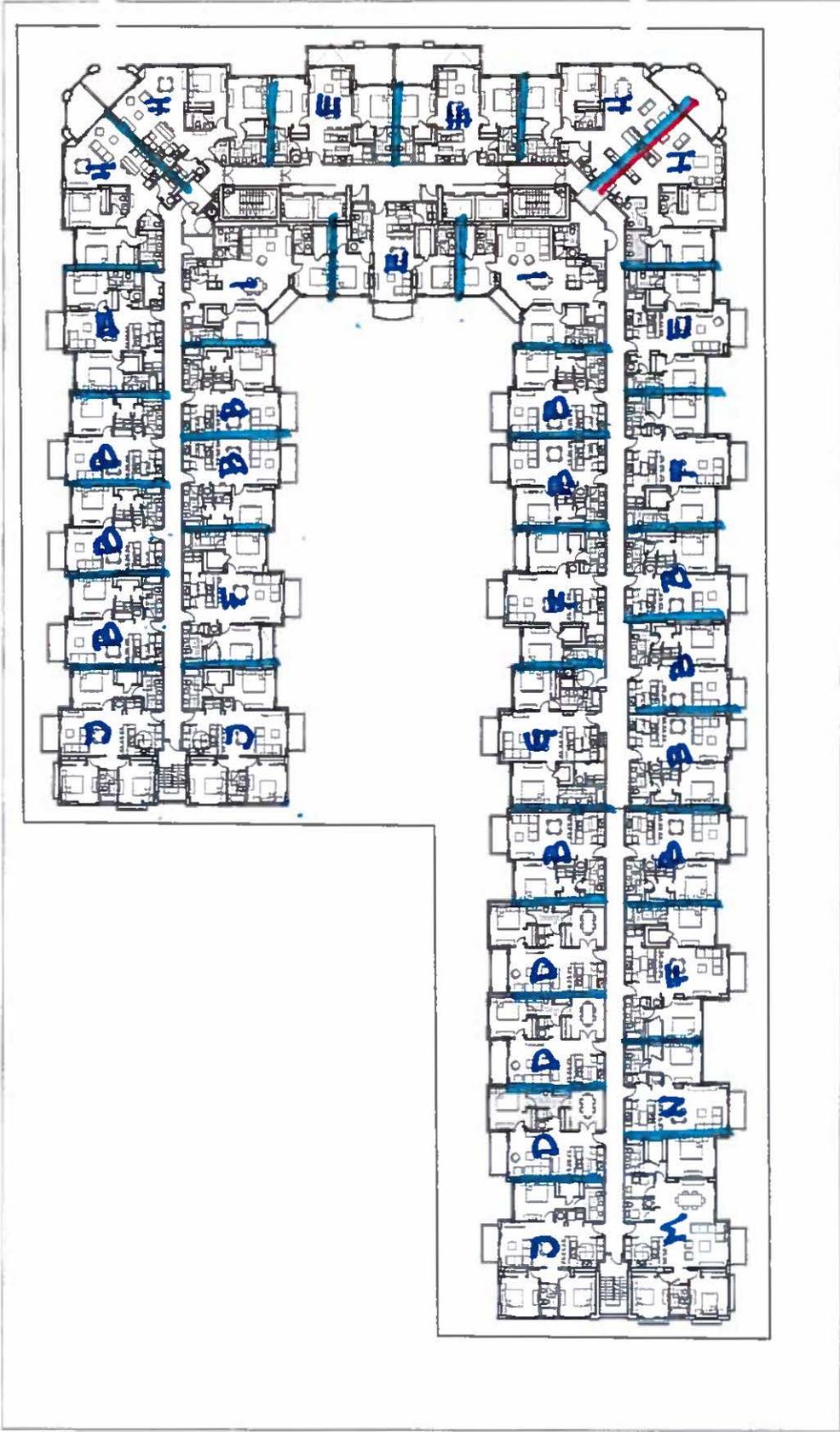
SECOND & THIRD LEVEL FLOOR PLAN
SCALE: 3/8" = 1'-0"



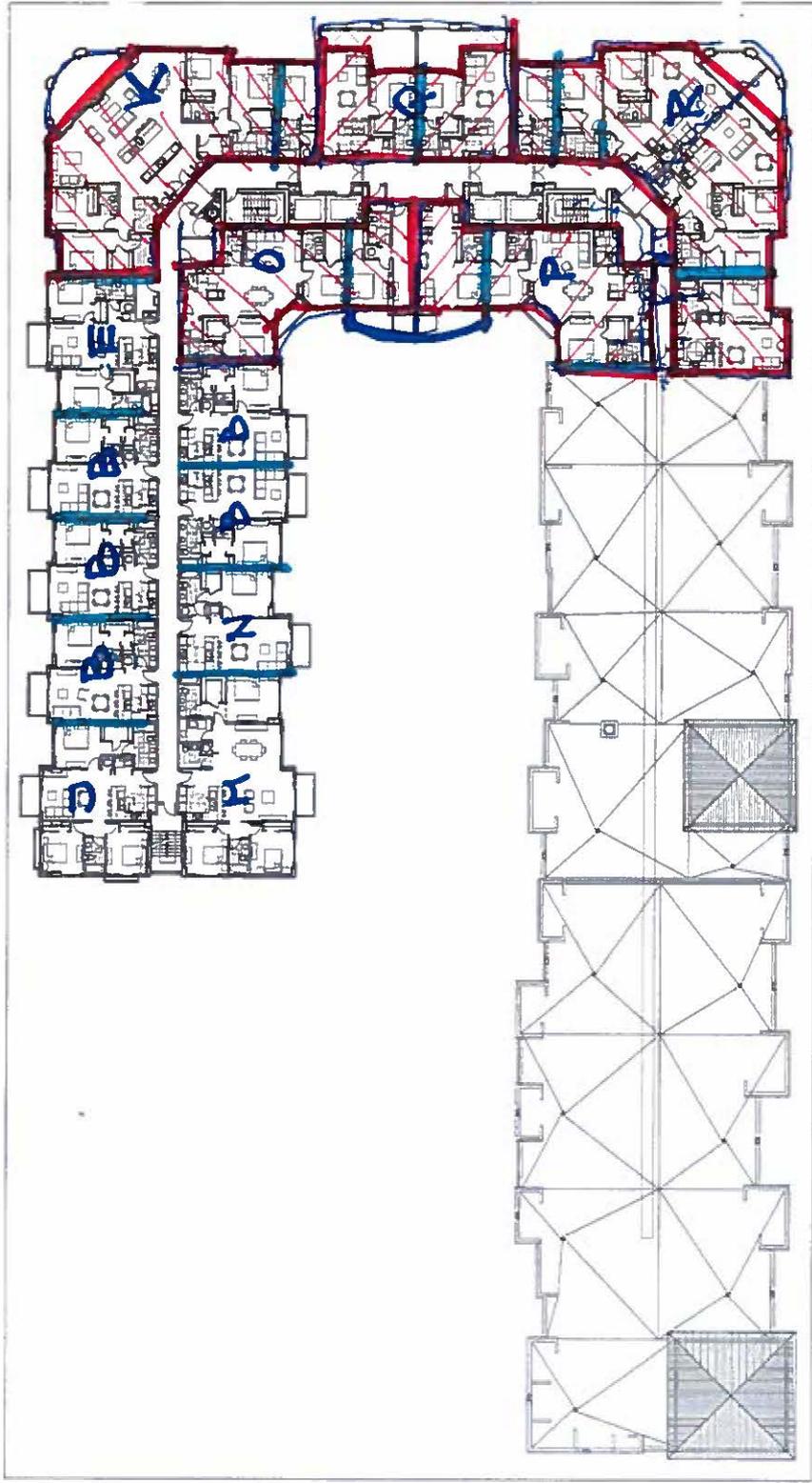
FOURTH LEVEL FLOOR PLAN

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





5-8
LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



NINTH LEVEL FLOOR PLAN of 10th
SCALE: 3/32" = 1'-0"

LOWER PH
UPPER PH