**VIA EMAIL**

June 10, 2019

Mr. Colin Punt, Planning Division
City of Madison
215 Martin Luther King Jr. Blvd.
Madison, WI 53703

**RE: Response to Planning Division Staff Report**
**760-780 Regent Street**

Dear Mr. Punt:

On behalf of the Applicant, we are excited to be advancing this hotel development project. As you know, there are numerous variables and constraints that must be accounted for to successfully complete the development, design, financing and construction of this complex, urban infill project. While our team can accommodate most of the conditions outlined in the Planning Division Staff Report, our team needs to clarify several of the conditions to ensure consistency across the various City of Madison departments and ensure that we obtain an approval from the Planning Commission with conditions that can be designed and constructed. We look forward to working collaboratively on the clarifications outlined below:

Major Issue #1

The City Planning Department along with Urban Design Commission are requiring that the hotel be designed to activate and provide connectivity to the Southwest Commuter Trail. There is a 50' wide section of land owned by the City and governed by a parking lot lease (Doc No. 4347972) that is located between the hotel site and the Southwest Commuter Trail. There are limitations under the parking lot lease as to what type of improvements can be constructed within the City leased area. Several City departments have taken exception to our existing design, particularly with respect to a retaining wall to be constructed within the City leased area.

In response to staff conditions, we have raised the elevation of the northern building edge to eliminate our retaining wall requirement within the City leased area (see Exhibit A). We have limited the construction work required within the City leased area to minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration of the surface parking lot area. Our team has discussed this scope of work with Mr. Doran Viste, City Attorney, who was amenable to this scope of work being done under the existing lease and was intending to relay this approach to Engineering staff and Traffic Engineering staff. The parking within the City leased area would no longer connect through the hotel parking structure, would be re-striped (see Exhibit B for re-striping options), and the intent is to use this parking for hotel employees only.

In order for the Applicant to execute this revised strategy, staff conditions #10, #29, #30, #32 and #39 must be revised to allow for minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration/re-striping of the surface parking lot area to be permitted in the City leased area

under the existing lease. Proposed revised language for these staff conditions are outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
|---|---|---|
| 10 | The Applicant shall note that the leased area is reserved for future transportation and the lease is considered an interim use. The Applicant shall remove the retaining walls from the leased area. | The Applicant shall note that the leased area is reserved for future transportation and the lease is considered an interim use. The Applicant shall update the design to remove the retaining walls from the leased area. Minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration/re-striping of the surface parking lot area will be permitted in the City leased area under the existing lease. |
| 29 | This site currently benefits from a parking lot lease over City lands per Doc No 4347972 and is part of a proposed land division creating the development (Hotel) parcel. Additionally, there are parking lot changes, change of grade, addition of stairs, retaining wall and a bike rack proposed within the lease area. The existing lease is proposed to be split into two new lease agreements (one for the Hotel and the other for the remainder of the current lease area). Any approved new leases shall be drafted by the Madison Office of Real Estate Services, approved by the Common Council and recorded prior to final sign off for any site plan including any new proposed improvements within the lease area. All private parking lot improvements within the lease area shall be subject to approval by City of Madison Engineering. All improvements within the lease area shall be subject to removal by the owner (at the City's request or termination of lease) and the area shall be restored required per the terms of the lease. The city shall be | This site currently benefits from a parking lot lease over City lands per Doc No 4347972 and is part of a proposed land division creating the development (Hotel) parcel. Additionally, there are parking lot changes, change of grade, addition of stairs, retaining wall and a bike rack proposed within the lease area. The existing lease is proposed to be split into two new lease agreements (one for the Hotel and the other for the remainder of the current lease area). Any approved new leases shall be drafted by the Madison Office of Real Estate Services, approved by the Common Council and recorded prior to final sign off for any site plan including any new proposed improvements within the lease area, except for minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration/re-striping of the surface parking lot area will be permitted in the City leased area which are acceptable under the existing lease. All private parking lot improvements within the |

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| | held harmless for any damages resulting from loss of use of this area for access or any noncompliance with City Ordinances upon removal of the improvements. No structural retaining walls or other improvement necessary for access to the parking structure shall be allowed in the lease area. Private improvements constructed in the lease area shall not be items required by ordinance or integral to the building improvements and associated uses proposed. | lease area shall be subject to approval by City of Madison Engineering, except for those currently depicted and/or described in the lease. All improvements within the lease area shall be subject to removal by the owner (at the City's request or termination of lease) and the area shall be restored as required per the terms of the lease. The city shall be held harmless for any damages resulting from loss of use of this area for access or any noncompliance with City Ordinances upon removal of the improvements. No structural retaining walls or other improvement necessary for access to the parking structure shall be allowed in the lease area. Private improvements constructed in the lease area shall not be items required by ordinance or integral to the building improvements and associated uses proposed. |
| 30 | A sidewalk, retaining wall for the sidewalk, landscaping and lighting is proposed within the adjacent City of Madison Transportation right of way near the northwesterly portion of this development. If any improvements are approved, they shall be included within the new separate lease and the lease subject to approval by the Common Council. The site plan shall be revised to show all improvements in this portion of the Transportation right of way as future proposed improvements and not allowed to be constructed until a new lease has been approved by the Common Council. Coordinate any lease with City of Madison Real Estate Services and Jeff Quamme of Engineering Mapping. All improvements shall be subject to removal by the owner at their cost and restoration of the area to current condition upon the termination of the lease. | A sidewalk, retaining wall for the sidewalk, landscaping and lighting is proposed within the adjacent City of Madison Transportation right of way near the northwesterly portion of this development. Applicant will remove the retaining wall within the City of Madison Transportation right of way from the design. Minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration/re-striping of the surface parking lot area will be permitted in the City leased area under the existing lease. If any additional improvements are approved, they shall be included within the new separate lease or amendment to the existing lease and the new or amended lease will be subject to approval by the Common Council. The site plan shall be revised to show all additional improvements in this portion of the Transportation right |

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| | | of way as future proposed improvements and not allowed to be constructed until a new lease or amendment to the existing lease has been approved by the Common Council. Coordinate any lease with City of Madison Real Estate Services and Jeff Quamme of Engineering Mapping. All improvements shall be subject to removal by the owner at their cost and restoration of the area to current condition upon the termination of the lease. |
| 32 | Applicant has indicated, in order to maintain the construction schedule, a portion of the existing parking lease area per Doc No 4347972 would be assigned to the owner of the Hotel site to allow the construction of the hotel to commence. This is allowed per the terms of the current lease and would allow staging and associated construction uses within the lease area with permission of all of the Tenants of the lease. The construction of any of the proposed new improvements within the lease area are not permitted until a new lease has been approved by the Common Council. The site plan shall be revised to show any proposed improvements within the lease area as future proposed improvements not allowed to be constructed until a new lease has been approved by the Common Council. If a new lease is not approved, a revised plan shall be submitted removing any new improvements within the City right of way and the current the lease area shall be restored to its previous condition prior to construction. | Applicant has indicated, in order to maintain the construction schedule, a portion of the existing parking lease area per Doc No 4347972 would be assigned to the owner of the Hotel site to allow the construction of the hotel to commence. This is allowed per the terms of the current lease and would allow staging and associated construction uses within the lease area with permission of all of the Tenants of the lease. Minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration/re-striping of the surface parking lot area will be permitted in the City leased area under the existing lease. The construction of any additional proposed new improvements within the lease area are not permitted until a new lease has been approved by the Common Council. The site plan shall be revised to show any additional proposed improvements within the lease area as future proposed improvements not allowed to be constructed until a new lease has been approved by the Common Council. |
| 39 | The applicant shall not regrade and shall remove retaining walls and stairs from the City owned leased area. The intended use for the City owned parcel is to accommodate Future | The applicant shall remove retaining walls and stairs from the City owned leased area from the current design. The intended use for the City owned parcel is to accommodate Future |

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| | Transportation Corridor Use, regrading of the parcel will limit future public use of the parcel. This may include a separation of the parking structure entrances where the Southern access would enter the lowest level and the Northern access one tray above. This may also require the outdoor patio to be raised one floor and not have any negative impacts if/when the City would require the applicant to remove all improvements pre standard City lease agreements. | Transportation Corridor Use, regrading of the parcel will limit future public use of the parcel. This may also require the outdoor patio to be raised and not have any negative impacts if/when the City would require the applicant to remove all improvements per standard City lease agreements. Minor grading and drainage, public utilities (sewer, sanitary, water, electric and gas), landscaping, sidewalk connections, construction staging and restoration/re-striping of the surface parking lot area will be permitted in the City leased area under the existing lease. |

Major Issue #2

There is a conflict between the requirements of Planning/Urban Design Commission and Traffic Engineering with respect to staff condition #38 and #40. Planning/Urban Design Commission wish to create an urban edge, including access and activation to the Southwest Commuter Path. To construct the connections from the Southwest Commuter Path to both the gallery walk and the bike path entry, the Applicant will require reasonable access to the Southwest Commuter Path to construct the connections to the bike path entry and to the gallery walk. Proposed revised language for these staff conditions are outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
|---|---|---|
| 38 | Note: The applicant shall have no access to the Southwest Commuter Path or its access ramps for construction purposes. The operations of the Southwest Commuter Path shall not be impeded or encumbered at any point during the construction process. | In order to meet the requirements of UDC and planning, the applicant shall have access to the Southwest Commuter Path and its access ramps, as reasonably necessary, to construct the connections to the bike path entry and to the gallery walk. The applicant shall work with staff to minimize disruption to the Southwest Commuter Path and shall work with staff to provide reasonable accommodations to commuters while the tie-ins for the construction are being completed. |
| 40 | The applicant shall remove the proposed pedestrian access to the Southwest Commuter path in the Northwest corner of their site. | The applicant shall be allowed to provide pedestrian access to the Southwest Commuter path in the Northwest corner of their site. |

Major Issue #3

In staff condition #47, the Applicant is asked to provide a five-foot walkway clear of all obstructions. Applicant can accommodate this request everywhere (assuming the reduction in loading zone width is approved) except the southwest corner of the building where a four-foot width is provided. In staff condition #53, the Applicant is asked to provide six-foot walkways next to all buildings. Six-foot walkways have been provided around most of the site, however, it is not feasible in three limited circumstances due to site constraints – in two locations, a five-foot width is provided and in one location, a four-foot width is provided. The Applicant's proposed sidewalk solutions are all ADA compliant. Proposed revised language for these staff conditions are outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
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| 47 | The applicant shall provide a clearly defined 5' walkway clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway. | The applicant shall provide a clearly defined 5' walkway clear of all obstructions where possible to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway. Staff shall permit 4' walkways clear of all obstructions in limited areas of the site where wider walkways are not achievable due to site constraints or, as an alternative, adjacent drive aisles may be reduced in width to accommodate a wider walkway. |
| 53 | All walkways next to buildings shall be 6' in width. | All walkways next to buildings shall be 6' in width except where noted on the plans. |

Major Issue #4

The Applicant performed a traffic impact analysis which concluded that no infrastructure upgrades were required in conjunction with the hotel development. In staff condition #62, the Applicant is being asked to add notes to its plans related to off-site infrastructure modifications that could be triggered by a non-affiliated, hypothetical development project that may or may not be constructed in the future. This note is not acceptable by the current property owner and may prohibit the sale of the hotel parcel to the Applicant. Proposed revised language for this staff condition is outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
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| 62 | Prior to final sign off the applicant shall add the following note on the face of the plan: The access to the | Prior to final sign off the applicant shall add the following note on the face of the plan: The access to the |

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| | westernmost driveway on Regent Street shall be altered, final geometry to be determined by the City Traffic Engineer, with the redevelopment of the parcel(s) on the south side of Regent Street. At this time, the preferred design will eliminate the Left Out movement onto eastbound Regent Street but preserve the Left In access from Eastbound Regent Street. | westernmost driveway on Regent Street may be altered, final geometry to be determined with the City Traffic Engineer, with the redevelopment of the parcel(s) on the south side of Regent Street. |

Major Issue #5

The Applicant has designed two, 9’ x 50’ loading areas as shown on the plan and as reviewed by staff in a recent DAT meeting. This size loading area is required due to site constraints. Proposed revised language for this staff condition is outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
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| 6 | Required loading facilities shall comply with MGO Section 28.141(13). Provide 2 10’ x 50’ loading areas with 14’ vertical clearance to be shown on the plan. The loading areas shall be exclusive of drive aisle and maneuvering space. A Planned Development shall comply with all standards, procedures, and regulations of the Zoning ordinance that are applicable to the individual uses within the development, including the General Regulations of Subchapter 28I and the Supplemental Regulations of Subchapter 28J. Where the applicant proposes a development that does not comply with one or more of the regulations in those subchapters, they shall specifically request that the Plan Commission consider the application of those regulations in making its recommendations on the development, including specific language in the zoning text or depiction on the plans. | Applicant shall provide two 9' x 50' loading areas as discussed at DAT meeting and as shown on the plan. |

Minor Issue #1

In staff condition #42, the Applicant needs to quantify the amount of the security deposit being requested by the City and the timeframe in which it is returned to Applicant in the event it is not used. Proposed revised language for this staff condition is outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
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| 42 | The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations. | The Developer shall post a security deposit in the amount of $25,000 prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations. In the event the security deposit is not used by the City, it shall be returned upon receipt of certificate of occupancy. |

Minor Issue #2

A Reciprocal Easement Agreement has been negotiated between the Applicant and the 780 Regent and 740 Regent office building owners. This Reciprocal Easement governs access, parking, utilities, drainage, etc. Applicant desires to address staff conditions #9, #11, #21, #28, #31 and #55 through this Reciprocal Easement Agreement. Proposed revised language for these staff conditions are outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
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| 9 | 4.91 this site is interdependent with adjacent lands. A shared access and stormwater management agreement shall be recorded with the Dane Co register of deeds and a copy provided to City Engineering. | 4.91 this site is interdependent with adjacent lands. Shared access and stormwater management will be addressed through a Reciprocal Easement Agreement and shall be recorded with the Dane Co register of deeds and a copy provided to City Engineering. |
| 11 | 5.99 Sanitary sewer manhole proposed to be connected to for sanitary is not a publicly owned sewer manhole. Applicant will need to obtain ownership maintenance agreement for private sewer main connected to if the plans are to remain as is. | 5.99 Sanitary sewer manhole proposed to be connected to for sanitary is not a publicly owned sewer manhole. Applicant will need to address ownership and maintenance for private sewer main through a Reciprocal Easement Agreement if the |

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| | Alternatively, applicant can connect to City manhole directly (SAS 4852-006) and avoid maintenance agreement. The proposed sewer lateral appears to be on neighboring lot(east). Applicant shall obtain a private sanitary sewer easement for sewer facilities built on neighboring lot. | plans are to remain as is. Alternatively, applicant can connect to City manhole directly (SAS 4852-006) and avoid maintenance agreement. The proposed sewer lateral appears to be on neighboring lot (east). Applicant shall obtain a private sanitary sewer easement for sewer facilities built on neighboring lot. |
| 21 | 4.21 Submit a draft Stormwater Management Maintenance Agreement (SWMA) for review and approval that covers inspection and maintenance requirements for any BMP used to meet stormwater management requirements on this project. Include copies of all stormwater, utility, and detail plan sheets that contain stormwater practices on 8.5x14 size paper in the draft document. These drawings do not need to be to scale as they are for informational purposes only. Once City Engineering staff have reviewed the draft document and approved it with any required revisions submit a signed and notarized original copy to City Engineering. Include a check for $30.00 made out to Dane County Register of Deeds for the recording fee. City Engineering will forward the document and fee for recording at the time of issuance of the stormwater management permit. Draft document can be emailed to Tim Troester (west) at ttroester@cityofmadison.com, or Daniel Olivares at DAOlivares@cityofmadison.com final document and fee should be submitted to City | Stormwater Management Maintenance will be addressed through a Reciprocal Easement Agreement and will cover inspection and maintenance requirements for any BMP used to meet stormwater management requirements on this project. Include copies of all stormwater, utility, and detail plan sheets that contain stormwater practices on 8.5x14 size paper in the draft document (but the recorded document will contain 8.5x11 size paper). These drawings do not need to be to scale as they are for informational purposes only. Once City Engineering staff have reviewed the draft document and approved it with any required revisions it will be recorded after the CSM and deed to Applicant. Draft document can be emailed to Tim Troester (west) at ttroester@cityofmadison.com, or Daniel Olivares at DAOlivares@cityofmadison.com. The Applicant will pay the recording fee. |
| 28 | The location of the Common Drive access between this site and the property to the east is being modified by this project and the proposed land division requires modification of the parcels subject to the agreement. Provide the amendment to the Driveway Easement per Doc No. | The location of the Common Drive access between this site and the property to the east is being modified by this project and the proposed land division requires modification of the parcels subject to the agreement. Provide the Reciprocal Easement Agreement governing the use of the |

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| | 2540854. The final document shall be recorded immediately after the pending CSM and prior to final sign off of the site plan. The site plan shall show and note the new easement area. | Common Drive access. The final document shall be recorded after the pending CSM and deed to the applicant. |
| 31 | Provide for review, comprehensive easements and agreements including storm water drainage, storm management and sanitary sewer that are necessary to accomplish the land division or site development as proposed prior to final sign off. Many cross-property lines or are shared. The document(s) shall be executed and recorded immediately subsequent to the CSM recording and prior to building permit issuance. | Provide for review, comprehensive easements and agreements including storm water drainage, storm management and sanitary sewer that are necessary to accomplish the land division or site development as proposed prior to final sign off. This will be addressed through a Reciprocal Easement Agreement. Many cross-property lines or are shared. The document(s) shall be executed and recorded subsequent to the CSM recording and prior to building permit issuance. |
| 55 | Developer shall provide a recorded copy of any joint driveway ingress/egress and crossing easements and shall be noted on face of plan. | Developer shall provide a recorded REA including joint driveway ingress/egress and crossing easements following recording of the CSM and deed. Such items should be noted on face of plan. |

Minor Issue #3

The staff report references a second-floor outdoor terrace. There is no second-floor outdoor terrace in the current design, nor was it a part of the design package approved by the Urban Design Commission.

Minor Issue #4

The precast concrete podium will contain structural columns within the parking area. Applicant will investigate structural revisions to locate the columns toward the front of the parking stall to minimize the potential for conflict with vehicles. Proposed revised language for this staff condition is outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
|---|---|---|
| 51 | All parking stalls must be clear of any and all obstructions (including columns) to be considered a legal parking stall. For large car this means 9' by 18' clear, for one-size-fits-all this means 8.75' by 17' clear. On the submitted plan, it appears that | Applicant shall work with staff to revise columns locations to minimize the column obstructions within the parking stall area. |

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| | structural columns are located within several parking stalls. | |

Minor Issue #5

Given the uniqueness of the site location and given the nature of the PUD zoning, Applicant requests flexibility in its signage design to implement the signage as currently conceptualized on the plans. Proposed revised language for this staff condition is outlined below:

| Condition # | Current Staff Condition | Proposed Revised Staff Condition |
|---|---|---|
| 4 | Submit a revised zoning text. In the Zoning Text, revise the signage to be allowed as per Chapter 31 of the Madison General Ordinances, as compared to the UMX district. | Applicant shall be granted flexibility in its signage design given the nature of its PUD zoning. |

We look forward to working collaboratively with you and the members of the Planning Commission to modify the above referenced conditions to allow us to continue to advance the proposed development project.

Sincerely,

**MORTENSON DEVELOPMENT, INC.**

Nate Gundrum, Vice President

EXHIBIT A

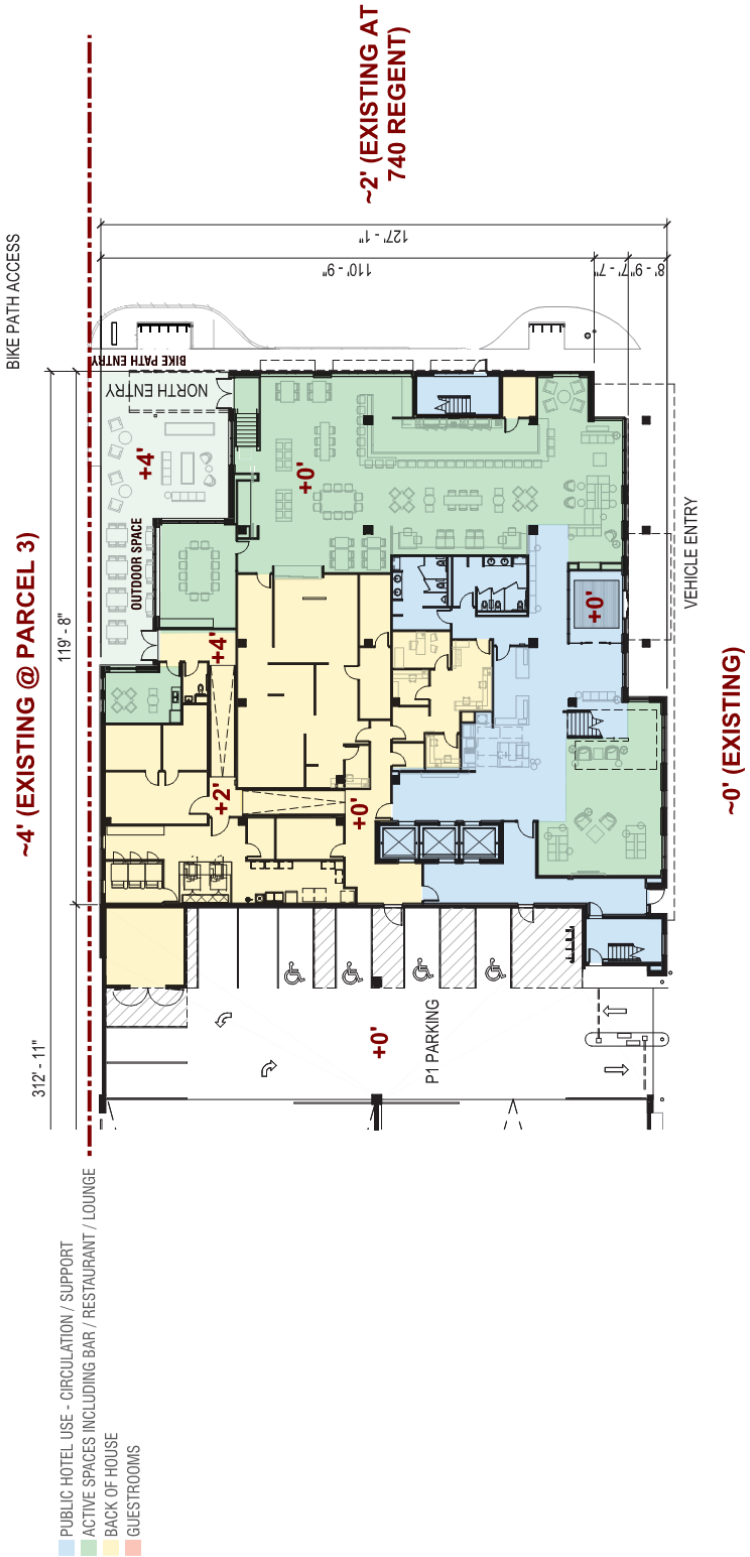
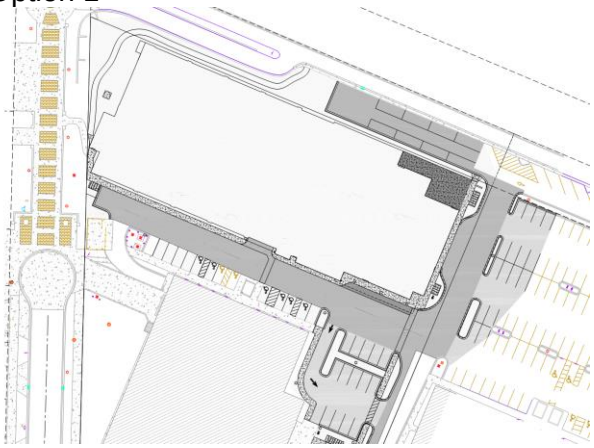
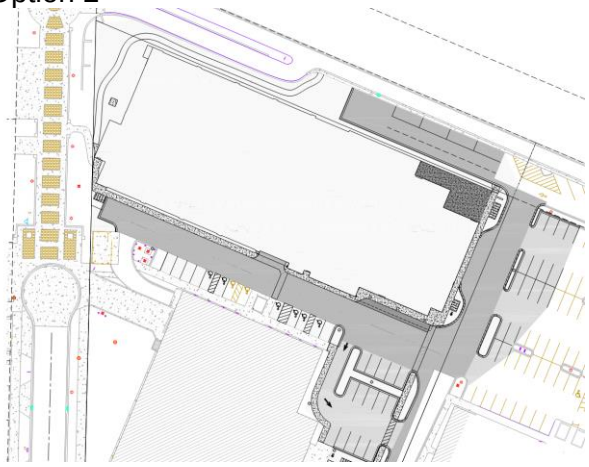
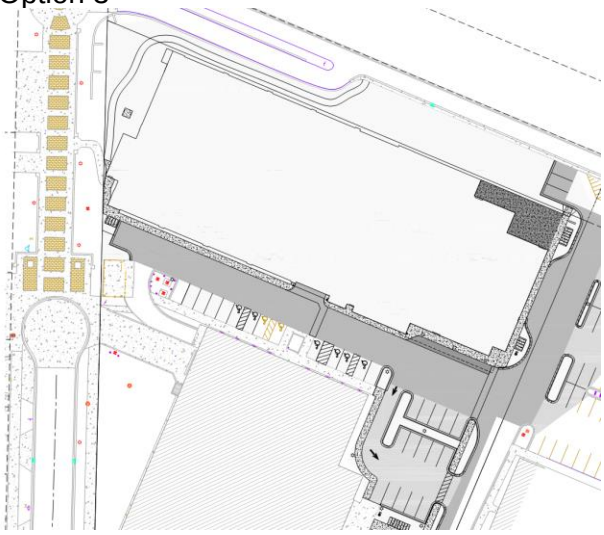

~2' (EXISTING AT 740 REGENT)
127' - 1"
110' - 9"
8' - 9"
7' - 7"
BIKE PATH ACCESS
BIKE PATH ENTRY
NORTH ENTRY
+4'
+0'
OUTDOOR SPACE
VEHICLE ENTRY
~4' (EXISTING @ PARCEL 3)
119' - 8"
+4'
+0'
+2'
+0'
~0' (EXISTING)
312' - 11"
+0'
P1 PARKING
PUBLIC HOTEL USE - CIRCULATION / SUPPORT
ACTIVE SPACES INCLUDING BAR / RESTAURANT / LOUNGE
BACK OF HOUSE
GUESTROOMS

EXHIBIT B

Option 1



Option 2



Option 3