## **PUBLIC APPENDIX "A"**

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December 5, 2024

### **VIA EMAIL**

Laura Bisset and Jason Davidson
Solicitors, Planning & Administrative Tribunal Law
City of Toronto, Legal Services Division
Metro Hall, 26th Floor
55 John Street. Toronto, ON M5V 3C6

Dear Ms. Bisset and Mr. Davidson:

RE: 789-793 Don Mills Road and 10 Ferrand Drive

Official Plan Amendment (City File No. 22 184087 NNY 16 OZ) Zoning By-law Amendment (City File No. 22 184087 NNY 16 OZ)

<u>Settlement Offer – Appeals of Official Plan Amendment and Zoning By-law</u> Amendment (OLT Lead Case No. OLT-23-000141)

We are the lawyers for 789 Don Mills Developments Inc. (the "Owner"), the owner of the lands municipally known as 789-793 Don Mills Road and 10 Ferrand Drive (collectively, the "Site").

This letter constitutes the Owner's offer to settle a portion of the Official Plan Amendment and Zoning By-law Amendment applications that are currently under appeal before the Ontario Land Tribunal (the "**Tribunal**") in accordance with the terms set out below.

## The Site and Surrounding Area

The Site is generally located south of Eglinton Avenue East, at the northeast corner of Don Mills Road and Rochefort Drive. The Site has a frontage of approximately 113.0 m on Don Mills Road, 59.0 m on Ferrand Drive, and 223.0 m on Rochefort Drive. In total the Site has an area of approximately 20,655 m² (5.1 acres).

The Site is located in close proximity to existing and planned transit infrastructure including the intersection of the Ontario Line and the Crosstown Light Rapid Transit (LRT) lines, which include the planned Science Centre Station (195 m to the north), Flemingdon Park Station (750 m to the south), and the Aga Khan Park and Museum LRT Station (550 m to the north). The intersection of these two rapid transit lines will include a major transit hub. The Don Mills Crossing Secondary Plan that applies to the Site was prepared prior to the Province's announcement regarding the construction of the Ontario Line. The Site is also well served by multiple surface transit routes that operate along the major arterials of Don Mills Road and Eglinton Avenue East and connect directly with the existing and planned rapid transit network.



793 Don Mills Road is currently occupied by a 2-storey pavilion building along Don Mills Road and an associated 4-storey parking structure to the immediate east. At the approximate midpoint of Rochefort Drive (between Don Mills Road and Ferrand Drive) is Foresters Lane, which is a privately-owned lane that forms part of the Site. East of Foresters Lane is 10 Ferrand Drive, which is currently occupied by a surface parking lot that is used by the existing office building that is located at 789 Don Mills Road.

## **Ontario Land Tribunal Appeals**

The Official Plan Amendment and Zoning By-law Amendment Applications were appealed to the Tribunal on February 21, 2023, on the basis of City Council's refusal or neglect to make a decision within the statutory timeframes set out under the *Planning Act* (the "**Planning Act Appeals**"). The Tribunal has held three Case Management Conferences in respect of the Planning Act Appeals which were held on June 31, 2023, November 15, 2023, and November 1, 2024.

The Site is also the subject of the Designation By-law that was adopted by City Council on July 19, 2023 pursuant to Section 29(6) of the *Ontario Heritage Act*. The Designation By-law was appealed to the Tribunal by the Owner on September 7, 2023 (the "**Designation Appeal**"). The Tribunal has held two Case Management Conferences in respect of the Designation Appeal which were held on November 15, 2023 and November 1, 2024.

Pursuant to the instructions for the City to continue discussions with the Owner in an attempt to resolve outstanding issues, the Owner and City staff have been involved in facilitated discussions in respect of the Planning Act Appeals and the Designation Appeal. We note that the Settlement Proposal that our client is submitting at this time (which is described in further detail below) is being submitted to the City as a formal revision to the current proposed development and is not being filed on a confidential or without-prejudice basis.

## **Settlement Proposal**

Our client is offering to settle the Planning Act Appeals, in part, by revising the proposed development that is currently under appeal before the Tribunal in accordance with, and to permit the form of development shown on, the architectural plans prepared by Sweeny & Co Architects (dated November 11, 2024), a copy of which are attached as Appendix A (the "Settlement Proposal").

The Settlement Proposal incorporates the following modifications to the proposed development:

- <u>Phasing of Appeals</u>: The Planning Act Appeals shall be phased such that the resolution of the east portion of the Site (including Foresters Lane, Building C, Building D and the parkland dedication) shall be addressed now through this offer to settle ("**Phase 1**") and the west portion of the Site (including Building A, Building B, the existing office building,



and the existing pavilion building at the northwest corner of the Site) shall be adjourned so that the parties can engage in future mediation discussions ("**Phase 2**").

The Owner and the City reserve their rights with respect to the Planning Appeals and the Designation Appeal for Phase 2, including as it relates to the merits of the Designation Bylaw and the procedural issue of whether the Designation By-law should be heard in advance of or together with the Planning Appeals. The site area for Phase 1 is 8,849.52 m2 and the total site area is 13,192.76 m2.

- Buildings C and D: The height of Building C has increased from 50 to 53 storeys and the height of Building D been reduced from 45 to 38 storeys. The separation distance between Building C and Building D has increased from 25.0 m to 27.0 m and the tower floorplates of these two buildings would be 795 m². The Owner proposes a minimum setback for the tower portion of Building D of 12.5 m to the north property line. The podium situated underneath Buildings C and D has been designed to maintain a minimum setback of 5.0 m from the proposed parkland. The height of the podium has also been reduced to 4 storeys adjacent to the proposed parkland.
- Parkland Dedication: The proposed park has been relocated from the northwest corner of the Site (along Don Mills Road) to the northwest corner of Rochefort Drive and Ferrand Drive. Prior to the issuance of the first above-grade building permit for the first building in Phase 1, the parkland dedication requirement will be fully satisfied for Phase 1 and Phase 2 in accordance with Section 42 of the Planning Act, by the conveyance of an on-site parkland dedication ("On-site Parkland"), which has a minimum land area of 1,320 square metres, free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition to the satisfaction of the General Manager, Parks, Forestry and Recreation.

Prior to the earlier of (i) 48 months following the conveyance of the On-Site Parkland to the City; or (ii) the issuance of first above-grade building permit for the first building in Phase 2, the On-site Parkland will be delivered to the City with above base park improvements, in exchange for a development charge credit against the Parks and Recreation component of the Development Charges. The 48-month period referred to above can be extended by the General Manager, Parks, Forestry & Recreation acting reasonably to account for the timing of construction of the second building of Phase 1 and the consequent timing to complete above base park improvements.

- In the event that the Owner requires the On-site Parkland dedication for construction staging purposes following conveyance of the lands to the City, the Owner shall enter into an agreement with the City on terms satisfactory to the General Manager, Parks, Forestry & Recreation, save and except for the payment of any occupancy fees, as agreed upon and acknowledged by the Owner and the City. The agreement shall stipulate that use of



the On-site Parkland dedication for construction staging purposes shall occur for no more than 48 months after the conveyance of the parkland to the City, unless otherwise extended by the General Manager, Parks, Forestry and Recreation for all or a portion of the lands on the same terms to account for the timing of construction of the second building of Phase 1.

- Foresters Lane: We are proposing that Foresters Lane be provided as either a:
  - stratified public road with upper and lower bounds defined to ensure that the below-grade infrastructure that is located beneath a certain datum point (including the existing sanitary, storm sewer and watermain services that are currently underground and a proposed underground parking tunnel connecting parking garages on either side of Foresters Lane) be privately owned and maintained; or
  - remain a private road with a public easement to be granted over the surface of the road to allow the public to travel between Rochefort Drive and Sonic Way, which will allow below-grade infrastructure (including the existing sanitary, storm sewer and watermain services that are currently underground and a proposed underground parking tunnel connecting parking garages on either side of Foresters Lane) to continue to be owned and maintained by the Owner, while allowing the public to travel over Foresters Lane at grade.

It is acknowledged by the City and the Owner that Foresters Lane is currently subject to existing easements which must be considered in determining whether Foresters Lane will become a stratified public road or remain a private road with a public easement. The resolution of matters with respect to Foresters Lane will be to the satisfaction of the Chief Engineer, the General Manager, Transportation Services, and the Executive Director, Development Review, prior to the issuance of the Tribunal's final order.

Enclosed for reference is a Draft R-Plan prepared by R. Avis Surveying Inc. with details of Foresters Lane. Also enclosed is a Section drawing prepared by R.V. Anderson Associates Limited which contains additional information regarding the servicing infrastructure that exists below Foresters Lane.

## **Matters of Implementation**

Should the Settlement Proposal be accepted by City Council, the Owner and the City shall jointly advise the Tribunal that all of the City's issues with respect to Phase 1 have been resolved, and that the Owner and the City are jointly requesting that the Case Management Conference scheduled for January 28, 2025 be converted into a 1-day settlement hearing.

The Owner will be responsible for leading planning evidence in support of the Settlement Proposal and the implementing instruments, including filing any sworn affidavit evidence with the Tribunal.

## overland

In advance of the settlement hearing, the Owner and the City will work expeditiously to prepare the final form of the implementing Official Plan Amendment and Zoning By-law Amendment for the Phase 1 proceeding, so that these instruments can be filed on consent.

This offer to settle is being submitted for consideration by City Council at its meeting commencing on December 17, 2024, following which it will be null and void if not accepted.

Thank you for your consideration of this Settlement Proposal. Please contact either the undersigned or Michael Cara (<a href="mailto:mcara@overlandllp.ca">mcara@overlandllp.ca</a>) in respect of this matter.

Yours truly,

**Overland LLP** 

Per: Christopher Tanzola

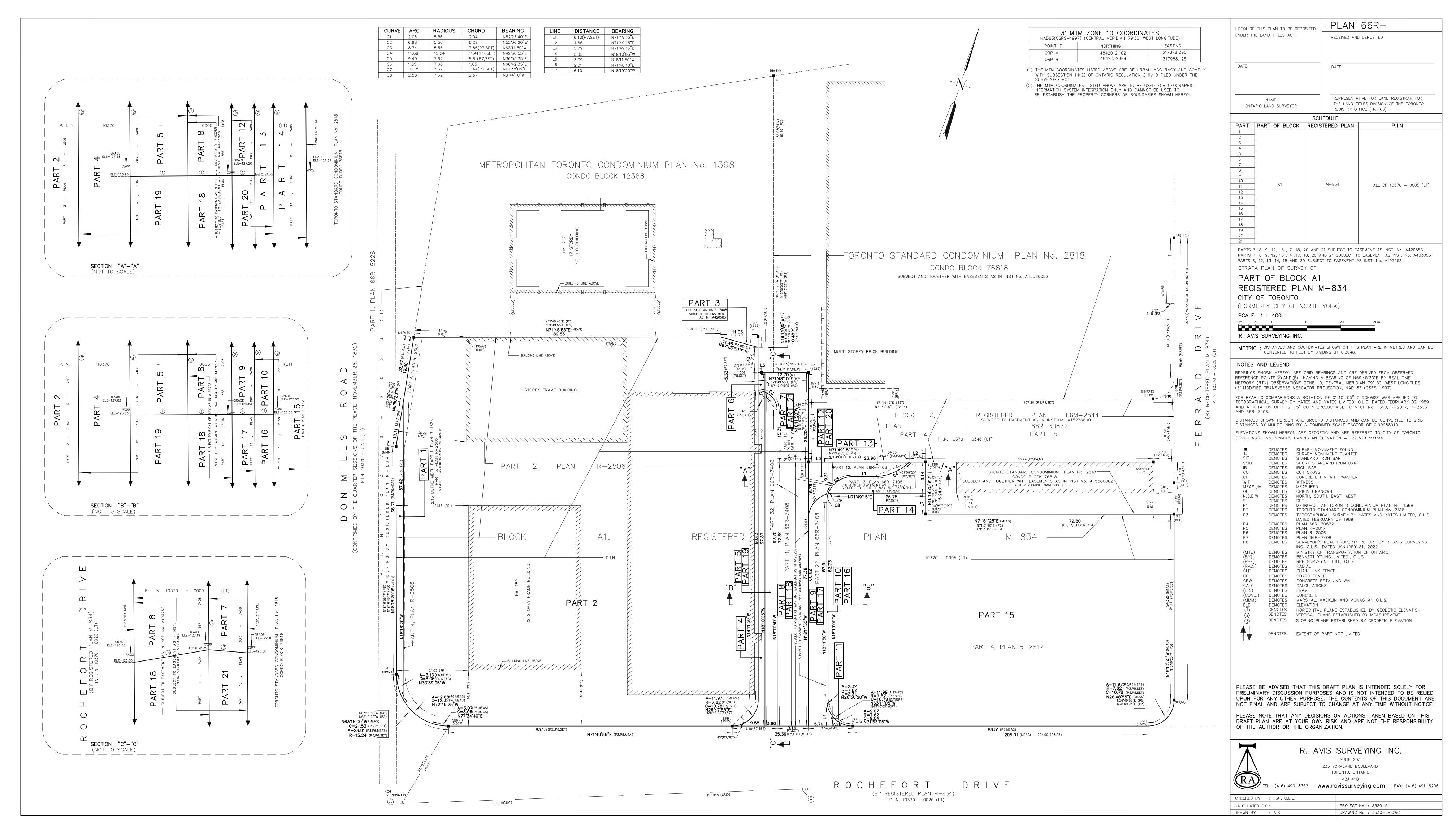
Partner

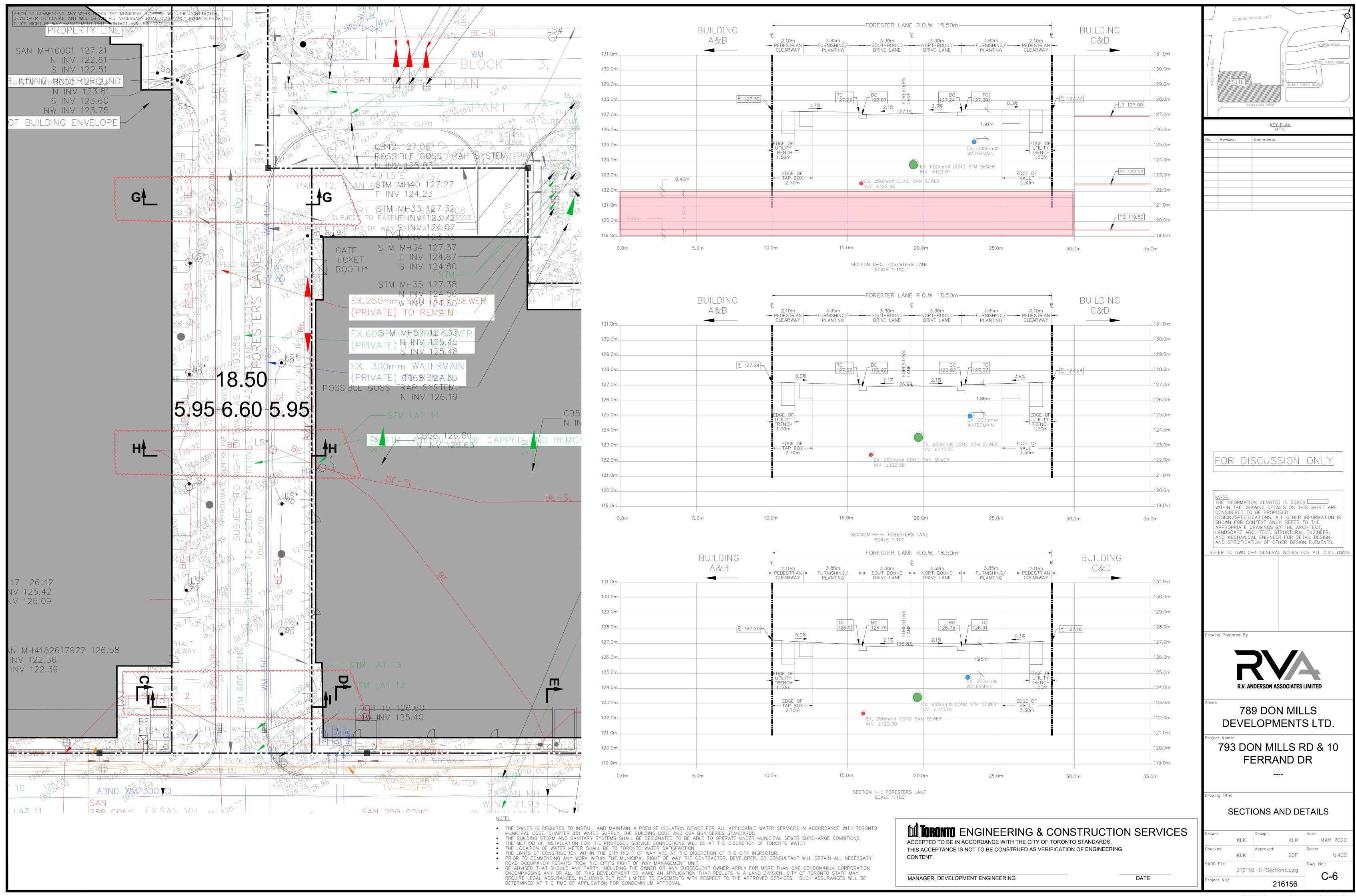
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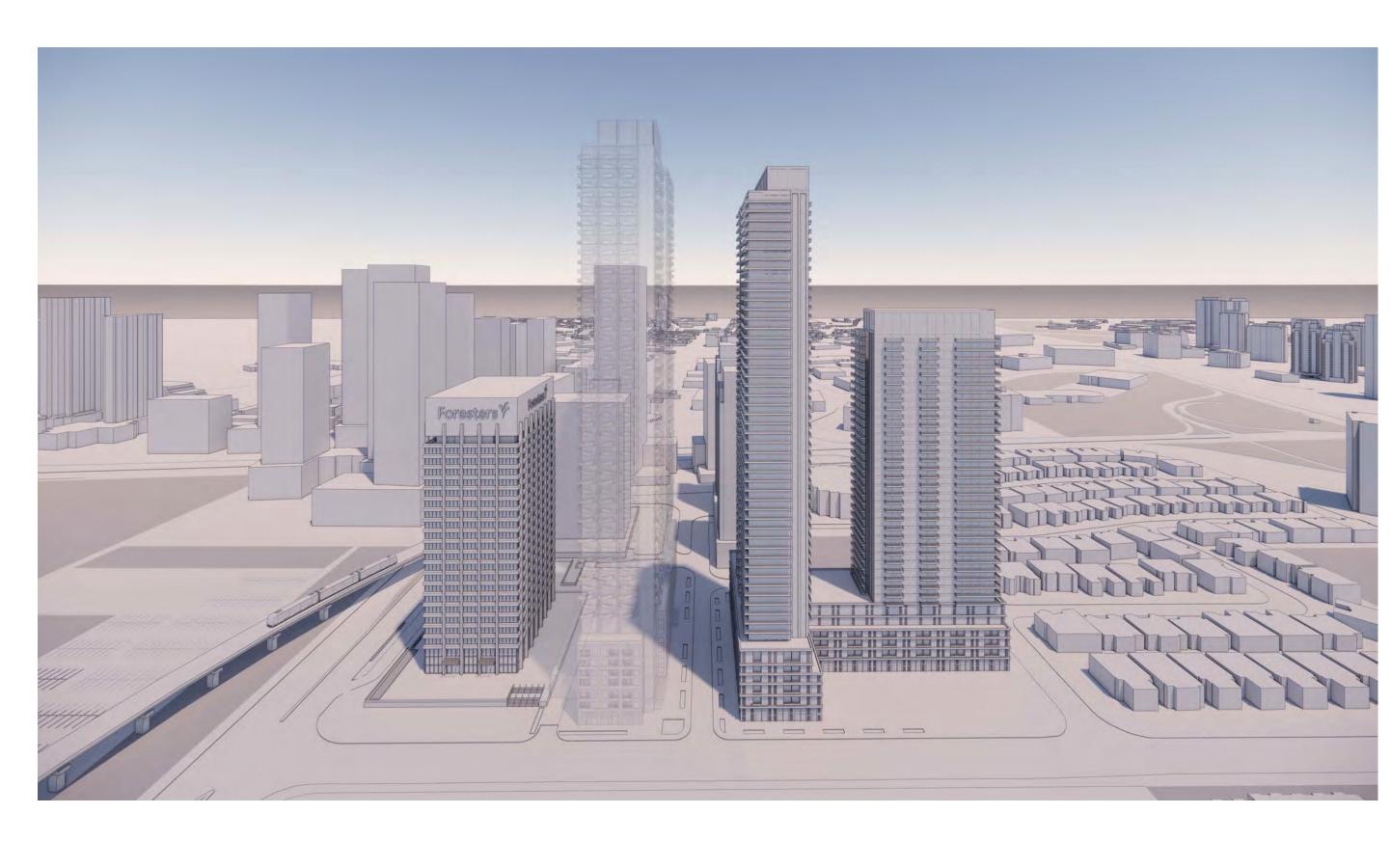
1. November 11, 2024 Plans

2. Draft R-Plan

3. Foresters Lane Section







## 789 Don Mills Road & 10 Ferrand Dr.

OWNER:
789 Don Mills Developments Inc.
contact: Jude Tersigni
e: jude.tersigni@menkes.com

ARCHITECT:
Sweeny &Co Architects Inc.
134 Peter St., Suite 1601 Toronto, ON M5V 2H2 Contact: Dermot J. Sweeny E: dermot@sweenyandco.com T: 416-971-6252

PROJECT MANAGER: Menkes Developments Ltd. contact: Jude Tersigni e: jude.tersigni@menkes.com

CIVIL:
RV Anderson Associates Ltd.
2001 Sheppard Avenue East, Suite 300 Toronto ON M2J 4Z8 contact: Kristin Kim e: kleekim@rvanderson.com t: (416) 497-8600

LANDSCAPE ARCHITECT: NAK Design Group 411 Richmond Street East, Studio 104 Toronto, Ontario M5A 3S5 contact: Sibylle von Knobloch E: svk@nakdesigngroup.com T: 416-340-8100

TRANSPORTATION:
LEA Consulting Inc.
625 Cochrane Drive, 5th Floor Markham, ON L3R 9R9 contact: Ken Chan E: kchan@lea.ca T: 289-846-5307 C: 416-435-9771

HERITAGE: GBCA Architects 362 Davenport Road, Suite 200 Toronto, ON M5R 1K6 contact: Emad Ghattas E: emad@gbca.ca T: 416-929-6556 X114

LEED: EQ Buildings

25 Adelaide St. East, Suite 1500 Toronto, ON, M5C 3A1 contact: Samantha Menard E: smenard@eqbuilding.com T: 416-645-1186 X2983 C: 416-606-1564

**GEOTECH/ENVIRONMENTAL: Envision Consultants** 6415 Northwest Drive Unit 37-40, Mississauga, Ontario, L4V 1X1 contact: Joe Hoyles E: jhoyles@envisionconsultants.ca C: 905-659-9456

<u>LEGAL:</u> Christopher Tanzola Overland LLP 5255 Yonge Street, Suite 1101 North York, ON M2N 5P8 contact: Eileen Costello E: ctanzola@overlandllp.ca T: 416-730-0645

PLANNING: Goldberg Group 2098 Avenue Rd, North York, ON M5M 4A8 contact: Michael Goldberg E: mgoldberg@goldberggroup.ca T: 416-322-6364 X2100

WIND:
Theakston Group
596 Glengarry Crescent
Fergus, ON, N1M 3E2
contact: Stephen Pollock E: spollock@theakston.com T: 519-787-2910

22-06-20 ISSUED FOR OPA/ZBA/SPA 23-12-22 ISSUED FOR COORDINATION 24-11-11 ISSUED FOR OLT SETTLEMENT

# Sweeny&Co Architects

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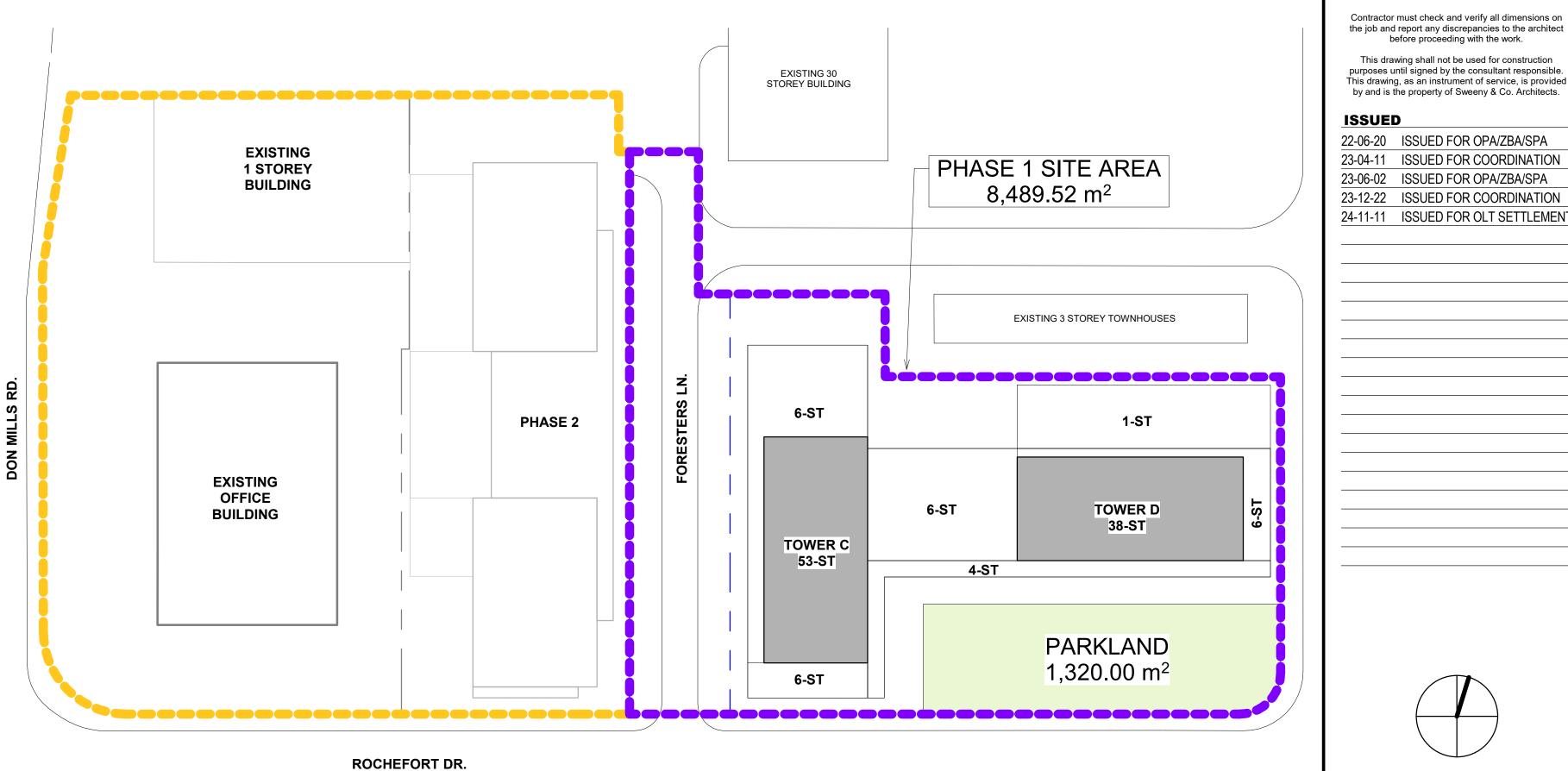
PROJ. NAME 789 Don Mills Road & 10 Ferrand Drive

789 Don Mills Developments

DWG TITLE Cover Page

2024-01-18 DATE: SCALE:

DRAWN: PG CHECKED: AG PROJ. No.: 2126



DRAWING NOT TO BE SCALED

Contractor must check and verify all dimensions on the job and report any discrepancies to the architect before proceeding with the work.

This drawing shall not be used for construction purposes until signed by the consultant responsible.
This drawing, as an instrument of service, is provided by and is the property of Sweeny & Co. Architects.

23-04-11 ISSUED FOR COORDINATION

24-11-11 ISSUED FOR OLT SETTLEMENT

23-06-02 ISSUED FOR OPA/ZBA/SPA

**ISSUED** 

**ZONING INFORMATION** SITE AND STATISTICS SUMMARY PROVIDED (sm) PROVIDED (sf) NOTES PHASE 1 AREA 91,380 SF PARKLAND DEDICATION CALCULATED BASED ON STATUTORY REQUIREMENTS 1,319.28 m² 14,201 SF FOR ENTIRETY OF SITE (INCLUSIVE OF PHASES 1 AND 2). 10% OF PHASE 1 AND 2 AREAS (TOTAL SITE AREA) 13,192.76 m<sup>2</sup> 142,006 SF TOTAL ABOVE GRADE RES. GFA PHASE 1 (BUILDINGS CD) 68,247.96 m<sup>2</sup> 734,614 SF

TOTAL RES GFA/PHASE 1 SITE AREA

849

73.95%

0.70%

**CONTEXT PLAN** 

PHASE 1 FLOOR SPACE INDEX

**BUILDING CD UNITS** 

**UNIT MIX** 

RESIDENTIAL AMENITY					
TYPE		REQUIRED (m²/unit)	REQUIRED (m²)	PROVIDED (m²/unit)	PROVIDED (m²)
INDOOR (CD)	1,148 units			2.38 m²	2,734.51 m²
OUTDOOR (CD)	1,148 units			0.62 m <sup>2</sup>	712.34 m <sup>2</sup>
TOTAL RES. AMENITY CD		3.00 m <sup>2</sup>	3,444.00 m <sup>2</sup>	3.00 m <sup>2</sup>	3,446.85 m <sup>2</sup>

173

15.07%

118

10.28%

8.04

UNITS

1148

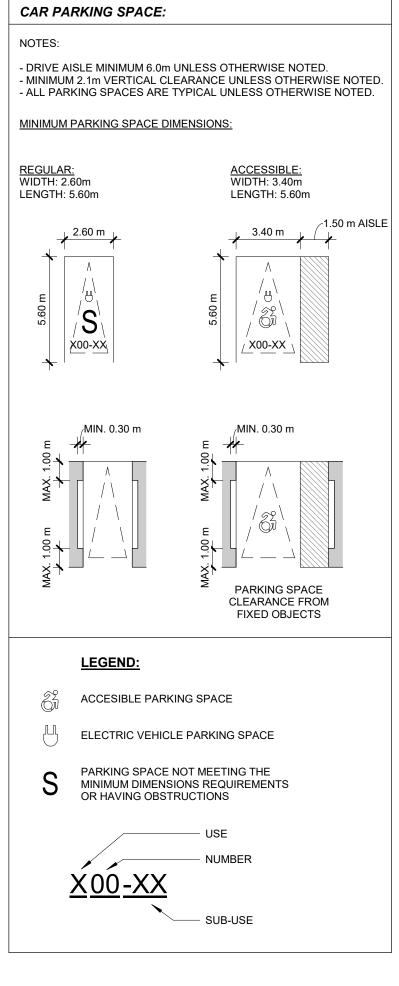
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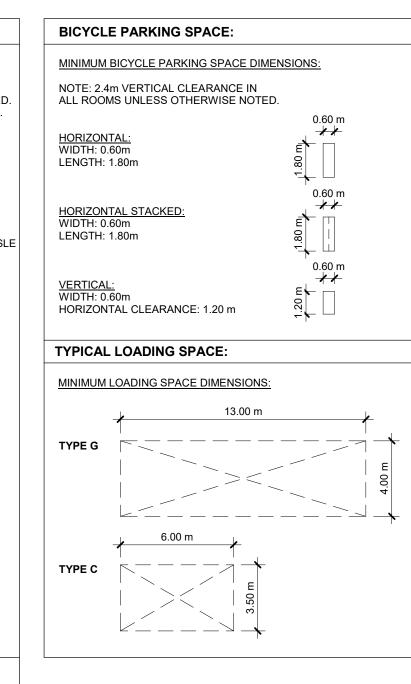
TYPE			TARGETED RA	TIO		PROVIDED
Residential	1,148 units	0.14	spaces/unit	=	161	16
Non Res.	1,148 units	0.41	spaces/unit	=	469	46
TOTAL PARKING		0.55				63
LEVEL					BF*	PHASE 1 (CI
P1					7	12
P2					7	12
P3					7	12
P4					4	9
Non Res. (Subtotal)					25	46
P4 (Residential)					3	3
P5 (Residential)					7	13
Residential (Subtotal)					10	16
TOTAL PARKING					35	63
RES. RATIO BY PHASE						0.14
UNITS						114

TYPE			REQUIRED		PROVIDED
Res LONG TERM (CD)	1,148 units	0.9	spaces/unit	1033	1033
Res SHORT TERM (CD)	1,148 units	0.1	spaces/unit	115	119
EXTERIOR AT GRADE (TGS)				10	10
Res EV BIKES (15%)		15%	short term pkg.	17	17
TOTAL BICYCLES				1149	115
TOTAL LONG TERM				1033	103
TOTAL SHORT TERM			_	115	12

LOADING & STAGING			
TYPE	UNITS	REQUIRED	PROVIDED
Type C			2
Type G			1
STAGING Phase 1 (CD)	1,148 units	114.80	m <sup>2</sup> 117.15 m <sup>2</sup>
	1,148 units	114.80	m² <b>11</b> 7

GARBAGE ROOM		
TYPE	UNITS	REQUIRED PROVIDED
Phase 1 (CD)	1,148 units	310.48 m <sup>2</sup> 333.41 m <sup>2</sup>
BULKY Phase 1 (CD)		10.00 m <sup>2</sup> 10.00 m <sup>2</sup>
TOTAL GARBAGE		320.48 m² 343.41 m²





# Sweeny&Co Architects

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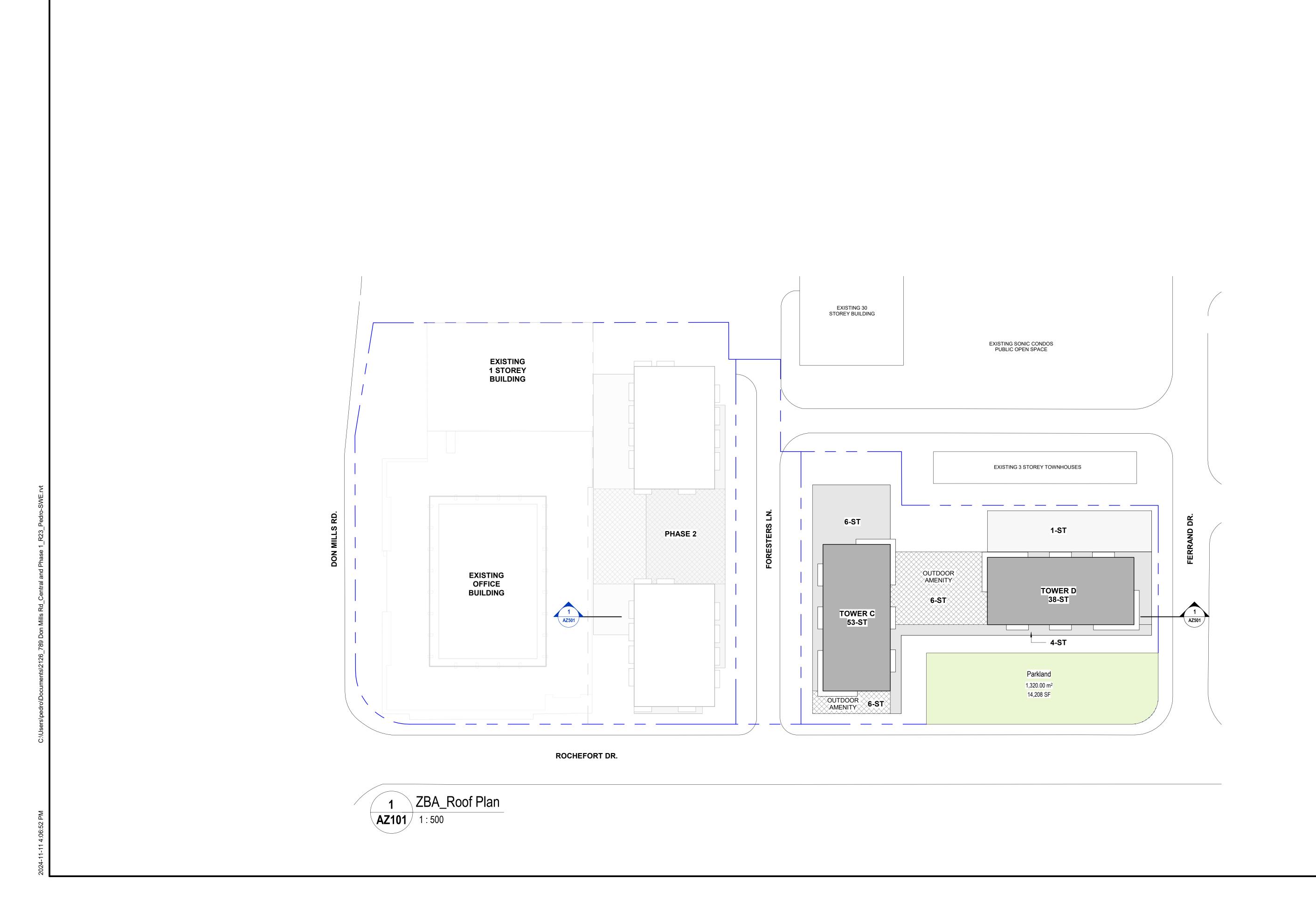
PROJ. NAME 789 Don Mills Road & 10 Ferrand Drive

789 Don Mills Developments

DWG TITLE

Context Plan & Project Statistics

2024-01-18 DATE: SCALE: As indicated DRAWN: CHECKED: AG PROJ. No.: 2126



DRAWING NOT TO BE SCALED

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ISSUED

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23-06-02 ISSUED FOR OPA/ZBA/SPA
24-11-11 ISSUED FOR OLT SETTLEMENT

SITE SYMBOL LEGEND:

RESIDENTIAL ENTRANCE (TOWER)

EXISTING OFFICE ENTRANCES

SERVICE ENTRANCE

AMENITY ENTRANCE

PRIVATE TERRACE

OUTDOOR AMENITY

GREEN ROOF
CANOPY

x123.45 EX
EXISTING GRADES

×123.45 PROPOSED GRADES

PROPOSED FIRE HYDRANT

FIXE DEPARTMENT CONNECTION

FIXE FIRE DEPARTMENT CONNECTION

PROPERTY LINE

AREA UNDER THIS APPLICATION (NET SITE AREA IN AZ001 CHART)

E-BIKES

CONVEX MIRRORS

## Sweeny&Co Architects

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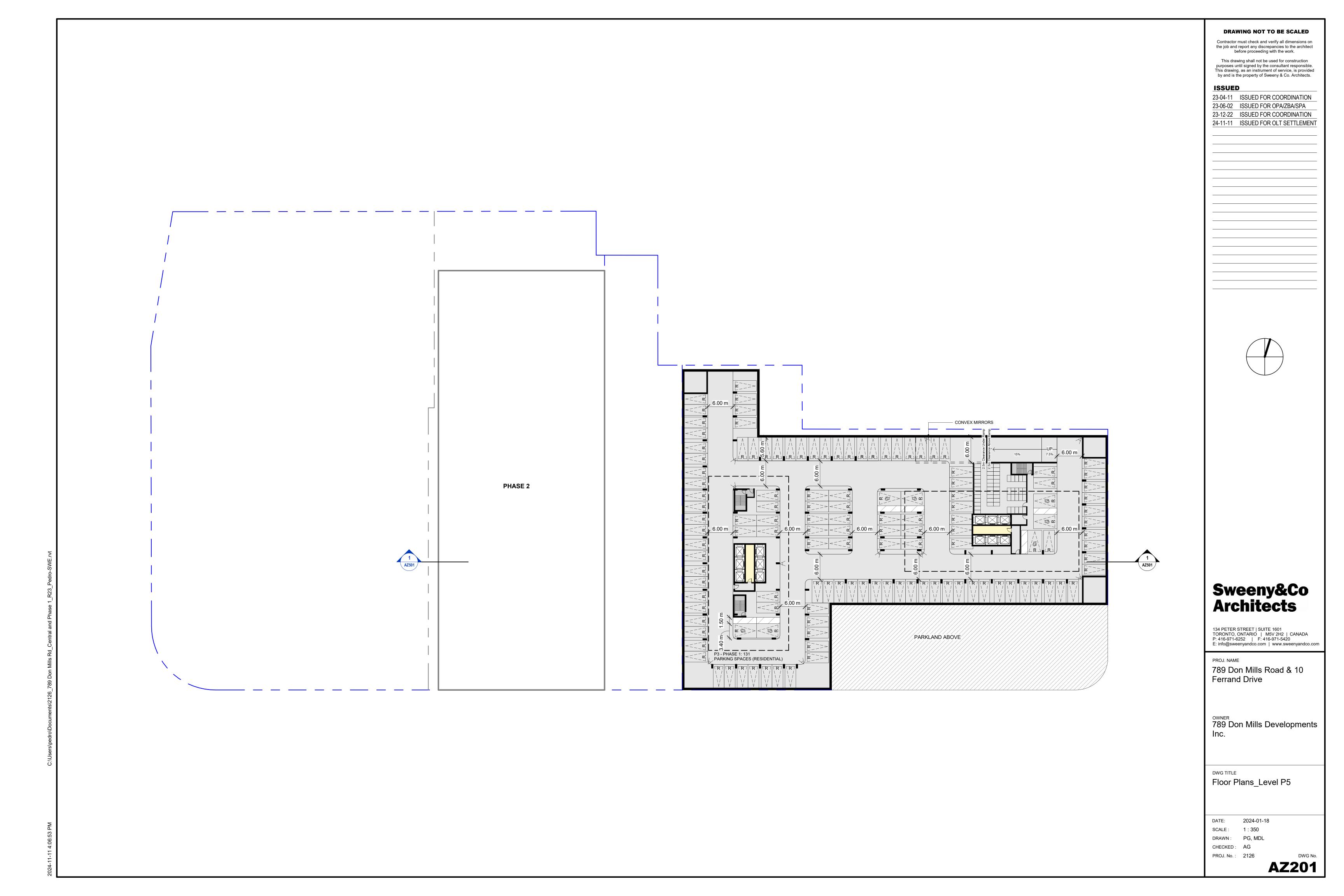
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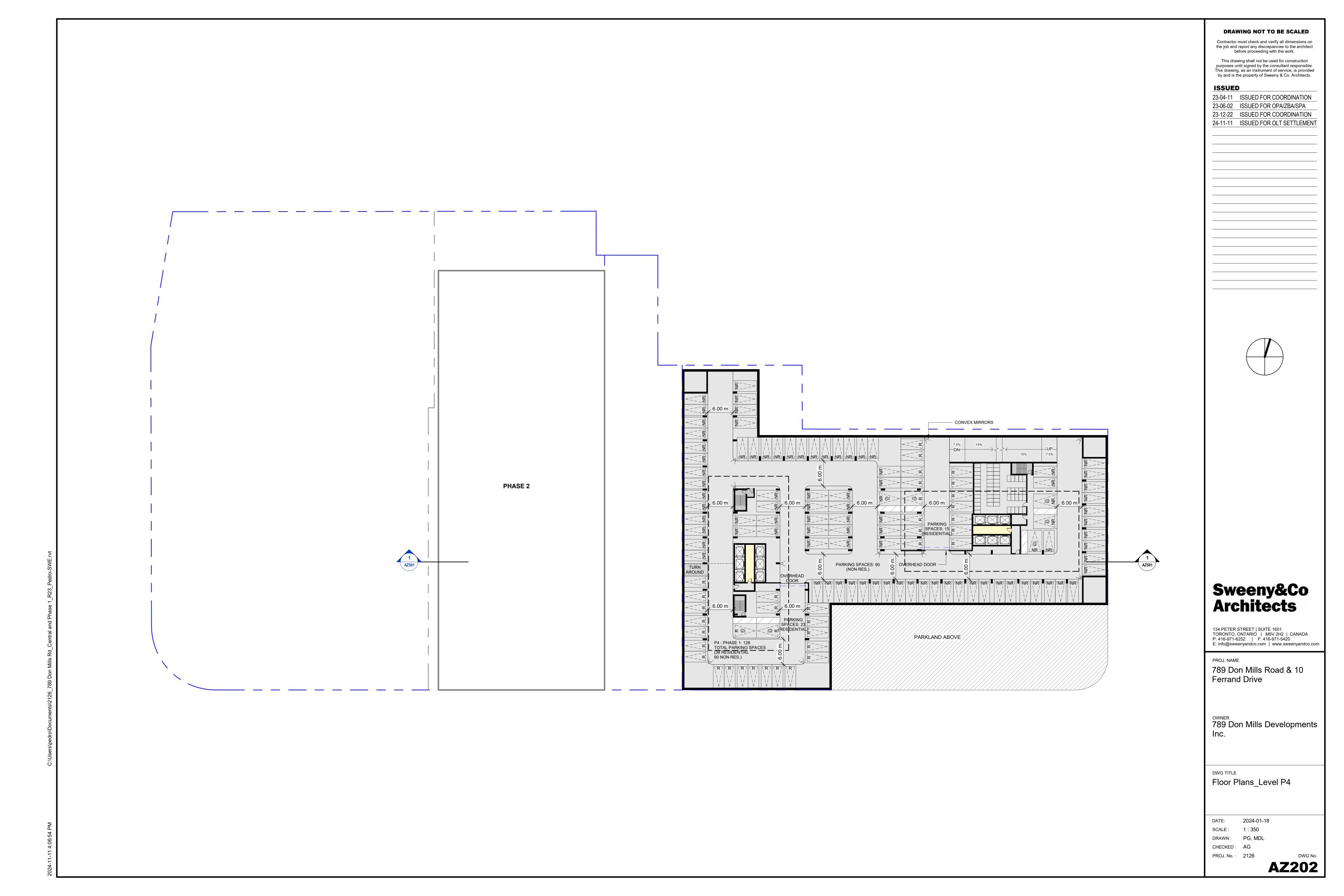
789 Don Mills Developments Inc.

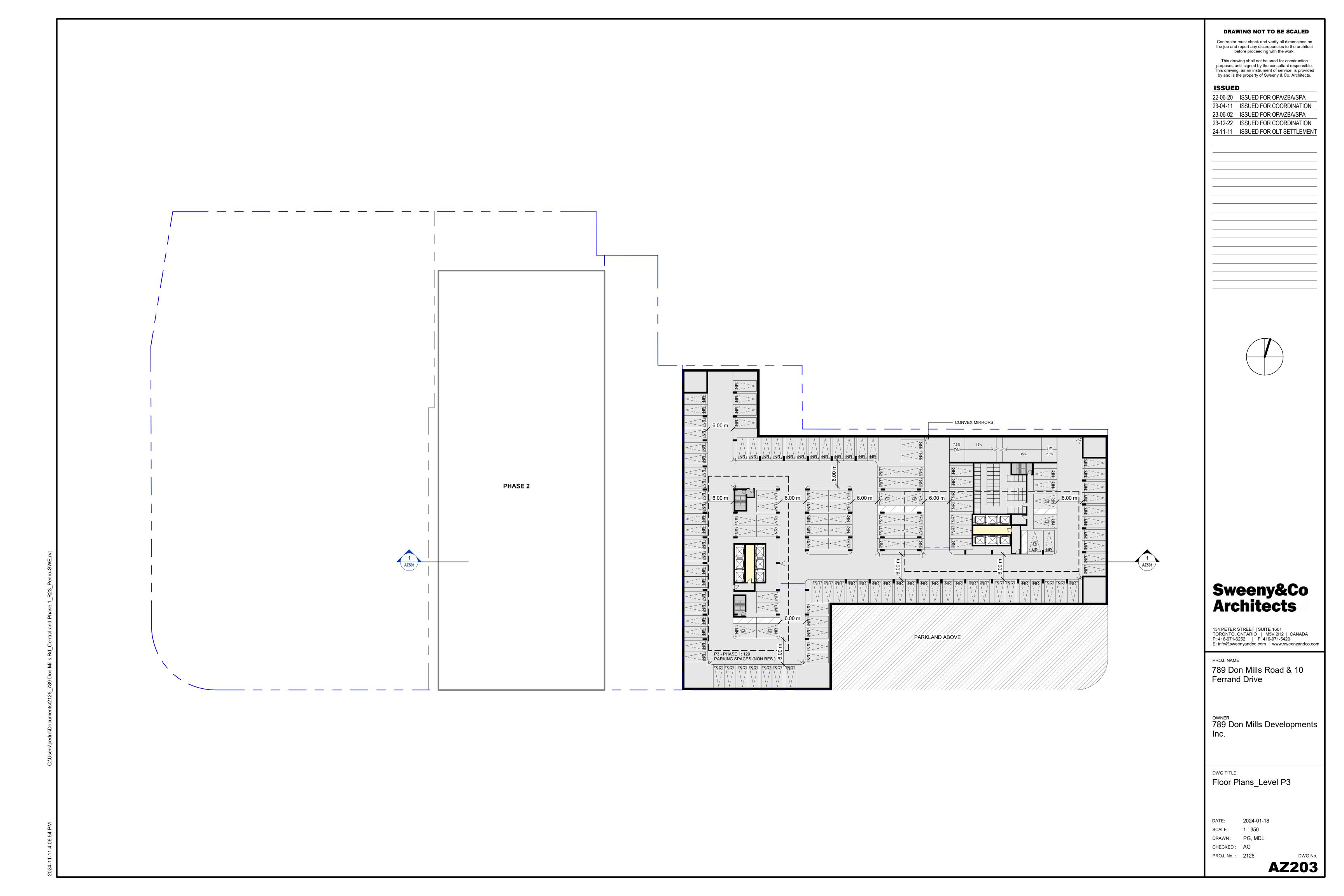
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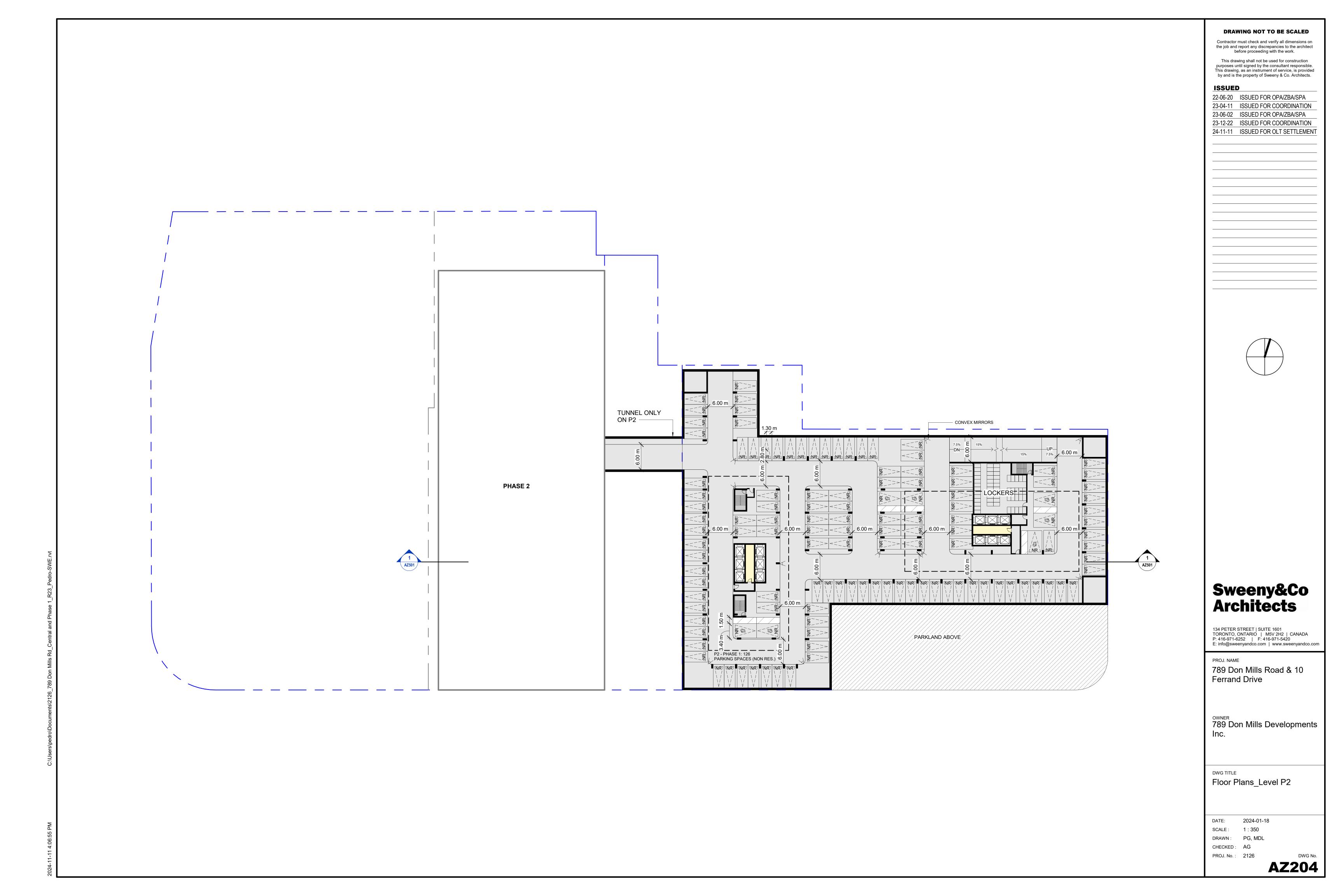
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PROJ. No.: 2126

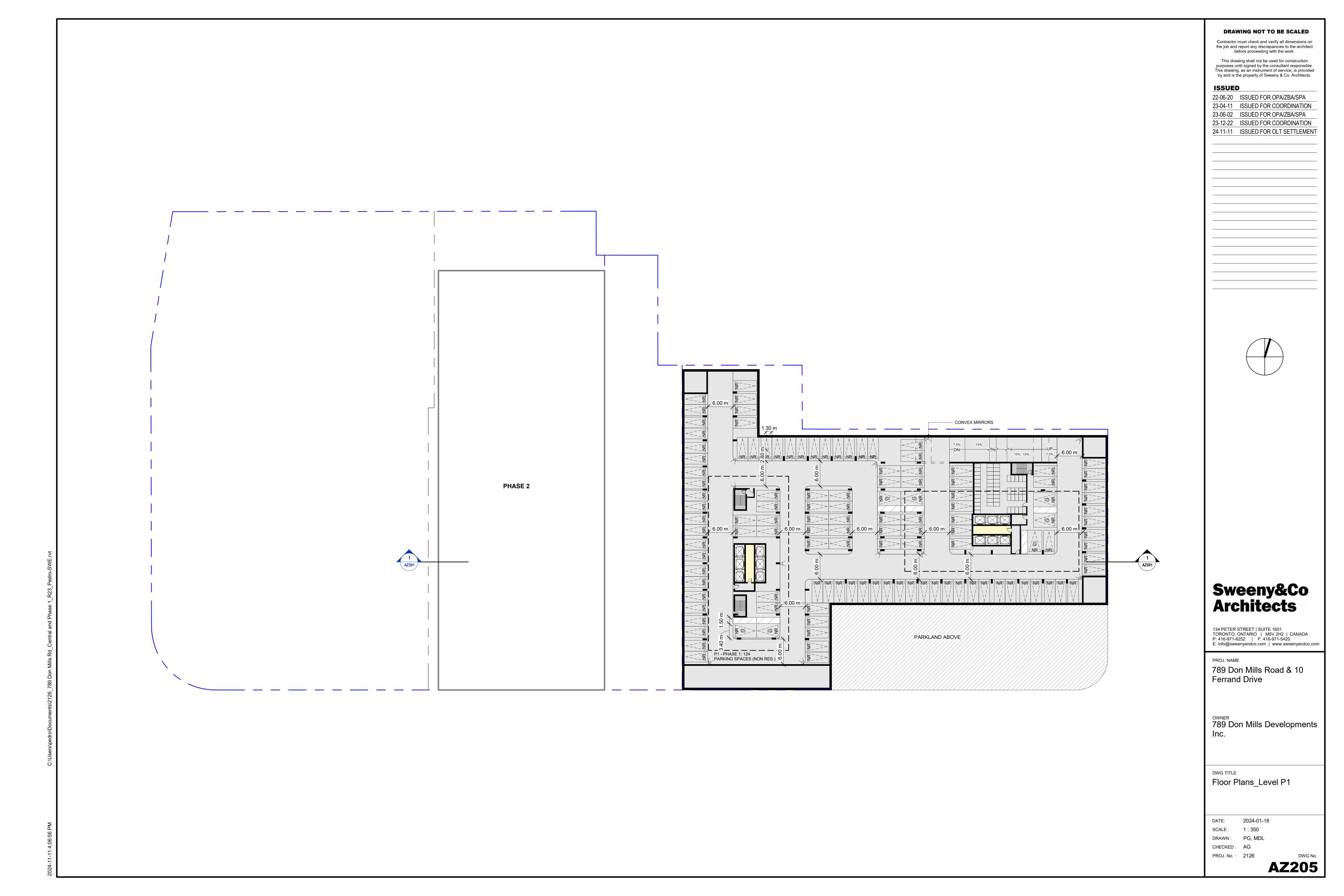
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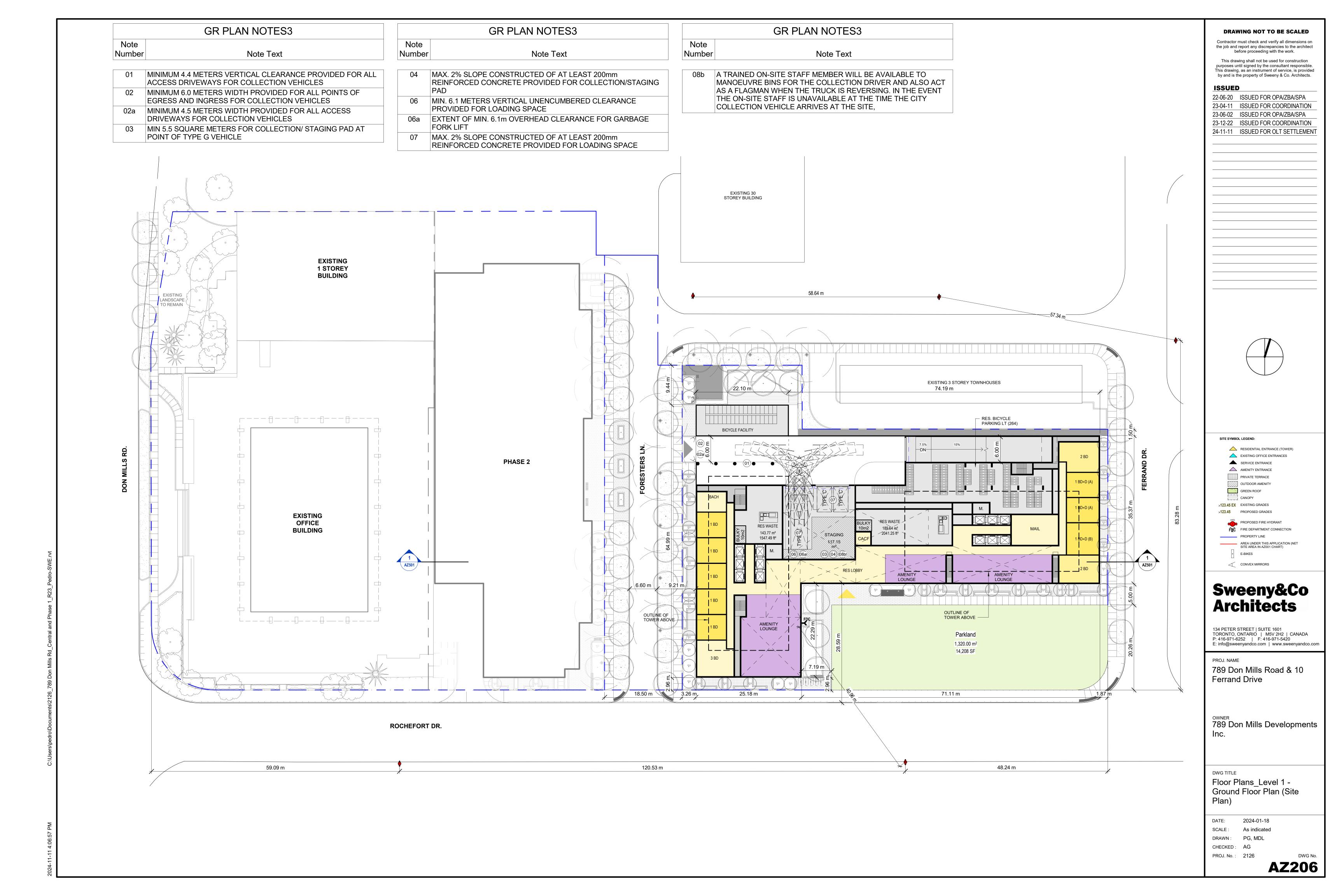


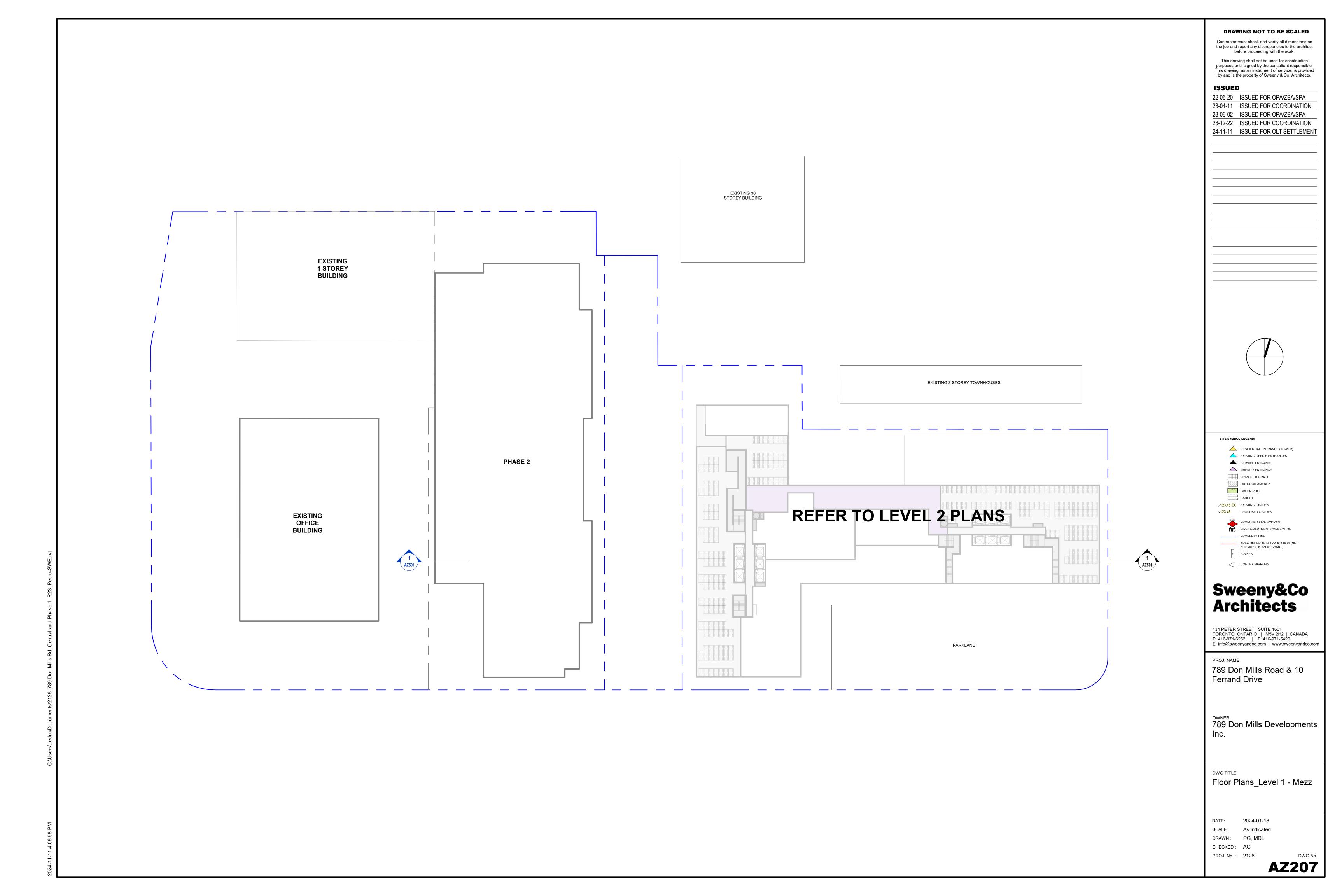


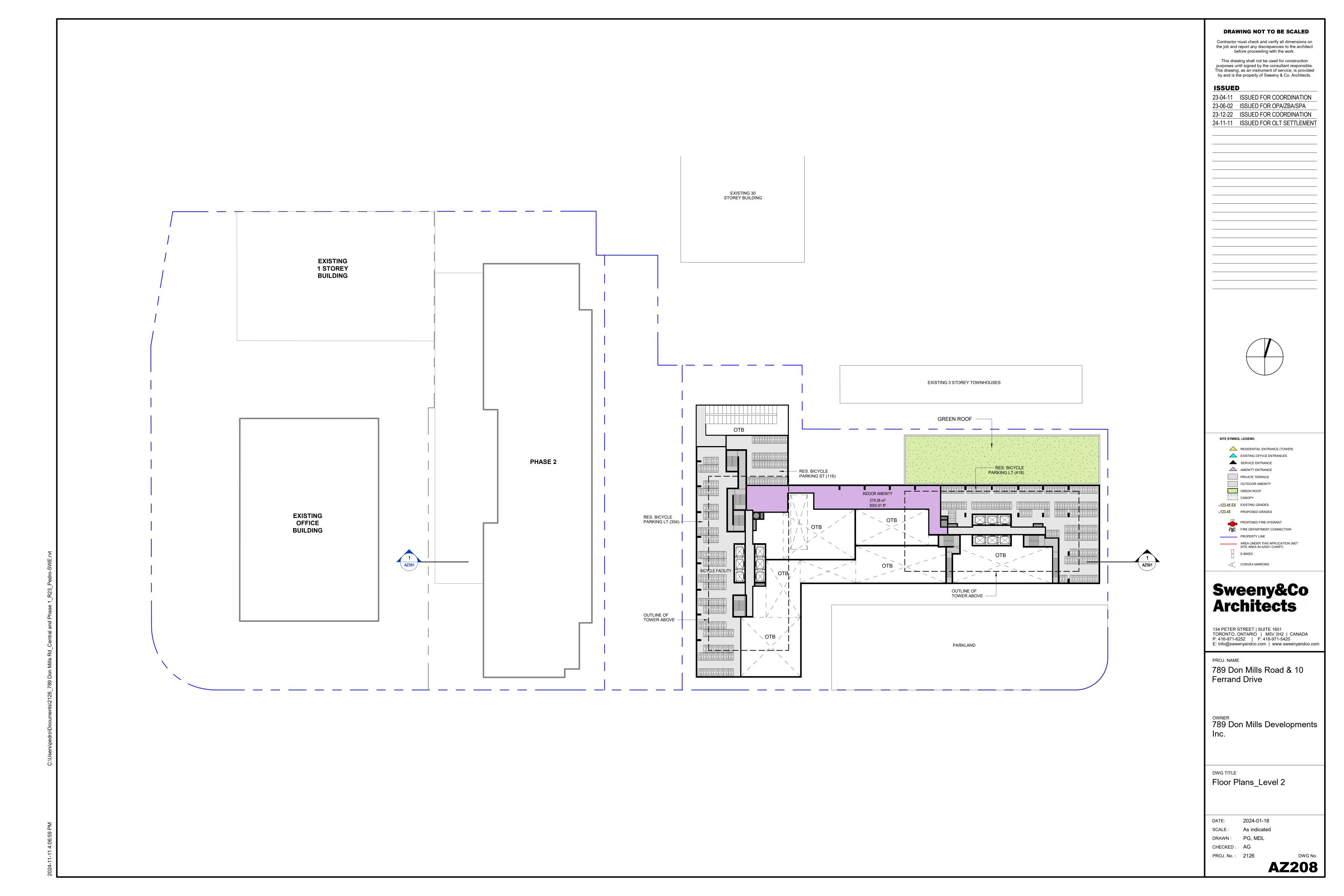


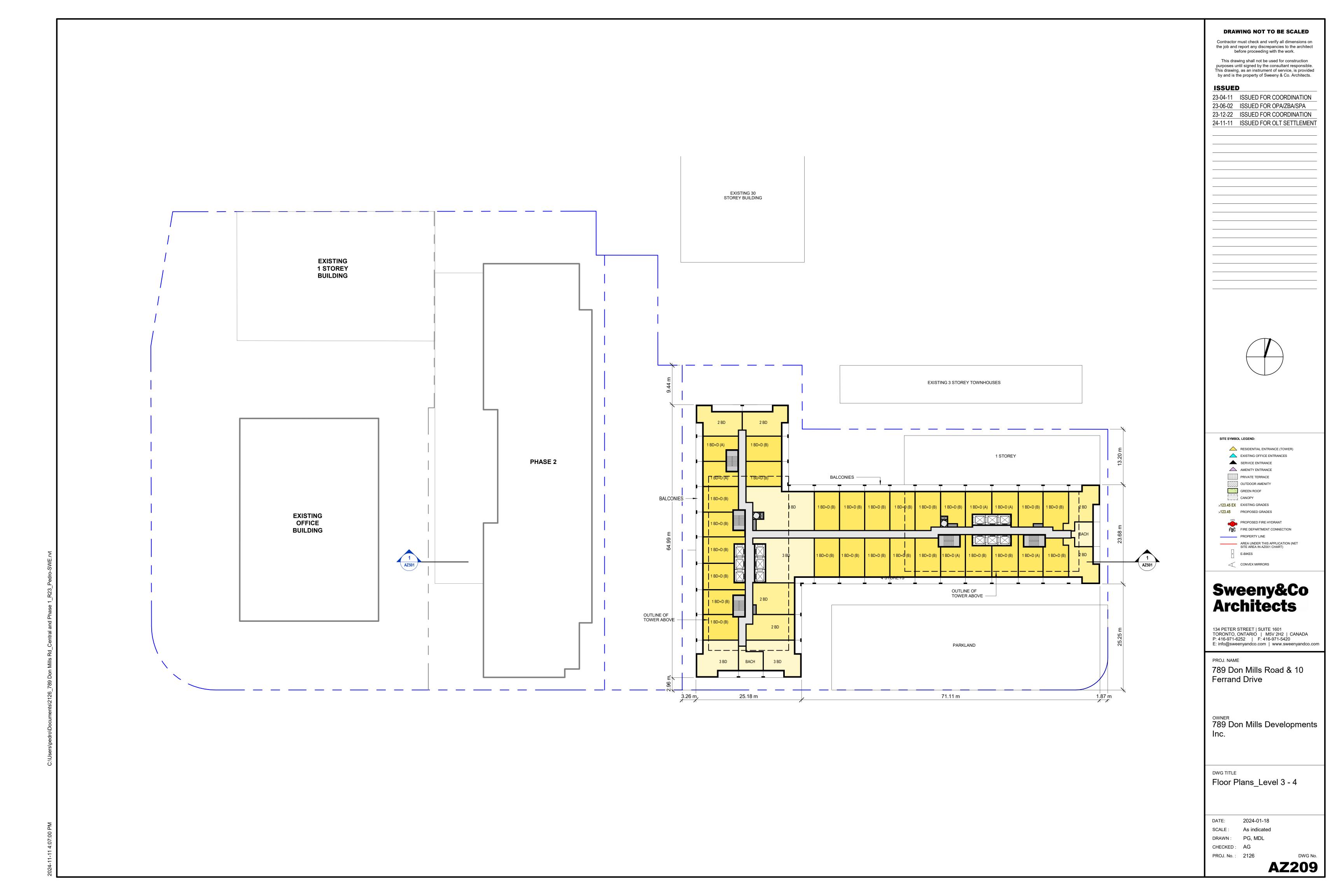


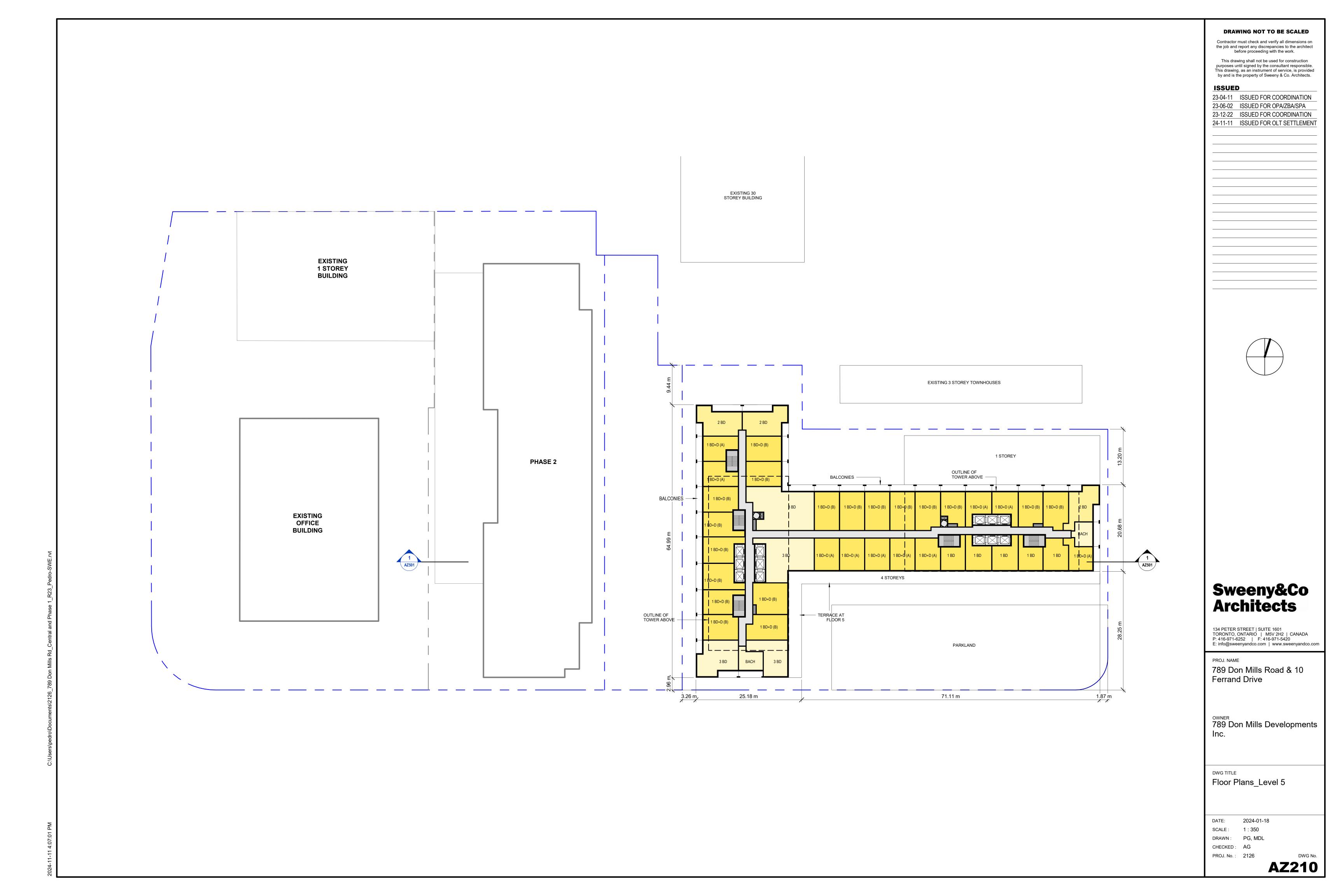


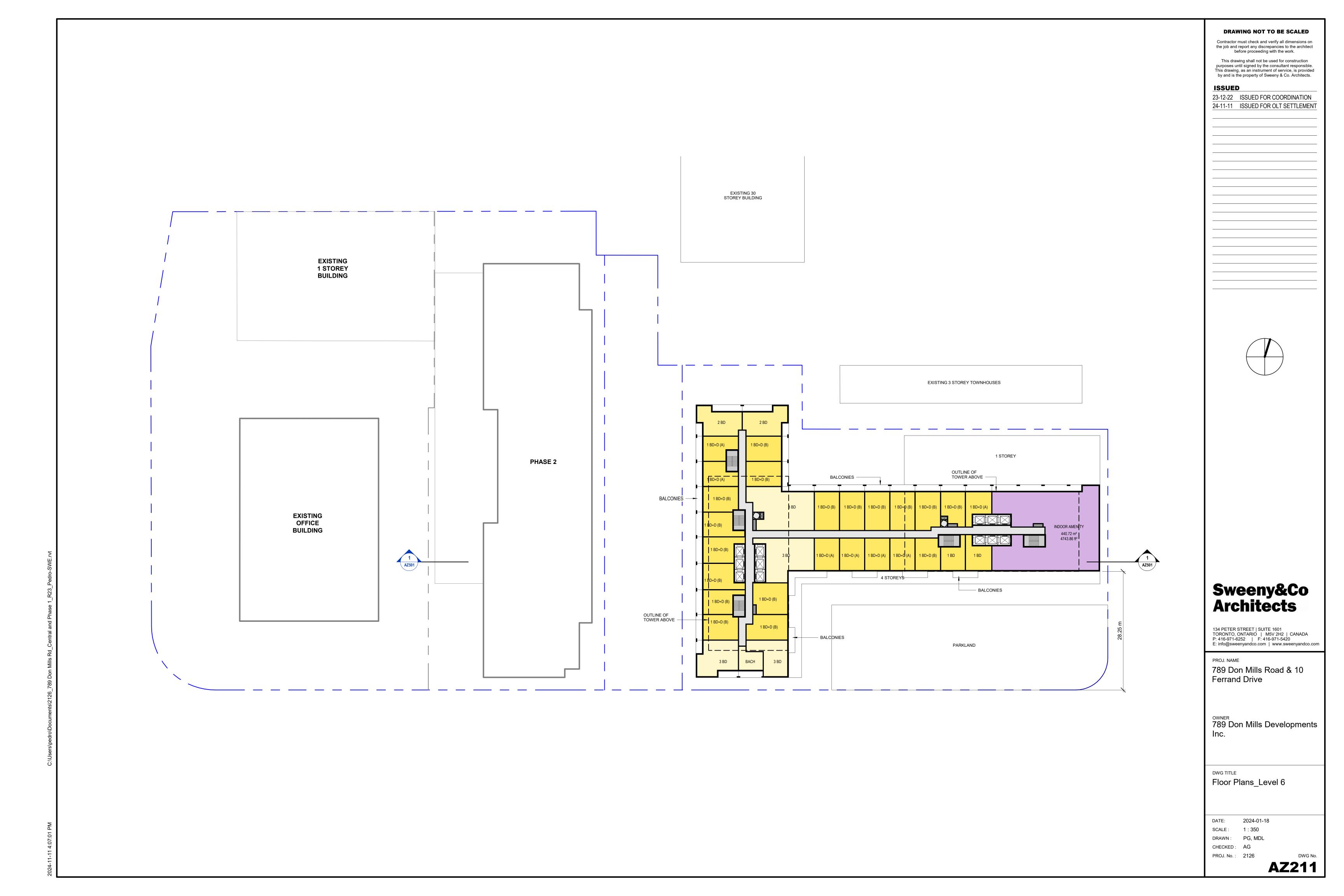


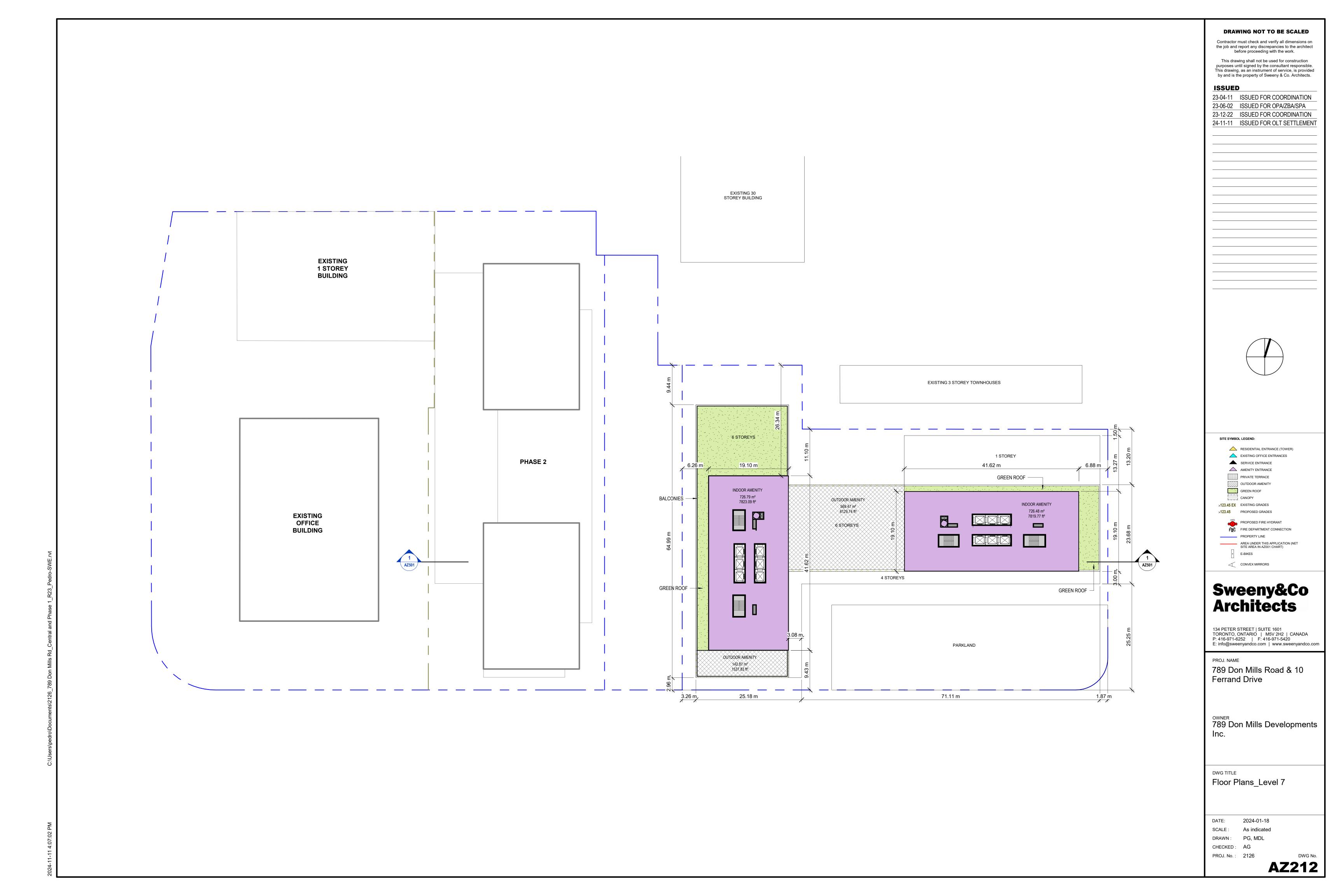


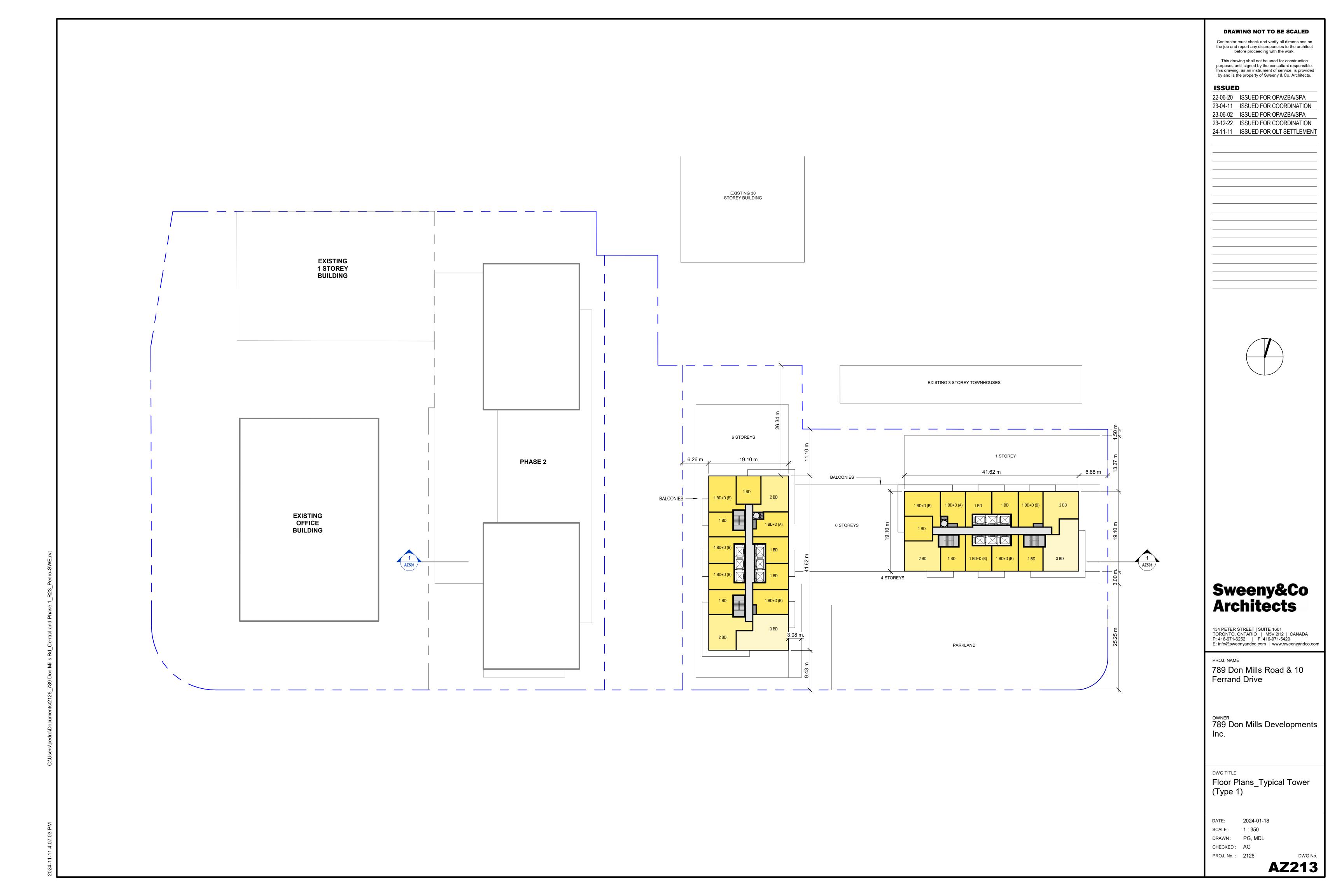


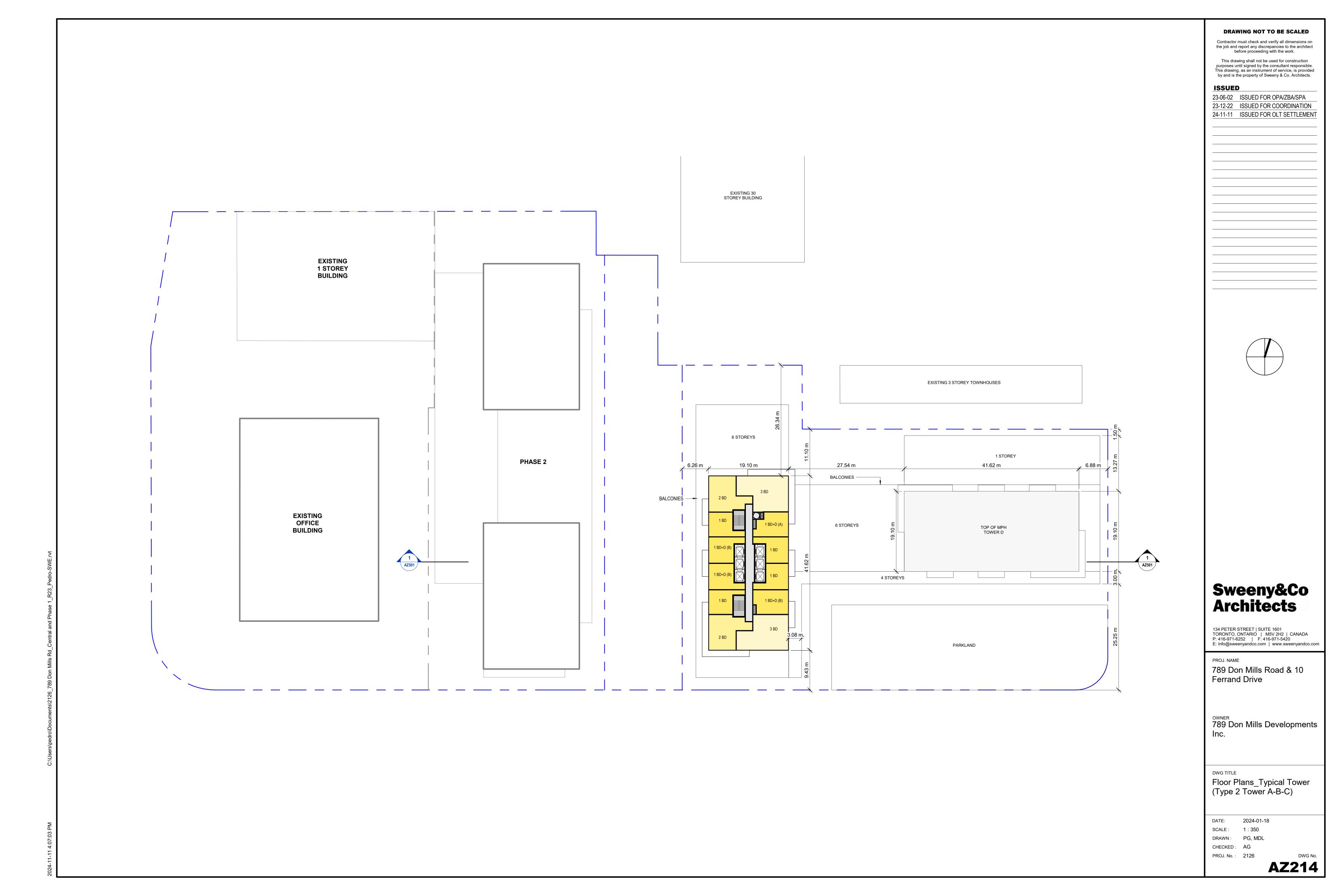


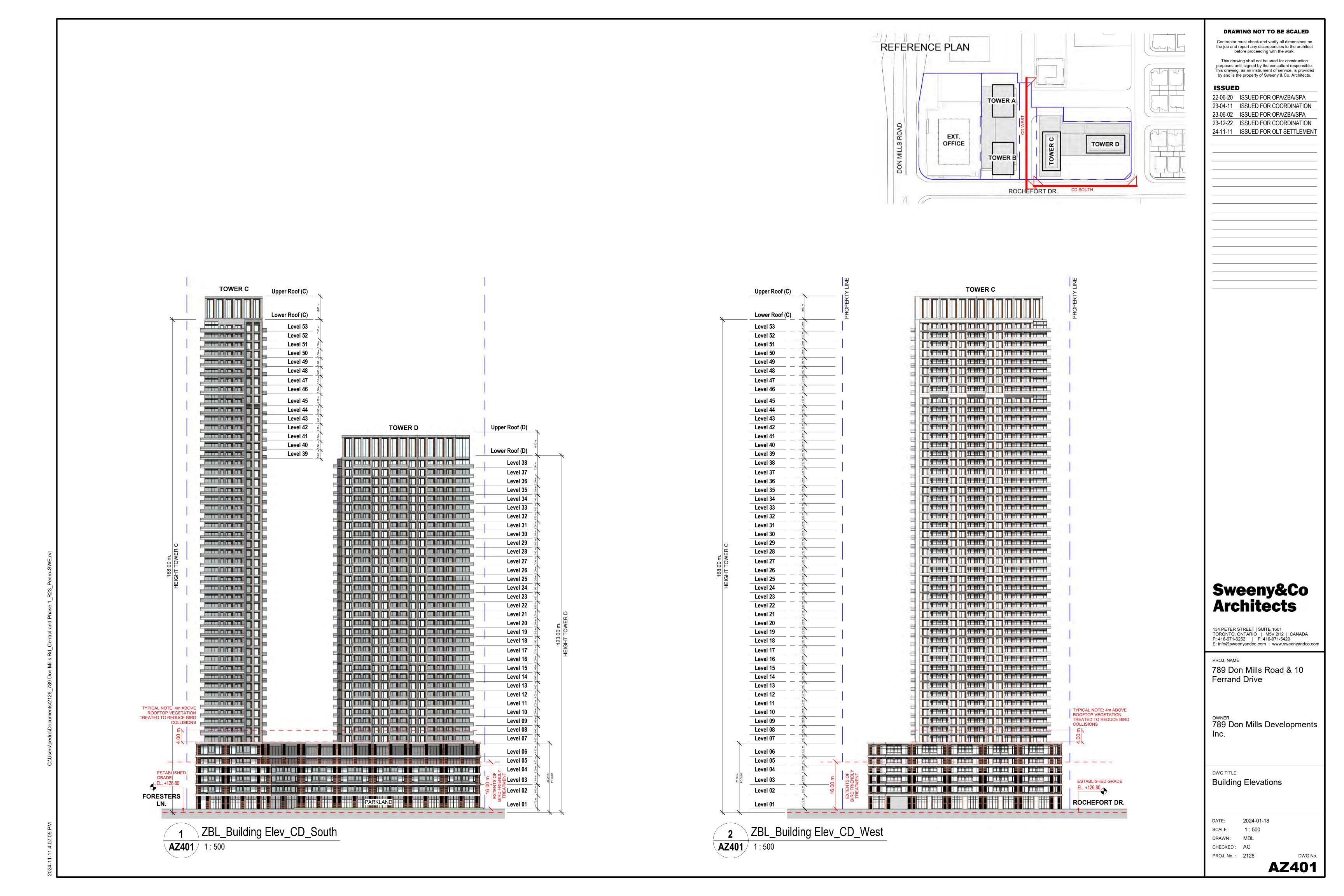


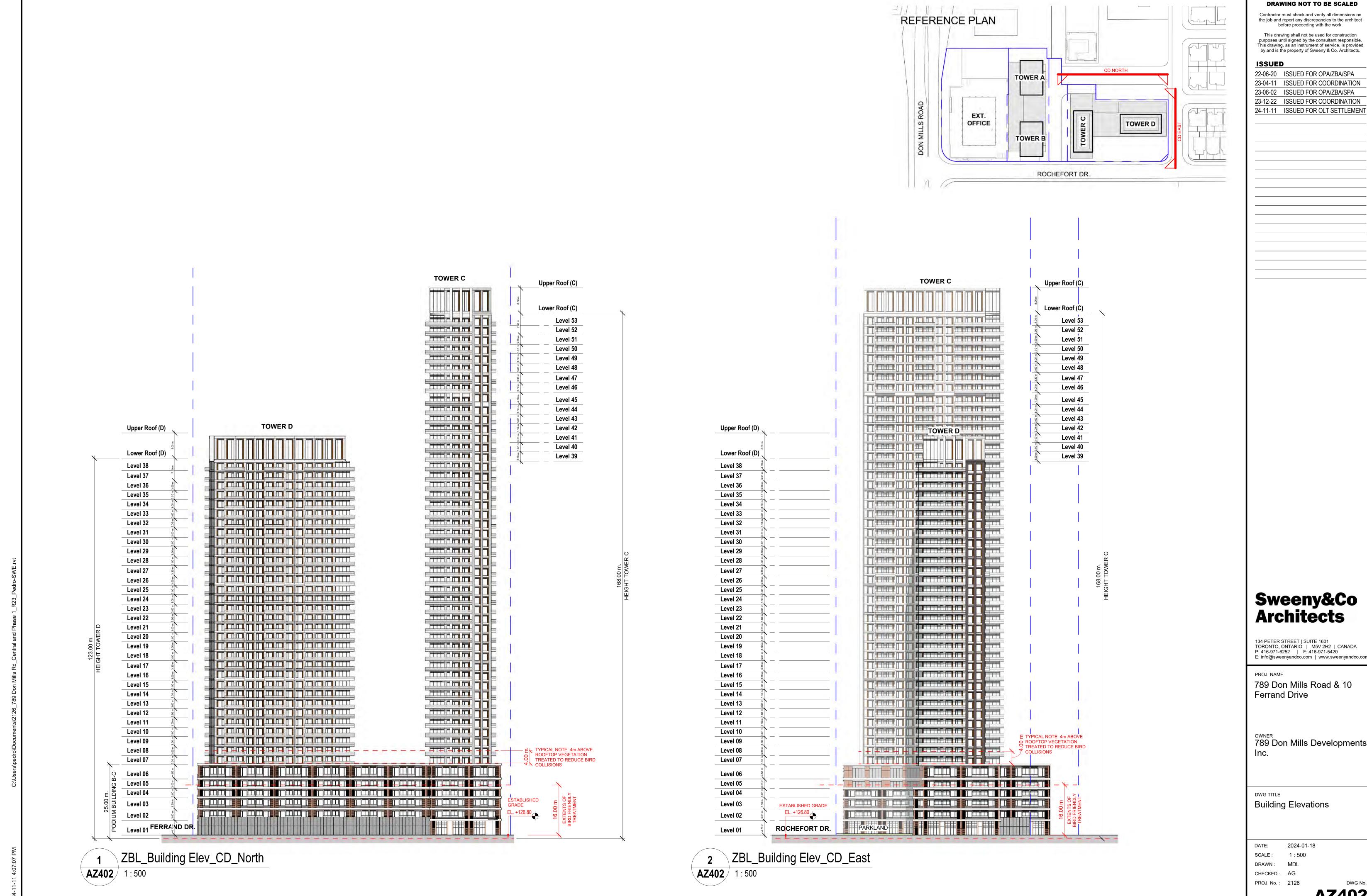


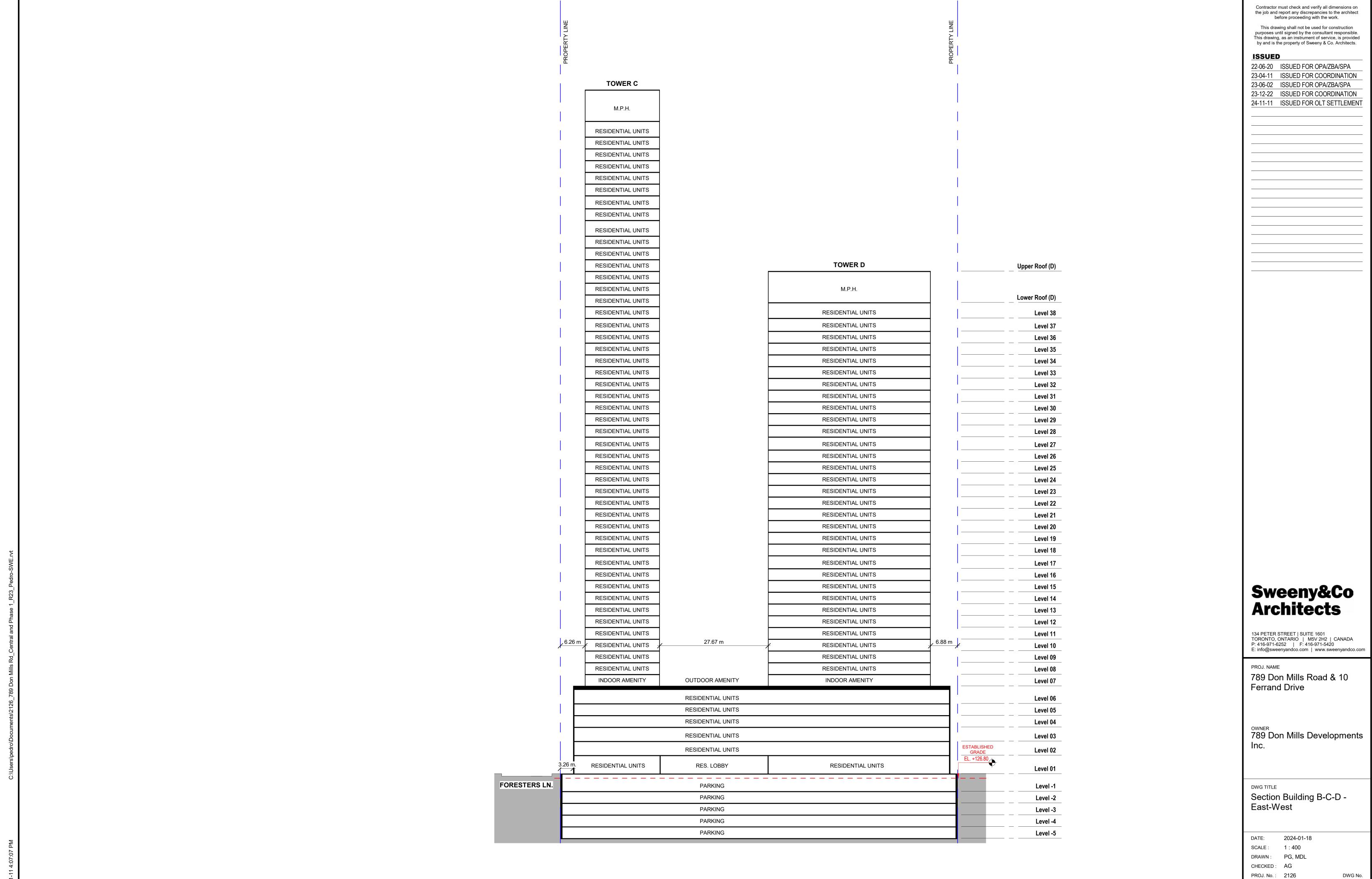












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