

21 March 2014

General Manager
Lane Cove Council
48 Longueville Road
Lane Cove NSW 2066

Attn: Rebecka Groth, Senior Town Planner

By Email: rgroth@lanecove.nsw.gov.au

Dear Madam,

JRPP Reference: 2013SYE105

Address of Site: 2-22 Birdwood Ave & 1-15 Finlayson Street, Lane Cove

Application Reference: DA 194/2013

Description of Proposal: Stage 1 Concept Plan for the redevelopment of the site for the purpose of 4 residential flat buildings, basement parking and on-site landscaping

Please find attached a letter that we have prepared on behalf of Client, Orca Partners, and the Applicant, Turner.

The purpose of this letter is to respond to Council's assessment report and recommendation for refusal to the Sydney East Joint Regional Planning Panel (JRPP) for the above application.

We would appreciate if you could please forward this information to the JRPP prior to the determination meeting on Wednesday 26th March 2014.

Should you have any queries in relation to this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

YOURS FAITHFULLY



SUE FRANCIS
EXECUTIVE DIRECTOR
CITY PLAN STRATEGY AND DEVELOPMENT

21 March 2014

Panel Secretariat
Joint Regional Planning Panel
GPO Box 39
Sydney NSW 2001

By email: jrppenquiry@jrpp.nsw.gov.au

Dear Secretariat,

JRPP Reference: 2013SYE105

Address of Site: 2-22 Birdwood Ave & 1-15 Finlayson Street, Lane Cove

Application Reference: DA 194/2013

Description of Proposal: Stage 1 Concept Plan for the redevelopment of the site for the purpose of 4 residential flat buildings, basement parking and on-site landscaping

City Plan Strategy & Development acts on behalf of Turner (Applicant) and Orca Partners (Proponent) in relation to the above DA, which is currently scheduled to be determined by the Sydney East Joint Regional Planning Panel (JRPP) on 26 March 2014.

This letter has been prepared in response to Lane Cove Council's Assessment Report to the JRPP, and is copied to Council for its information.

Council's Recommendation

Council's assessment report recommends refusal of the above Stage 1 Concept Development Application. We strongly disagree with the contentions made in Council's assessment of this application and do not consider that the proposal warrants a recommendation of refusal.

Whilst it is our intent to keep this response as brief as possible, our concern is that there are so many issues raised by Council in the report that have either not been raised with us, are not fully addressed or justified, or where we simply have a difference in opinion.

We have therefore appended to this letter our most recent correspondence to Council dated 10 and 27 February 2014 which specifically look at issues of overshadowing and the through-site link. Refer to **Annexure 4**.

In the first instance, we wish to emphasise that approval is sought for a concept plan only. Approval is sought for building envelopes, a total floor space ratio (FSR), building footprints, access points etc. All other matters will be addressed in future detailed DA(s). Whilst approval of such an application will set the parameters for future development applications to be considered, it will be on the onus of the Applicant to demonstrate to the Council and potentially the JRPP, in future applications, that the detailed design of the buildings deliver the "capability" outcomes or "commitments" demonstrated in this application. Such commitments or future requirements may be reinforced through the imposition of appropriate conditions to consent.

It is unfortunate that Council has recommended refusal largely on the basis of the proposed variations to the height and FSR standards. Whilst there are a range of reasons for refusal, as stated in the report, *"Council's principal concern with the proposed concept plan is the variation sought to the LEP with regards to FSR and building height"*. Even though height is mentioned as an issue, it is clearly the additional gross floor area of the development that is of greatest concern.

Council incorrectly states that the rationale for the variation to the additional gross floor area relies on *"several perceived public benefits...namely the proposed publicly accessible pedestrian through site*

link". This is simply not the case and we have made this point on numerous occasions to the Council. Our submissions to-date clearly demonstrate that the Clause 4.6 variation requests stand up to scrutiny in their own right, regardless of the evident benefits of the proposal. These are simply "flow-on" benefits of being able to consolidate and redevelop a site of this size that would otherwise not be feasible on an individual site-by-site basis.

Council also states that *"the application fails to quantify the public good offered for the variation to Council's controls"*. This is **not** a simple case of land dedication in lieu of additional floor space. That is not what the application proposes and one cannot *"quantify"* the public good in dollar terms offered through the proposed through-site link and "pocket-parks" as a comparison or justification to the proposed variation to Council's controls. In the circumstances of this case, this is not an appropriate way to determine whether the variations to the controls are supported.

Consultation with Council

Further to the above, Council has been fully aware of the proposal and specifically the height and FSR proposed for some time. Our team undertook a number of meetings with Council prior to the lodgement of this application to explain the detailed masterplanning exercise undertaken for the consolidated site. We subsequently received a letter from Council (dated 18 October 2013 and attached at **Annexure 1**) that clearly acknowledges the benefits of the proposal and specifically, the benefits of the proposed through-site link. Whilst Council identified in that letter that it had taken a consistent approach to applying its LCLEP provisions, there was no advice at that stage that the proposal would not be supported with variations to the LCLEP standards or that we were required to *"quantify"* the public benefit of the link in view of the proposed variations. The advice from Council confirmed it was *"encouraged"* by the proposal which was *"well considered"*. The submitted plans do not significantly waiver from the plans that were reviewed by Council prior to issue of that letter.

We are under no illusion that Council is bound by its pre-lodgement advice. However, our desire to continue to work and consult with Council following lodgement of the application continued. We maintained a constant dialogue with Council which is evident through our post-lodgement submissions and request to discuss the proposal in the recent meeting held on 24 February 2014.

At the meeting of 24 February 2014 there were a number of issues discussed, focusing around the issue of the additional gross floor area proposed. Even though we had requested as such, we received no direct feedback from Council as to their support or otherwise for the application. We were simply advised that Council has an internal *"comply or die"* (verbatim) view towards its new planning controls and that we should submit additional information to support our Clause 4.6 variations (although there was little direction as to what information should be submitted). We did not take the *"comply or die"* comment literally as we reasonably assumed that if this was simply the view Council would take, that there would be no need to suggest that we submit further information to support the variations.

Following that meeting on 24 February 2014, we even suggested to Council by email correspondence that if there were any residual issues that we would be in a position to look at some amendments to the proposal. The only feedback we received to that was an acknowledgment of the 4.6 variation request and a suggestion that we should submit *"any further advice you feel should be considered to support the [variations]"*. We feel this information is important to share with the JRPP as it not only demonstrates that we have sought to work with Council well before lodgement, but we have welcomed feedback on numerous opportunities (both pre- and post-lodgement).

Opportunity Site

As a flow on from the above, one of the key reasons we sought to engage with Council at the early stages of the masterplanning exercise was due to the unique nature of this site. This uniqueness is

based on its close proximity of the site to the Lane Cove Village Centre, its significant size of 10,480m² (respective to other development sites in the immediate locality) and the fact that it comprises the residual land in the Finlayson Street Precinct. Council's Precinct-specific controls did not anticipate redevelopment of the majority of the Precinct in a single application but rather, on a piecemeal, 1,500m² development site basis. The subject site represents a development site of almost seven (7) times the size of that anticipated in the LCDCP. For these very reasons, we determined a masterplanning exercise followed by submission of a Stage 1 Concept Plan was the best way forward to effectively revisit Council's Precinct controls.

This strategy to develop a proposal for the site allowed for Council's Precinct-specific controls to be considered within the context of a more strategic planning and urban design analysis, which is effectively a *"development control plan"* drafting exercise.

The outcome is a proposal that results in what we consider to be contextually justifiable breaches of Council's height and FSR standards, but a well-considered and improved outcome for the land, the Precinct and the wider locality in urban structure terms.

Impacts of the Development

The impacts of the development and the height and FSR standard variations have been well considered in the application. We have also considered the relevant provisions of Clause 4.6 of the LCLEP and determine that the variations are warranted. We have also clearly demonstrated that despite Council remaining *"unconvinced"* as to the value of the development and the link specifically, this should not be a reason to refuse this development which presents a number of key opportunities to be harnessed.

Council's contentions that there will be unreasonable overshadowing is confusing. It acknowledges that *"given the site is immediately north of two properties....it is anticipated that some additional overshadowing would be experienced"*. Yet, Council clearly raises concerns regarding the shadows cast. The shadow analysis prepared by Turner (refer **Annexure 4**) clearly shows that the proposal:

- maintains at least 3 hours of solar access in mid-winter to all units of adjacent development that previously received at least 3 hours;
- results in some very marginal areas of reduced sunlight but equally, areas of improved sunlight over and above what compliant height envelopes would cast; and
- the affected units (4) in 3-9 Finlayson Street still receive between 1.5 (1 unit) - 2 hours (3 units) of solar access in mid-winter. The affected units (8) in 17-21 Finlayson Street receive the same level of solar access that would be afforded by height compliant buildings on the subject site. The only impact is to the lower two (2) levels at 9am and given none of these units received at least 3 hours of solar access in mid-winter (due to self-shadowing), this is considered to be a very reasonable outcome. This outcome for the adjacent developments is appropriate given the high density desired future character of the Precinct, the fact that these properties are directly to the south of the proposed development and given on balance, the proposal actually results in a better outcome for solar access than a height compliant development on the subject site.

Notwithstanding the above, the proposed amended plans (which will be discussed in the following section of this letter) **improve the level of solar access to the lower level north-facing units of 3-9 Finlayson Street** to a result that is consistent with the RFDC and on balance, better than an outcome from a compliant height scheme.

Other *"impact"* assessment issues raised by Council include visual bulk and scale, privacy, stormwater management, tree removal/retention, landscaping and car parking provision.

All of these issues have been addressed in our submission and we disagree with Council's contentions. Notwithstanding this, refer to the attached responses from our project team which address each of these issues pertaining to their relevant discipline. A response to the SEPP 65 analysis prepared by Council's consultant architect has also been prepared by Turner and is submitted with this letter. Refer to **Annexure 2** for copies of these responses.

Issues raised regarding construction impact are not relevant to this application as it is a concept plan and no physical works are proposed at this stage. This can be adequately addressed in future detailed DA's with the submission of a construction management plan or other relevant documentation.

Amended Plans

Notwithstanding all of the above and all of our contentions made in our submissions to-date, we have genuinely sought to work with Council to come to an agreement on a concept scheme it is comfortable with. There does however need to be a level of practicality and willingness to consider the opportunities of the site and benefits of the proposal. Council cannot simply take a "*comply or die*" approach to any site, particularly one of this scale and influence to the Lane Cove Village Centre, unique circumstances and location.

Notwithstanding this, and with no further direction from Council, we formally submit to the JRPP and the Council amended plans which propose the following:

- **Deletion of the upper level of Building D**, thereby creating an envelope which has the capability of containing a built form consistent with those adjacent buildings on Finlayson Street. This amendment **reduces the total GFA of Building D by 345m²**, the overall height of this building and results in a better streetscape outcome for Finlayson Street. Overshadowing to the public domain is also reduced but it is important to note that any height compliant building in the location of Building D will result in overshadowing to the public domain/Finlayson Street.
- **Deletion of the upper level from Building B**. The purpose of this amendment is to **reduce the total GFA by 310m²**, the overall height of this building and reduction in the overshadowing to 3-9 Finlayson Street so that all units receive appropriate levels of solar access. The north-facing ground floor units will all receive at least 2 hours of solar access in mid-winter, which is appropriate given this approved development is to the south of the proposal and also, given the context is high density. Two (2) hours is appropriate as set out in the RFDC. All north-facing units above the ground level will receive at least three (3) hours of solar access.
- **A total reduction in GFA of 655m² and FSR from 1.92:1 (originally proposed at 1.95:1) to 1.85:1**. Approval is therefore sought for **a variation in FSR of 0.15:1, 8.8% and about an additional 1,565m² of GFA**, which represents less area than the proposed "publicly accessible" link and "pocket-parks" of 1,600m².

Justification for retaining built form elsewhere on the site is included in original submissions and the accompanying responses by Turner and City Plan Urban Design.

A copy of the amended plans are at **Annexure 4**.

Request for Deferral

We request that the Council and the JRPP considers this response to Council's assessment report and attached amended plans and technical response, prior determining this matter. Should the JRPP at its meeting on 26 March 2014 consider that amendments consistent with the plans forwarded to Council have merit we would appreciate the determination of the Panel to be deferred to allow council to prepare a formal assessment of the plans for your consideration.

Concluding Remarks

Council's report concludes:

- Its principal concern is the additional gross floor area proposed. The amended plans reduce this variation to 8.8%. This is considered to be marginal. The issue of height is a point of disagreement between the Council and our team.
- *"The application fails to quantify the public good offered for the variation to Council's controls".* Quite simply, we do not seek to, or believe it is appropriate in this instance to rely on the offer of "public good" for the variation. The variation to the controls stand up to scrutiny in their own right. The rationale for the variation does not rely on the "benefits" outlined in this proposal. These benefits are merely part of our justification, with consistency with standard objectives, no adverse impact or setting of precedent being first and foremost.
- *"The pedestrian through site link would clearly provide a benefit to the future residents of the subject site. However Council remains unconvinced as to the community benefits of this through site link to other residents and the community generally."* This is such a poor, short-term response to planning. We have submitted our justification for the link as a benefit of the proposal in its own right, and its ability to significantly improve the long-term urban structure, pattern and circulation around the Village Centre and provide the public (not just the future "public" of the development) with greater accessibility options and internal "pocket parks". If the land was to be redeveloped as separate development sites and **without the through-site link**, the rear of these sites would comprise private communal open space. Whilst this is a requirement for residential flat developments, the practical reality is that these areas are seldom used by the residents of the respective developments. By "opening up" the site and incorporating the link and pocket parks, the proposal is enhancing activity and useability of these spaces and inviting the other adjacent developments to be part of a "community", as opposed to a traditional development of the land with buildings which "turn their backs" on their respective neighbours. Fostering that sense of community which Lane Cove is known for is something that should be celebrated and not rejected for the mere purpose of planning compliance particularly where there is a legitimate avenue to vary the development standards in question. Just because the Council aren't "convinced" that the link will be of benefit to the wider community, does that mean that this opportunity should not be harnessed?
- *"Council does not agree with the assessment of the impacts to adjoining sites and the precinct generally."* This has been addressed in this letter and previous submissions. Throughout Council's report, there are references to not agreeing with our assessment of impacts. However, there is little analysis and discussion about where there is a point of difference in its opinion. We are comfortable that our team has adequately assessed the "impacts" of the development.
- *"The proposal is not considered to be suitable for the site and is not within the public interest".* On the basis of the above, the accompanying plans and reports and our information submitted to Council to-date, we consider that the proposal is suitable for the site and is certainly within the public interest.

Finally, it is further emphasised that this development application seeks approval for a concept plan. Whilst approval of such an application will set the parameters for future development applications to be considered, it will be on the onus of the Applicant to demonstrate to Council and potentially, the JRPP, in future applications, that the detailed design of the buildings deliver the "capability" outcomes or "commitments" demonstrated in this application. Such commitments or future requirements may be reinforced through the imposition of appropriate conditions of consent.

Should you wish to discuss any aspect of the contents of this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

Yours Sincerely,



Sue Francis
Executive Director
CITY PLAN STRATEGY AND DEVELOPMENT

Annexure 1

Letter from Lane Cove Council (18 October 2013)



Lane Cove Council

48 Longueville Road, Lane Cove NSW 2066

Tel: 02 9911 3555

Fax: 02 9911 3600

18 October 2013

Our Ref: MM:nb 50419/13

Mr Duncan Bull
Managing Director
ORCA Partners
GPO Box 231
SYDNEY NSW 2001

Dear Mr Bull,

Meeting with Council staff to provide an overview of a development proposal at 2-22 Birdwood Avenue, and 11 and 15 Finlayson Street, Lane Cove.

I refer to our recent meeting where your team provided an overview of your ambitious residential development proposal. At the meeting you presented an update of your likely development. The presentation included your understanding of the context of the combined sites and an analysis of existing land uses, street network, possible building massing and footprints including an east/west and north/south through link that may be a shared zone for service vehicles and pedestrians.

During the presentation your team highlighted a number of benefits envisaged by the amalgamation of existing dwelling sites in both Birdwood Avenue and Finlayson Street. These benefits include but are not limited to:

- The retention of a significant number of street trees.
- Creation of pedestrian connectivity throughout the site.
- Reduction of the number of driveways and better control and management of vehicles and traffic generally.
- Landscape concept design for the combined site.

The opportunity to amalgamate a significant number of existing dwellings close to the CBD would clearly present design opportunities and advantages over a number of smaller parcels developed individually. These design and connectivity opportunities appear to be central to your team's approach and preliminary plans.

The overall scheme appears well considered and I look forward to receiving a detailed application at the appropriate time.

Council has experienced strong demand in a number of precincts zoned R4 under the new 2009 LEP and has taken a firm stand on compliance, LEP and DCP provisions in particular, with height and FSR provisions of the Planning Instrument.

I note that your proposal indicates building heights of 22m and an FSR of 1.95:1, both of which exceed the maximum provisions of LEP 2009.

I also note your view that such is warranted given the public benefit provided by the quality development proposed. Clearly, Council may consider exceptions to development standards under the provisions of Clause 4.6 of the Planning Instrument. I would advise, however, that Council consulted widely and received broad community support for the height and FSR provisions of the new LEP gazetted in 2010. Since that time Council and the community have consistently resisted requests to exceed these development standards.

The LEP and DCP provisions for residential flat buildings are well researched and seek best practice for design excellence and the presentation of existing vegetation and landscape character to the rear of existing lots. You appear to have consideration of such in the presentation I observed. Your development proposal would hopefully set a benchmark for others to follow and I assume that the high quality internal and external building design will attract and reflect an appropriate price in the market.

I would close by advising that I am personally encouraged by your vision and desire to amalgamate the sites in both Birdwood Avenue and Finlayson Street. I would also encourage you to make contact with the owners of the sites adjoining your development with the view to identifying opportunities to add value to the existing and proposed landscape area between sites.

Please advise me when you wish to lodge your formal application and I will arrange for staff to review the submitted materials to limit delays and aide communication during the assessment process.

If I can be of any further assistance in this exciting project please do not hesitate to call me directly on 9911 3690.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Michael Mason', written over a horizontal line.

Michael Mason
EXECUTIVE MANAGER
ENVIRONMENTAL SERVICES DIVISION

CC: Sue Francis, City Plan Services

Annexure 2

Technical Responses to Council Recommendation Report

IRONBARK LANE, BIRDWOOD AVENUE, LANE COVE

REVIEW OF ASSESSMENT OF THE PROPOSAL BY TIM WILLIAMS
ARCHITECTS AND COUNCIL

20 March 2014



The following is a response to the two letters by Tim Williams Architects, and some issues raised by Council in their report, relating to the DA submission for 2-22 Birdwood Avenue and 11-15 Finlayson Street, Lane Cove.

TIM WILLIAMS ARCHITECTS LETTER DATED 21 JANUARY 2014

1. CONTEXT

Commentary is made regarding the lack of public benefit of the proposed through site link, and suggestion is made that the streets can provide better access from the future town centre site to the existing pocket park.

We would point out that the proposed through site link is the only route connecting these two points that is level for those with wheelchairs or prams. It therefore provides a very beneficial service for the wider community. We therefore do not believe that the existing street network provides 'adequate east-west movement' as suggested by the report.

In addition, the pedestrian network diagram on page 8 of our report highlights how the grain of the pedestrian network to the east of the site is far finer than would be provided by the large block of the subject site. By breaking the lot with two pedestrian links, a grain closer to that anticipated by the new and existing town centre will be provided.

The ability for the neighbouring sites to benefit from the through site link also demonstrates a wider public benefit.

The report suggests that the proposal departs from the Council's desired future character for the area. While no detailed design in relation to character is provided as part of the Stage 1 DA, we would strongly suggest that the increase in height to Birdwood Avenue provides an outcome consistent with the intent and objectives of the current controls both in providing a setback at the top level, and the means by which it negotiates the steep topography of the street. The reduced number of car park entries allow for the retention of all of the mature street trees that provide a lush context, behind which the buildings sit. The rhythm and general scale of the building forms are entirely consistent with the intent and objectives of the current controls. The fact that the proposal incorporates the entirety of the street frontage means that a consistent character can be provided, and will therefore not be at odds with the context, as it is creating its own context.

Floor space ratio, mentioned here, has no relevance in discussions of 'Context' or 'character'.

The proposal therefore meets the objectives of this principle.

2. SCALE

Where the proposal sits in close proximity to existing or approved buildings, such as Building D to Finlayson Street, the heights follow those of the neighbours to provide a consistency of scale.

The proposed buildings to Birdwood Avenue include all sites for the entirety of the length of the street. Therefore a new context is created as a singular element. The controls anticipate buildings of similar height with a top level setback. The additional height is consistently applied and is mitigated in relation to the buildings behind, as Birdwood Avenue is some 9m lower than Finlayson Street, and so the neighbouring buildings are of a similar comparative height.

Therefore the proposal respects the scale of neighbouring developments and creates a new, holistic streetscape to Birdwood Avenue that is consistent with the intent and objectives of the controls.

The building envelopes are set back from boundaries in a manner that complies with the controls



of the site, contrary to the suggestion made in the report.

The illustrative building plans are consistent with the building separations of the RFDC, contrary to the suggestion made in the report. Where the envelopes between Buildings A and D, and Buildings A and B show a separation of 9m, the illustrative plans do not fill out these envelopes, but are set back and offset so that the minimum distances are provided. The envelope includes some 'baginess' to allow for future design development that may differ from the illustrative plans, but still comply with the requirements of the RFDC.

The proposal therefore meets the objectives of this principle.

3. BUILT FORM

The separation of 13m between Buildings B and C complies with the separation between habitable and non-habitable rooms for buildings of this height. In the detailed design it would be reasonable to assume that the one unit in Building B that faces directly into Building C could be designed such that it utilised steps in the building or inflections in the wall surface in order to look north. This is a device that has been used to good effect in the building opposite at 3-9 Finlayson Street.

The side setbacks to Building D are greater than required in the Council controls, and greater than provided by the neighbouring developments. The neighbouring developments are 4-storeys on their edges, so a separation of only 12m is required to be compliant (6m on each side of the boundary). The separations of 7.5m and 8m are therefore greater than required.

The shadows in relation to the buildings to the south are discussed in full detail in the covering document by City Plan Services.

The proposal therefore meets the objectives of this principle.

4. DENSITY

The current proposed FSR is 1.85:1, which is an uplift of only 8.8% or 19 units.

Due the piecemeal development of Finlayson Street to date there is a residual site to the south east that will never have the opportunity to be developed due to its size and geometry. This site area would therefore have provided 15 units that will no longer be built. The proposal is therefore generating an additional 4 units for the block as a whole. The suggestion in the report that these orders of increase could unbalance Council's 'finely tuned population projections' is not worthy of response.

The proposal therefore meets the objectives of this principle.

5. RESOURCE, ENERGY AND WATER EFFICIENCY

It is noted that the report welcomes the quantity of deep soil.

The quantum of solar access and cross ventilation will be the subject of the detailed DAs.

The proposal has been amended in terms of height, and therefore in terms of the effects of the shadowing to neighbouring developments.



6. LANDSCAPE

It is noted in the report that it is a shame that so many trees are being removed. In reality there are a large number of trees both to the centre of the site and to Birdwood Avenue that are being retained that would otherwise not be the case were the site to be developed separately, in stages.

7. AMENITY

No further commentary provided here by the report.

8. SAFETY AND SECURITY

No comments were provided here requiring a response.

9. SOCIAL DIMENSIONS

The through site link would have a right of carriageway over it, negating the possibility for it to be closed off.

The context of Lane Cove, the ability for communal space and private space to open directly off of the through site link, and the nature of the proposal will make it the types of open space that will be successful. There are locations and designs for mid block public space that have been unsuccessful in the regard, but they do not share any of these qualities with the subject proposal. There are examples of mid block spaces both in Sydney, and throughout Europe that have provided a strong social centre for the local inhabitants, offering a place for congregation as well as operating as a thoroughfare and point of access.

We therefore believe that the proposal meets the objectives of this principle.

10. AESTHETICS

No comments were provided here requiring a response.



TIM WILLIAMS ARCHITECTS LETTER DATED 22 FEBRUARY 2014

THROUGH SITE LINK

The report questions a number of aspects of the through site link.

Our submission stated that the other neighbours could be provided with direct access. This will obviously be a matter for discussion with the body corporates at such time as the link is under construction. We believe that the residents will see the benefits of this link.

We provided material previously that demonstrated that the levels are set such that easy access from the neighbours to the link is achievable.

The report poses questions and answers in relation to the ownership. It is proposed that there be a right-of-way of the link, contrary to the assumption made in the report. This is in no way contrary to the retention of the ownership of the land.

In answer to the next question posed, yes, the link will be open to the public 24/7, 365 days of the year.

We believe that the link has been carefully considered by the team at there will be no ambiguities.

PEDESTRIAN MOVEMENTS AND THE CROSSING OF ROSENTHAL AVENUE

We are uncertain of the issue being raised in this section of the report.

OVERSHADOWING

In the most recent issue of the drawings the height of Building B has been reduced in two locations so as to minimise the shadow effect on 3-9 Finlayson Street, and to ensure that all apartments there achieve a minimum of 2-hours of sun. As a result the shadowing that is produced to the neighbour is from portions of the proposal that are of a compliant height. These 5-storey elements are a minimum of 18m from the face of 3-9 Finlayson Street.

None of the apartments of the neighbouring development are continuously shadowed by the proposal as Building B presents slender built form to the rear of the site, so the shadows pass swiftly over the lower face of the building.

The building form generally shadows the neighbour less than would other completely complying building forms.

MAXIMUM ENVELOPE OVERSHADOWING

In addition to the envelope shadow exercise provided (referenced in the Tim Williams report) we also provided a comparative study with a compliant built form. It is acknowledged that maximising the envelope is not a right, and it was included simply setting an extreme case as a base study. The comparative building form study is more directly useful as a comparative tool, and demonstrates that there are many areas where the proposal provides a reduction in the potential for overshadowing.

BUILDING SEPARATION

Refer to response above.



COUNCIL REPORT BY LANE COVE COUNCIL

ITEM 1

Maximise sunlight to the public domain

The development does not maximise sunlight to the public domain. There is additional overshadowing of Finlayson Street that may be avoided by a development that complies with the height controls. The solar access to the proposed public domain, the east to west pedestrian through link would be almost completely overshadowed for much of the year.

The height of Building D to Finlayson Street has been reduced to 5-storeys in the most recent issue of drawings, so no additional overshadowing is present to this street.

The public pocket parks at the centre of the site receive sun from just after 9am until nearly 1pm during mid-winter. By equinox the public pocket parks receive sunlight all day.

The through site link itself receives sun between 11am and 1pm near the gaps between the buildings. By 2-months either side of the winter solstice much of the link receives sun for much of the day due to the narrow ends of the building facing towards the south.

It is therefore not true to say that the link and pocket parks would be almost completely overshadowed for much of the year.

ITEM 2

With proposed number of units and the associated parking required it makes it difficult to achieve a large area of deep soils as the underground parking often forces the landscape to be on structure.

There are approximately 19 more apartments in the current proposal over and above those that would be generated by a compliant FSR. This equates to an additional 22 car spaces, which would produce an additional basement area of approximately 770sqm. This additional area on a car park that is around 10,100sqm in size does not have an overall effect on the quantum of deep soil provided. The car park excavation has been increased in depth to allow for this increase, as opposed to increasing its size on plan.

In fact, the ability to utilise the whole site has enabled the car park to pull back from the large trees at the centre of the site, providing a consolidated deep soil zone, as well as the retention of existing mature trees.

Were the block to be developed separately in stages, it would not be possible to provide this level of deep soil in this manner. The proposal therefore provides a greater quantum of deep soil as well as a more consolidated area of deep soil than might otherwise be the case.



ITEM 3

Relate to topography

The indicative plans demonstrate part of the basement car parking being partially above the ground level. Combined with the sloping topography of the site and the height proposed, the proposal would result in an overbearing visual impact for the existing residents.

The car park is either in the ground or fronted by active uses.

In order to negotiate the topography the residential levels are flush with the street (therefore they could not be any lower), and the land then falls away. This only occurs for short runs with a maximum difference in level between the foot path and the interior of around 1.5m. This differential is consistent with the principals of the RFDC for providing security and privacy at the ground level, and is a natural consequence of the topography.

The large set backs also allow for the landscaping to berm slightly, so the height of any visible wall would be far smaller than this dimension.

This is a typical way in which residential flat buildings relate to the street condition on sites with steep topography.

IRONBARK LANE, BIRDWOOD AVENUE, LANE COVE

URBAN DESIGN COMMENTRY ON THE PROPOSAL

21 March, 2014

Lane Cove Village and its setting are undergoing a fundamental change. Previously the village core consisted principally of its 'High Street' (Longueville Road & Burns Bay Road) serviced from rear lanes and a set of community facilities surrounded by low-density residential streets of houses with front and rear yards. Whereas the transformation that is underway has seen higher intensity mixed civic and commercial development on the Woolworths/ Library site, renewed and intensified use on Aquatic Centre Site, the approved ten storey mixed use redevelopment of the Little Street Car Park site. The planned redevelopment of Rosenthal Car Park site as major civic and commercial centre will be the largest development in the village to date.

This transformation has been guided by the Lane Cove Village Structure Plan. This strategic plan has ensured that the site-by-site redevelopment of the village is accompanied by development of the urban structure of the village. The activation and development of the village's laneway system is a key plank of the plan. The plan covers only the mixed use village core.

The area surrounding the core is undergoing perhaps an even more dramatic transformation. It is changing from an environment of free standing houses with their own yards to an environment of high density apartments. This represents a manifold increase in residential density, and a new lifestyle of apartment living.

This transformation is taking place on an urban block structure that was designed for the previous use of individual houses. No urban structure plan was made for these areas and no modification to the urban structure was planned. The fragmented lot pattern in these blocks made it unlikely that consolidation could occur. Had it been possible to plan the area as a 'blank slate' any masterplan would most certainly introduce a fine grain pedestrian network over this area.

The greatest activity corresponds with the village centre. The approaches to the centre will become more important as pedestrian routes as the number of people within walking distance grows. The proposed development coupled with recent approvals on Finlayson alone will result in hundreds of additional residents within that single street block.

The circulation pattern within the village centre is very 'fine-grained'. The frequent arcades and links

produce circulation blocks of only about 1,000m². Beyond the village centre is a quantum jump in circulation to a 'coarse-grain' of, over 10,000m² (most surrounding blocks are around 1.5 Ha). From a strategic planning and urban structure/morphology perspective, this is not a desirable outcome.

Therefore it is very significant that the project presents the opportunity to segment the Birdwood-Finlayson urban block into three parts. These potential through-block links also connect significant existing and future desire-lines. These include the Coxs Lane Park and the proposed new town Square on the Rosenthal Car Park site. The proposed lane is the only opportunity to achieve this connection with moderate gradients (the alternative routes on-street are quite steep).

This proposal represents a once-only opportunity to re-shape the urban structure. The future community of Lane Cove will include elderly people who will benefit from good access to the village they will be able to 'age-in-place'. Children who grow up in the area won't be raised in back-yards, rather the streets, lanes and parks will be their physical environment. The plan envisages a walking community who are able to move through a network of streets and lanes that are comfortable, interesting and congenial places. Once these links are made they will become a permanent feature of a new high-density pedestrian friendly environment of Lane Cove.

The eastern part of Birdwood Avenue falls fairly steeply. The scheme resolves this incline by stepping the lower level apartments such that they are close to the adjacent ground level. In this way access to the ground floor apartments is made direct. This close and relationship will help to establish a series of individual household addresses along Birdwood Avenue, strengthening the identity and sense of neighbourhood in the street.

The built form of the project is broken down into three separate buildings. The northern elevations of these buildings have a variety of lengths. The westernmost being the longest, the eastern building is the narrowest. This variety of forms is also developed within the elevations of each building. The Birdwood Avenue elevations present a mixture of solid and void and will be further finessed in detailed design in future DA stages by including engaged balconies that do not run the full length of the elevation. The result is a set of building elevations which will in places be in deep shadow and other places sunlight will fall onto the external wall. The effect of this design strategy is for the building to be 'broken down' into a composition of discreet elements which provides for key articulation to the street and subsequent softening of built form.

The building heights along Birdwood Avenue are in the range of five to seven stories. The sloping street means that the height above ground changes with the sloping street. For much of the extent of the northern elevation the forward part of the building is six storeys. A set of factors mitigate against any concerns that the height varies from the general height limit in the area. Chief among these is the fact that this project occupies the entire urban block. Unlike the building on Finlayson Street these do not have neighbouring buildings of a fixed height. Furthermore, unlike Finlayson Street, its sloping nature

means that there is no single height datum which can 'key together' the tops of the buildings on the street. The circumstance on the northern side of Birdwood Avenue, makes it very unlikely that a consistent pattern of redevelopment will emerge there. The sites are fragmented and predominantly strata title. Another significant factor is the presence of an avenue of large brushbox trees that will make the upper levels of the buildings all-but invisible. In the circumstances the building height of the project are considered positive and appropriate.

Paul Walter
Executive Director
City Plan Urban Design

Memo

Henson Consulting

To: Kevin Driver

From: Colin Henson

Date: 20 March 2014

CC:

Subject: Birdwood Ave - Transport response to JRPP documents

JRPP Report PDF document:

- Vehicle access from Birdwood only, rather than all frontages, is preferable on legibility, efficiency and safety grounds.
- Parking partly above ground has sustainability benefits of reduced ventilation, lighting, and fuel use on deep ramps.
- The model and sustainability justification for reduced parking were well supported in the TIA report and Addendum.
- Manager Traffic issues already responded to in Addendum. "Shortfall" of 388-302 of 86 bays is not a shortfall, but accurate estimate of reasonable use. Provision of 388 bays will result in empty bays or more cars/traffic than needed. Council position is illogical in wanting more parking and less traffic generation.
- Client would be best placed to judge the viability of the options suggested by Council for addressing the shortfall – cost/difficulty of more parking on-site versus payment in lieu versus provision of up to 29 (86/3) car share bays. Would be excessive in the market, and interest from Go Get, Hertz etc would need to be gauged.
- North-south ped/cycle link to Epping Road is a novel requirement, although shown in bike plan, and not warranted by subject development.
- Manager Environmental Services raised the issue of the waste vehicle unobstructed floor to ceiling requirements of "5.2m' as per Part Q of the DCP." This was addressed in the TIA report and Addendum.
- Public request for traffic signals on Rosenthal mid-block: doesn't meet RMS warrants. Comprehensive new signals planned for top of Rosenthal.
- Public query on single day of traffic counts: is good industry practice, supported by 24/7 seven day tube counts and AADT at selected control stations.

RMS Response: Design to AS2890 and CTMP all ok.

Architect Letter from Tim Williams: disagree that the through site ped link doesn't add value for access to and within the subject site, the Village and children's playground.

Regards.

ENQUIRIES: PAUL MOORE
PROJECT NO: 25816-SYD-C

20 March 2014

Turner
Level 1, 410 Crown Street
SURRY HILLS NSW 2010

Attention: Kevin Driver

Dear Sir

RE: 2-22 BIRDWOOD AVENUE – DEVELOPMENT APPLICATION DA13/194

We write in response to a Report by the Environment Services Division, prepared in advance of the Sydney East JRPP meeting proposed for 26 March 2014, looking at the above DA submission. We comment below on Stormwater matters specifically.

The Report makes several points with regard to Flooding and management of stormwater. The same points were made in Lane Cove Council's letter dated 17 January 2014, to which we responded on 20 February 2014.

Whilst we are in agreement that there are several matters of engineering which need to be addressed before a final DA approval can be granted, we believe that these matters cannot be addressed in a DA submitted only for Conceptual approval. In particular, the concept designs need to be developed fully to finalise details, levels and materials for external areas to enable a detailed design to be carried out for the required stormwater diversion, including the associated overland flow path. It is noted that the fall across the site is significant and we firmly believe that a compliant solution to stormwater management can be achieved.

In relation to specific points raised we make the following comments:

- Flood Study – A Flood Study is required to determine the flow passing through the site (both in the existing underground pipe and overland) and to demonstrate that this flow will continue to be managed without adversely affecting surrounding properties or the rest of the stormwater network. We propose that this be carried out as part of a future detailed DA submission, by when further design development of the scheme will have occurred to allow modelling of the proposed future conditions.
- Overland Flow Paths – Future overland flow paths will be assessed once further design development of the scheme has occurred and will be incorporated into an overall assessment

Page 1 of 2

of stormwater flow and flooding. We propose that this be carried out as part of the future detailed DA submission.

- Design of Diverted Pipe – A schematic solution has been proposed, including amendments to limit the magnitude of changes in direction following Council's previous comments. This demonstrates the viability of the proposed diversion. More detailed analysis is required following completion of a Flood Study, when design flow rates have been established, to determine details including pipe sizes. We intend to work with Council to ensure that this diversion is designed and planned in accordance with Council's design standards and other requirements.

We trust that these comments are helpful.

Yours faithfully



Paul Moore
for **Wood & Grieve Engineers**



EARTHSCAPE HORTICULTURAL SERVICES

Arboricultural, Horticultural and Landscape Consultants

ABN 36 082 126 027

20th March 2014

Mr Kevin Driver
Turner
Level 1, 410 Crown Street
SURRY HILLS NSW 2010

Ref: DA13/194
2013SYE105

Dear Kevin,

**2-22 Birdwood Avenue & 1 & 11-15 Finlayson Street, Lane Cove
Proposed Residential Development**

I refer to the above matter and your request to provide a response to the issues raised by Lane Cove Council in the Environmental Services Division Report to the Sydney East Joint Regional Planning Panel. Specifically, Council's Tree Assessment Officer raised concerns in relation to the potential impact of the abovementioned development on Council's Street Trees on both sides of Birdwood Lane, adjacent the above mentioned site. The concerns relate to the potential for changes in ground water movement up-slope of the trees as a result of bulk excavation for the basement, which may reduce water availability to the trees.

I would concur that there is some potential for long term adverse impact on the trees directly adjacent the site on the southern side of Birdwood Lane. However, in my view, drainage down slope from the site would already be limited to an extent by the roadway and street drainage system in Birdwood Lane to those trees on the northern side of the street. As such, trees on the opposite side (northern side) of Birdwood Lane are unlikely to be affected by any changes to ground water flows within the site.

In relation to the trees on the south side, it may be feasible to divert some of the roof water to dispersal trenches along the northern side of the basement (within the landscape area of the building setback) to permit some recharge of ground water in the vicinity of the trees. A similar system is currently being implemented at Abbotsleigh College, Wahroonga. This system was designed by Harris Page Engineers to compensate for loss of sub-surface water flows to trees down slope as a result of construction of a new car park upslope. The concept involves diverting some of the captured roof water to a series of dispersal/absorption trenches upslope of the trees and beyond the building footprint. When the dispersal trenches fill, a ball valve diverts excess water to the stormwater system.

If you require any further information regarding the above matter, please do not hesitate to contact me on 9456 4787 or 0402 947 296.

Yours sincerely,

Andrew Morton

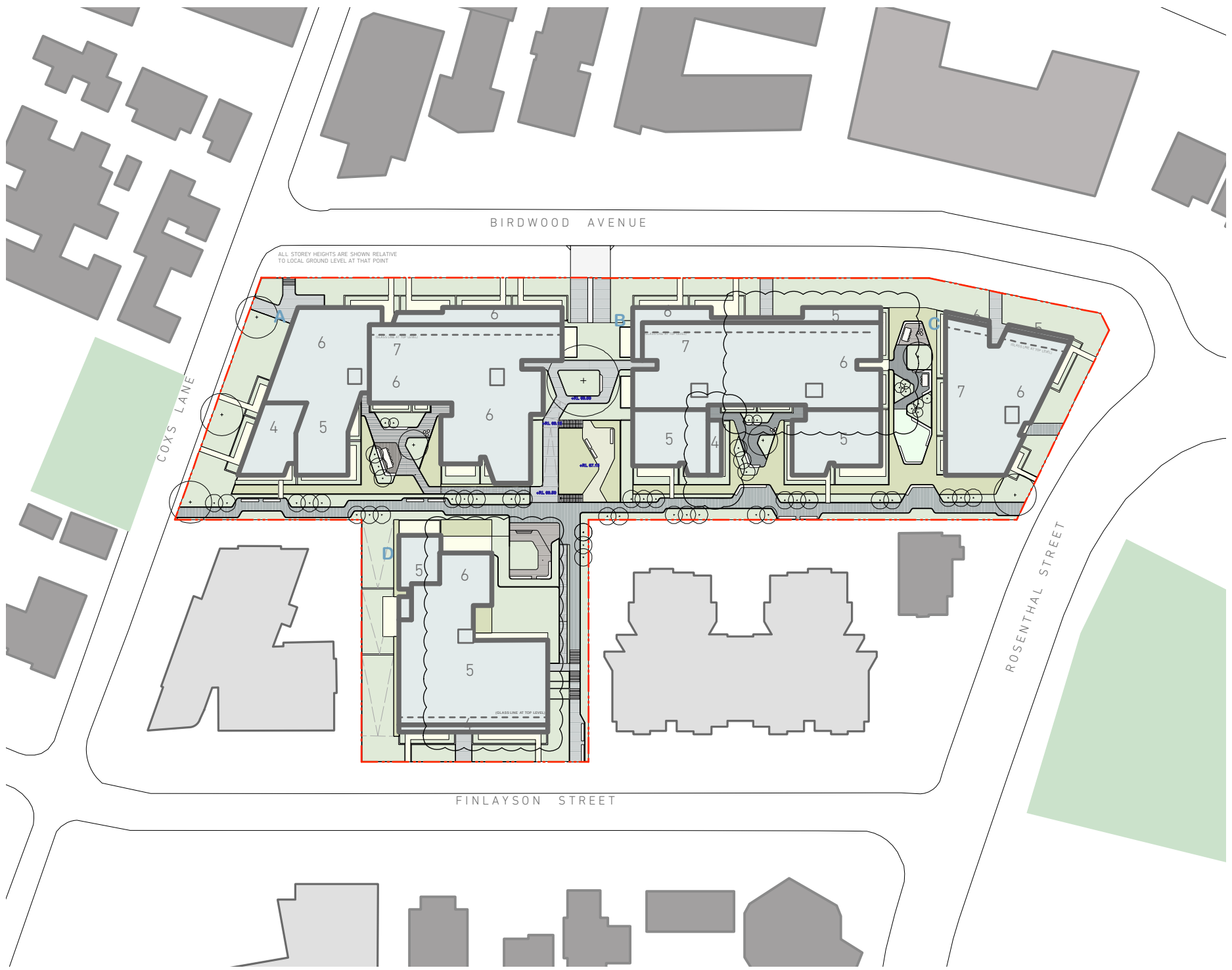
Dip. (Arboriculture) [AQF Level 5]
B.App.Sci (Horticulture),
A.Dip.App.Sci. (Landscape)

Annexure 3

Amended Plans

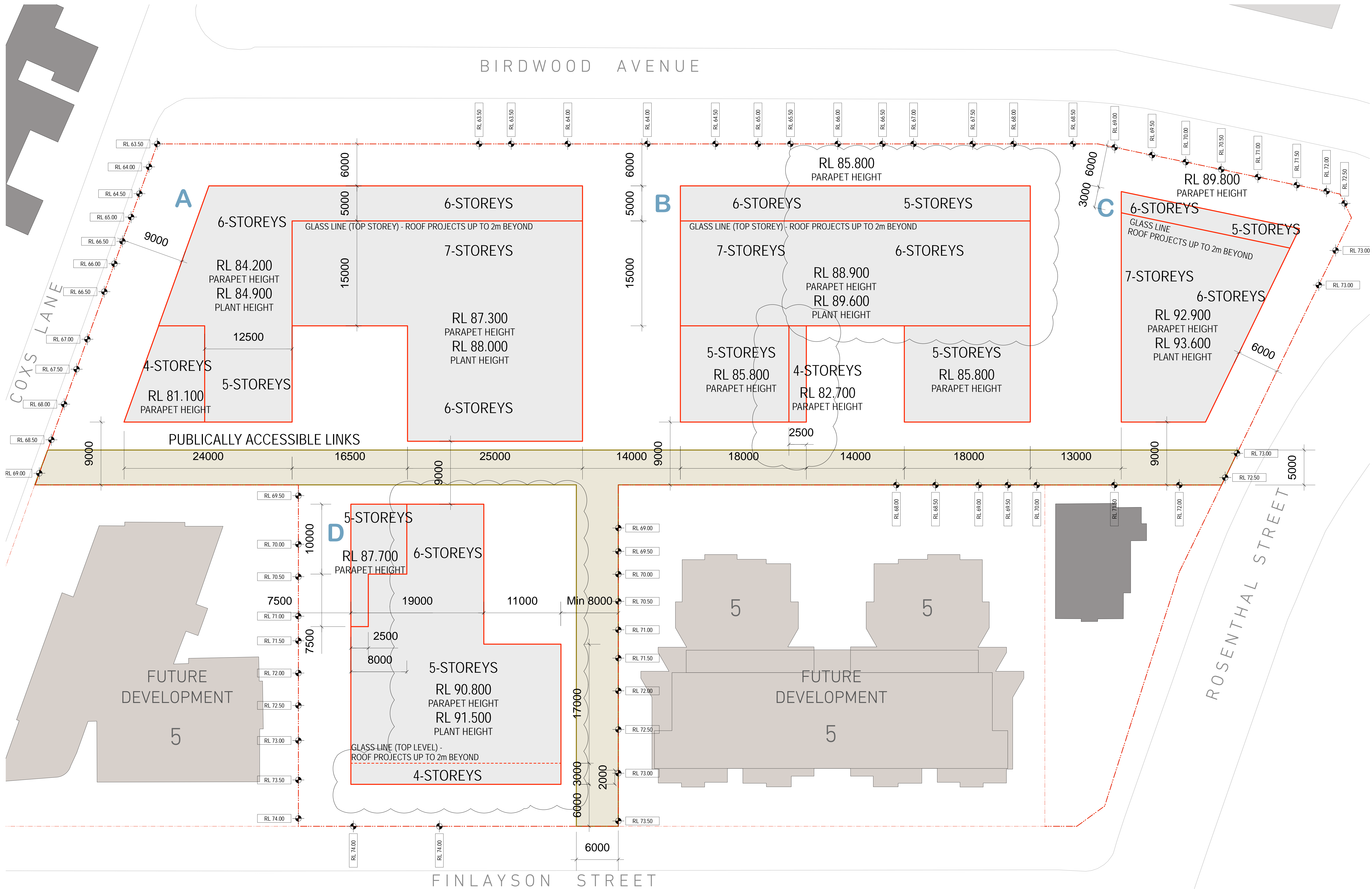
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FLOOR SPACE	GFA	STUDIO 45sqm	1 BED 52sqm	1 BED + STUDY 57sqm	2 BED 75sqm	2 BED + STUDY 85sqm	3 BED 105sqm	TOTAL APARTMENTS
RESIDENTIAL	19,380sqm	7	35	61	81	22	28	234
APARTMENT BREAKDOWN		3%	15%	26%	35%	9%	12%	100%
TOTAL GFA	19,380sqm							
SITE AREA	10,479.3sqm							
FSR	1.85:1							
PARKING RATES		studio	1 bed	2 bed	3 bed	resi visitors		
On site:		0.5/1 unit 4 spaces	1.0 / unit 96spaces	1.0 / unit 103 spaces	2.0 / unit 56 spaces	1.0 / 8 units 30 spaces		



LANDSCAPE AREAS (also see diagrams)	publically accessible park / through site link	private space / communal space / setbacks	total open space	deep soil whole site
	1,600sqm	5,000sqm	6,600sqm	2,600sqm
			63% of site	25% of site 39% of total open space

ITEMS FOR WHICH APPROVAL IS BEING SOUGHT
(all other figures are illustrative and will form
part of subsequent detailed applications)



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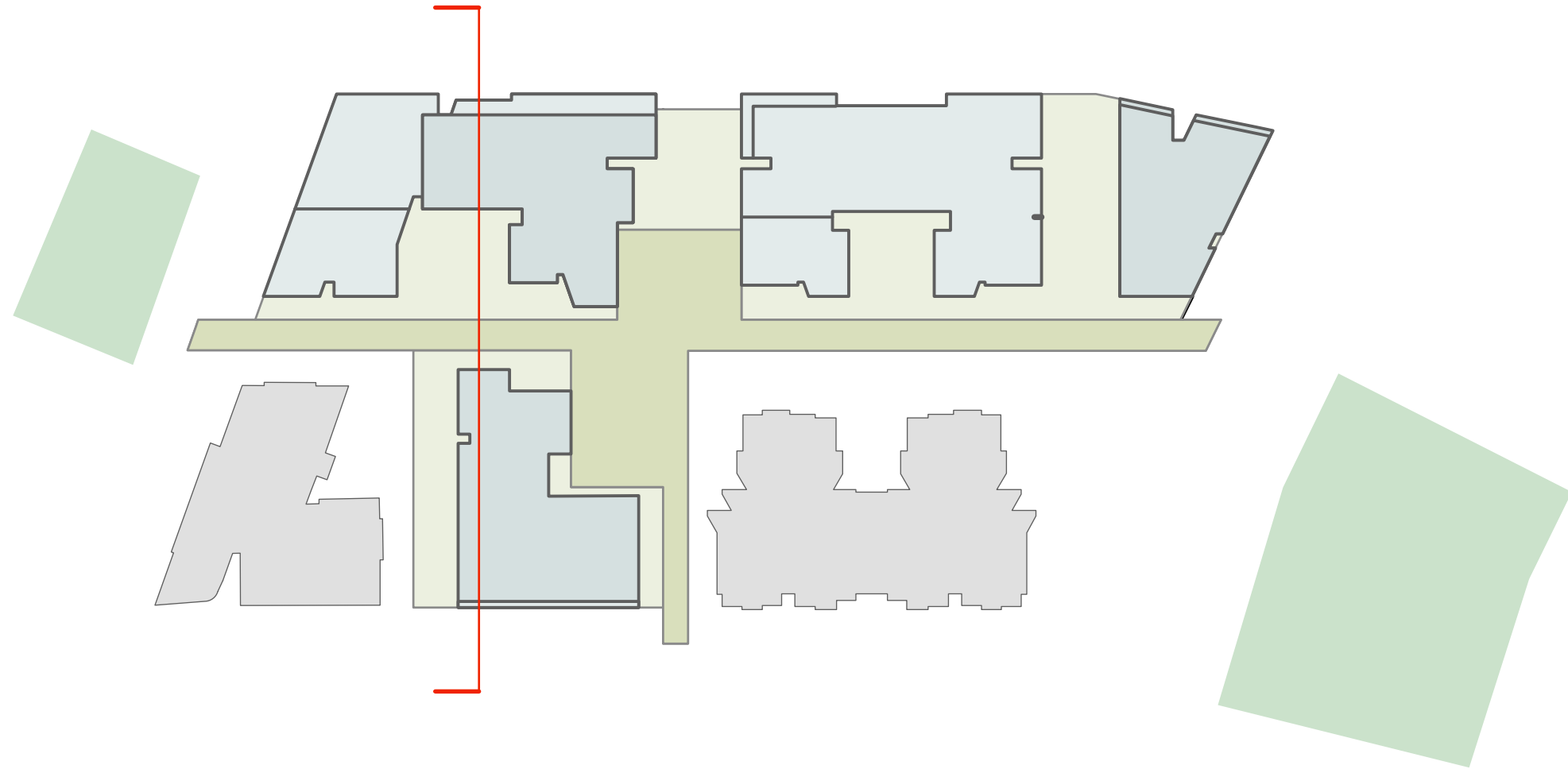
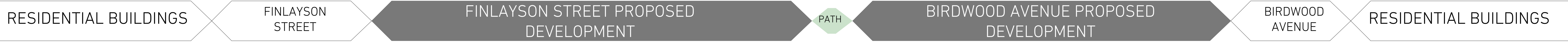
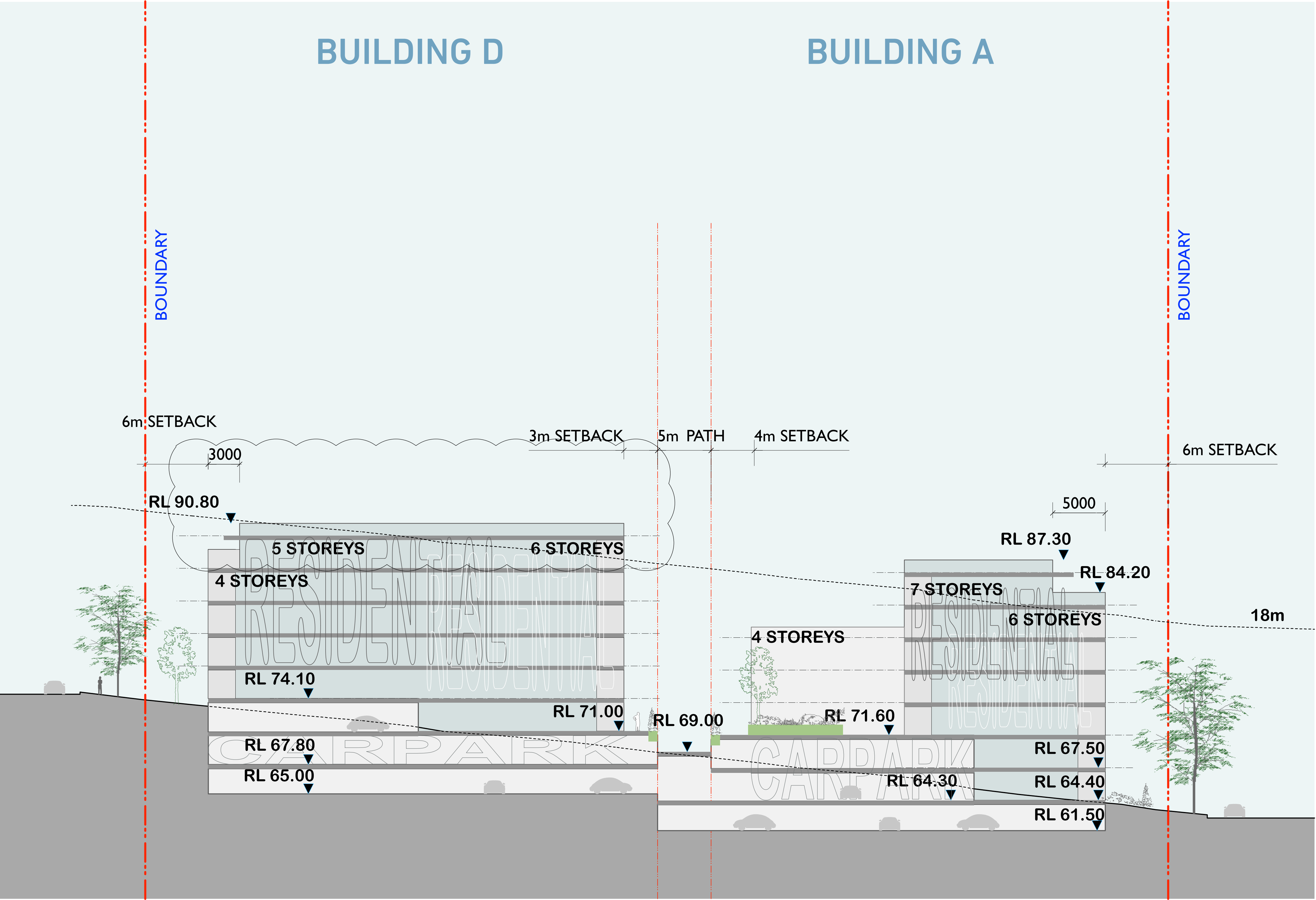
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Project Title
IRONBARK LANE
BIRDBOOD AVENUE, LANE COVE NSW 2066

Drawing Title
Building Envelope Plan

S2	20/03/14	kg	Building D and E modified
S1	15/11/13	kg	Stage 1 DA Submission
Rev	Date	Approved by	Revision Notes
Scale		Project No	
1:200	@B1, 40% @A3	13043	Drawn by ds
Scale		Dwg No	Rev S2
FOR INFORMATION		MP_100-001	

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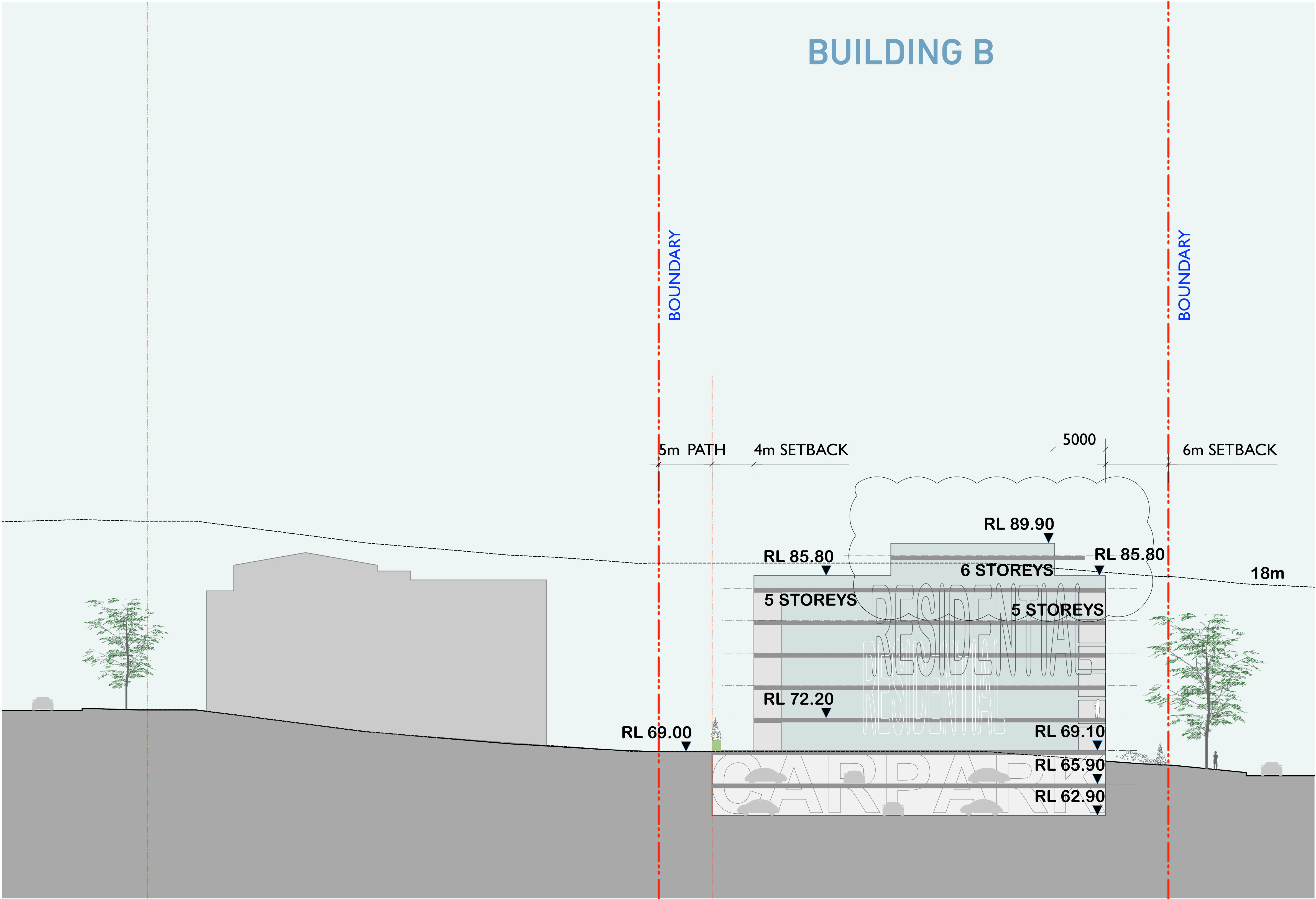
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Project Title
IRONBARK LANE
BIRDWOOD AVENUE, LANE COVE NSW 2066

Drawing Title
ILLUSTRATIVE SECTION AA

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S1	15/11/13	kgf	Stage 1 DA Submission
Rev.	Date	Approved by	Revised Notes
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Drawn by	ds		
Rev	S2		
Drawn by	ds		
Rev	S2		
Drawn by	ds		
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RESIDENTIAL BUILDINGS

FINLAYSON STREET

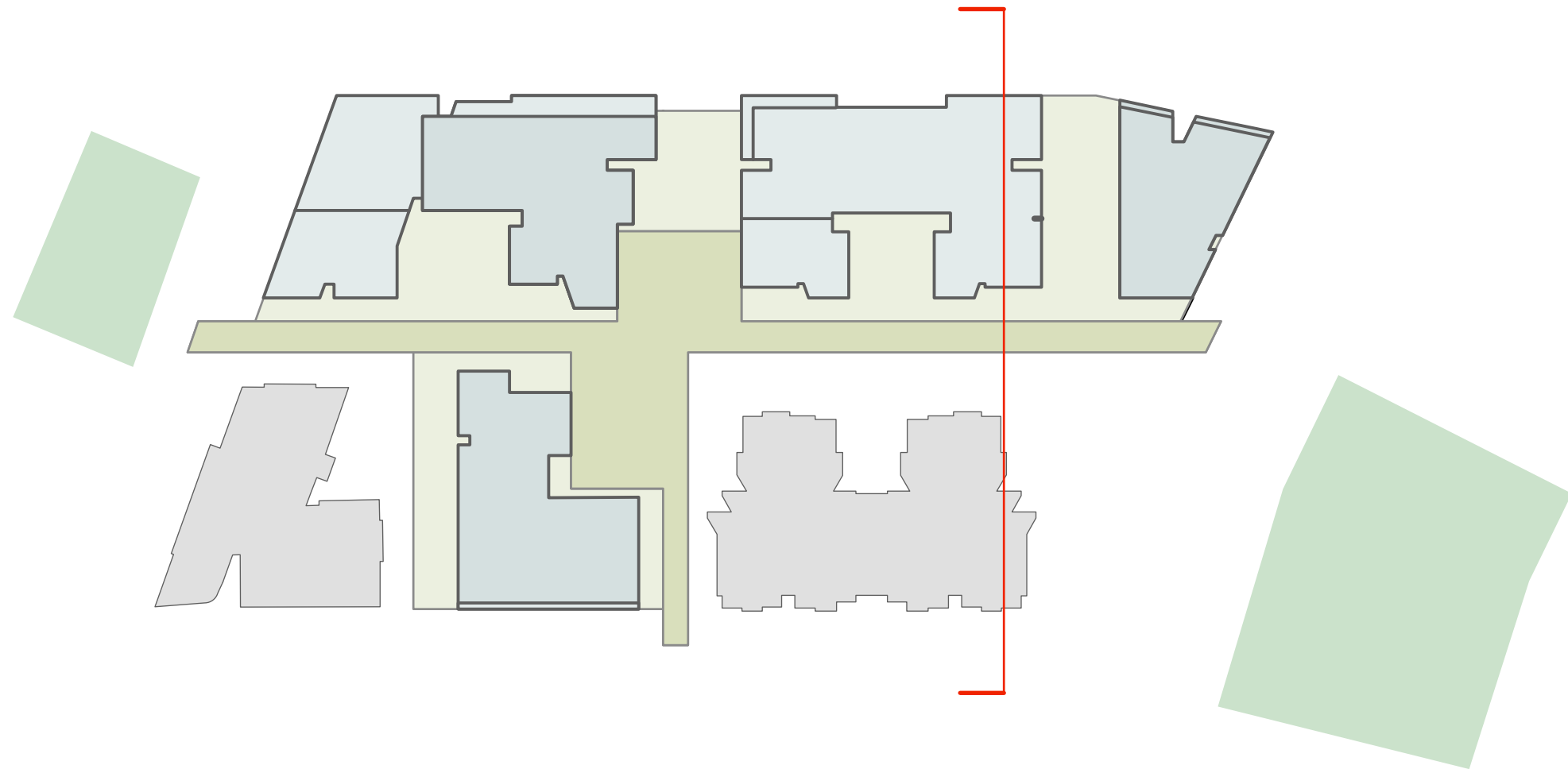
FUTURE DEVELOPMENT

PATH

BIRDWOOD AVENUE PROPOSED DEVELOPMENT

BIRDWOOD AVENUE

RESIDENTIAL BUILDINGS



SITE SECTION C-C

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BIRDWOOD AVENUE, LANE COVE NSW 2066

Drawing Title
ILLUSTRATIVE SECTION CC

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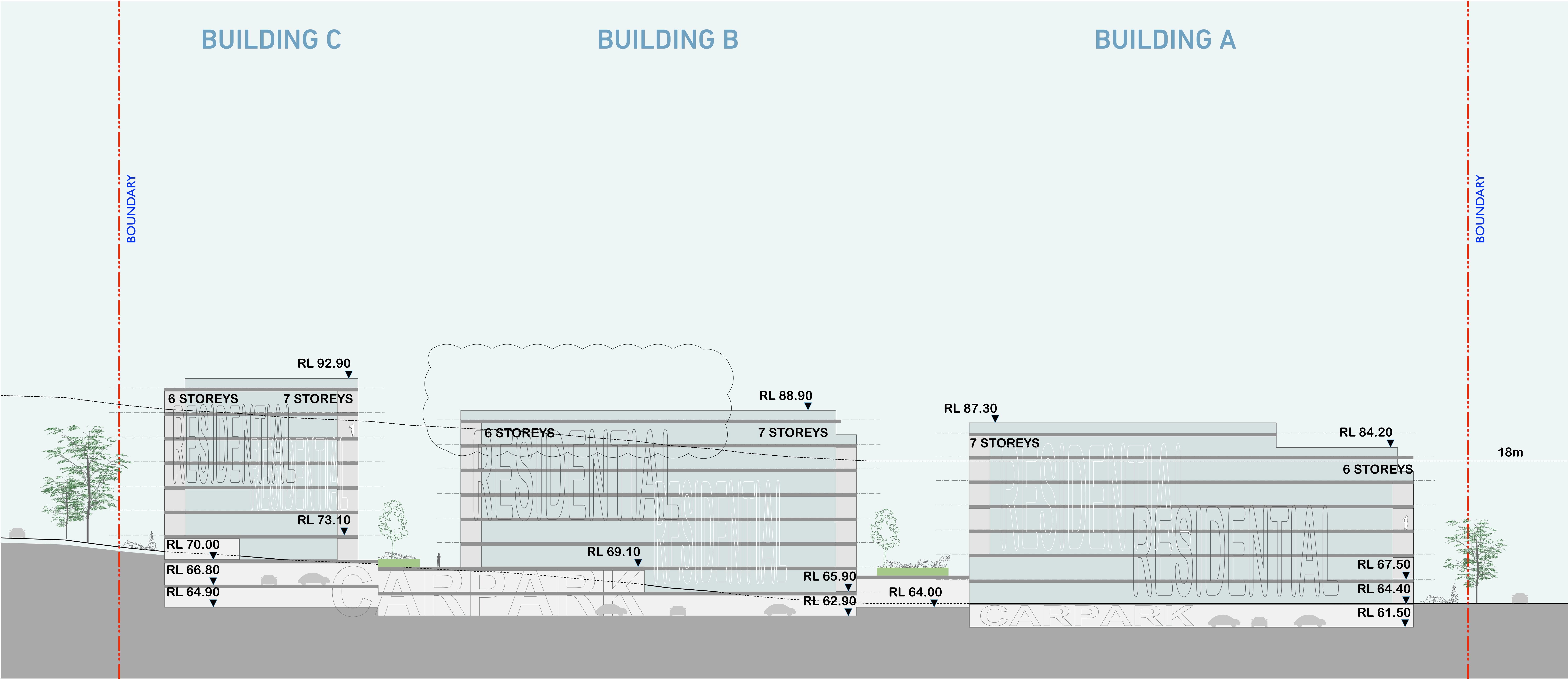
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BUILDING C

BUILDING B

BUILDING A



SITE SECTION D-D

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Drawing Title
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S1	15/11/13	kg	Stage 1 DA Submission
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Scale		Dwg No.	Rev
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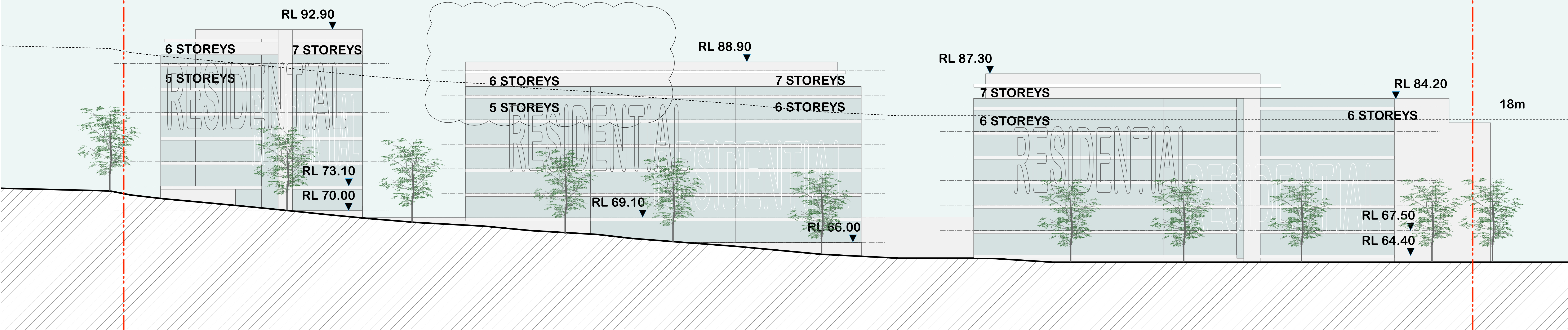
BUILDING C

BUILDING B

BUILDING A

BOUNDARY

BOUNDARY



ROSENTHAL STREET

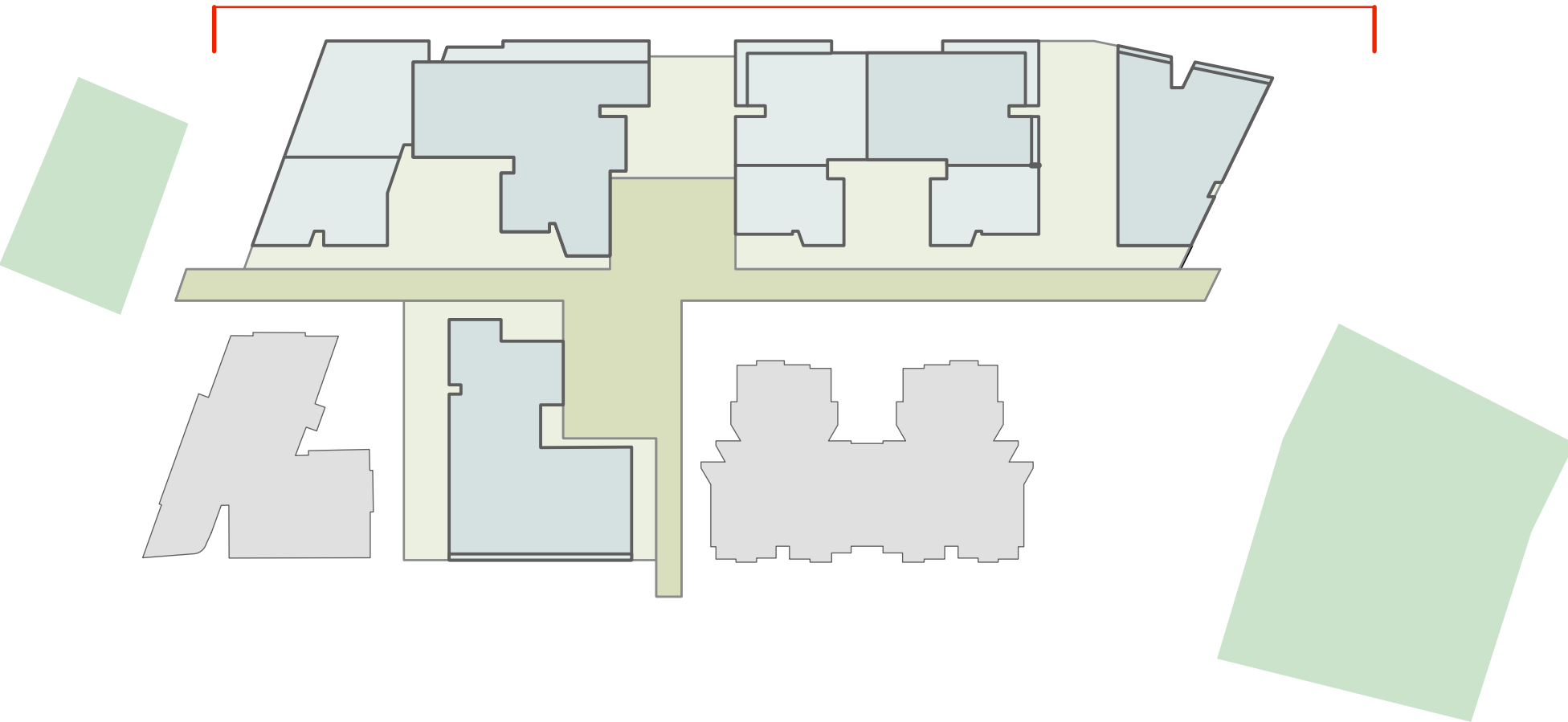
BIRDWOOD AVENUE PROPOSED DEVELOPMENT

DRIVEWAY

BIRDWOOD AVENUE PROPOSED DEVELOPMENT

COXS LANE

NORTH ELEVATION



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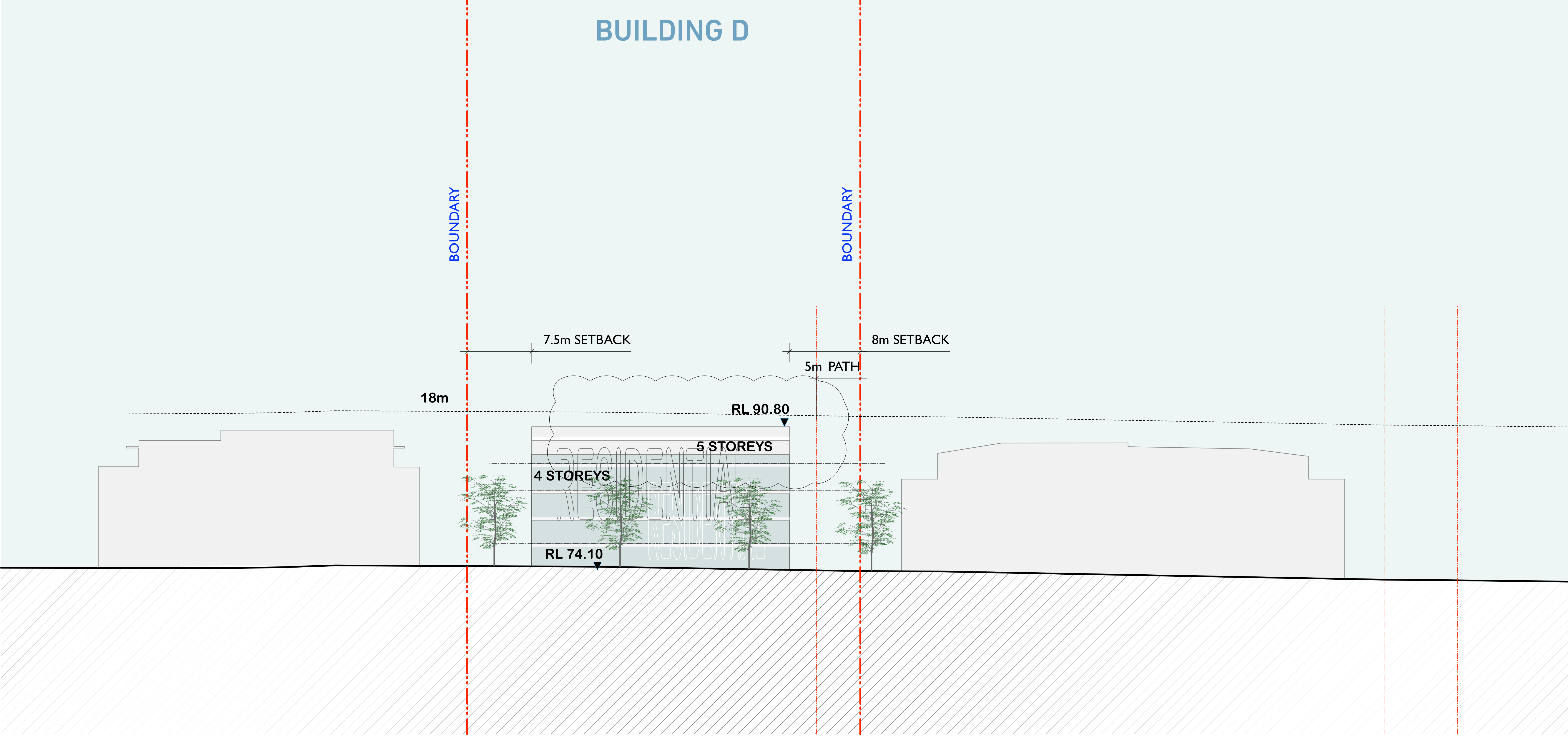
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BIRDWOOD AVENUE, LANE COVE NSW 2066

Drawing Title
ILLUSTRATIVE NORTH ELEVATION

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Scale	FOR INFORMATION	Dwg No. MP_400-001	Rev S2
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BUILDING D



COXS
LANE

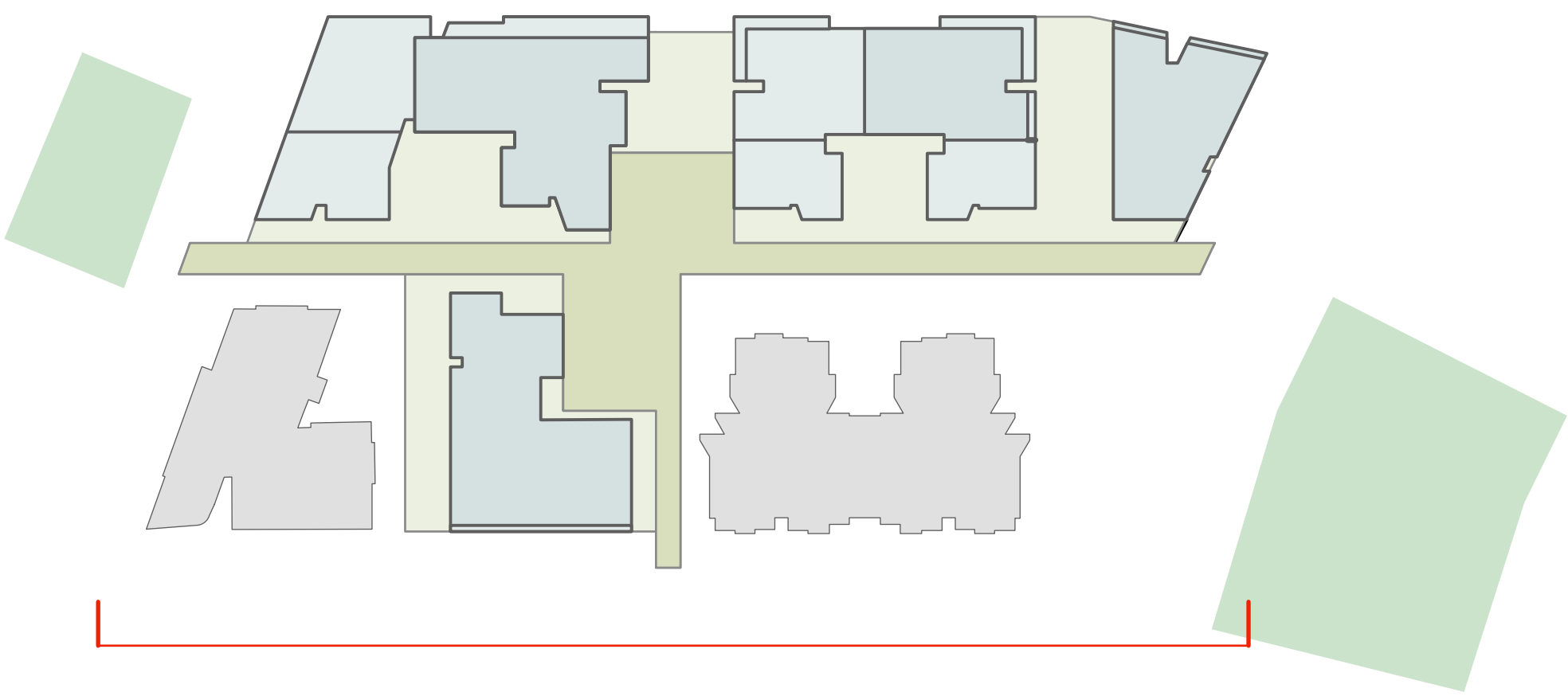
17-21 FINLAYSON STREET
PROPOSED DEVELOPMENT

FINLAYSON STREET PROPOSED
DEVELOPMENT

PATH

3-9 FINLAYSON STREET PROPOSED
DEVELOPMENT

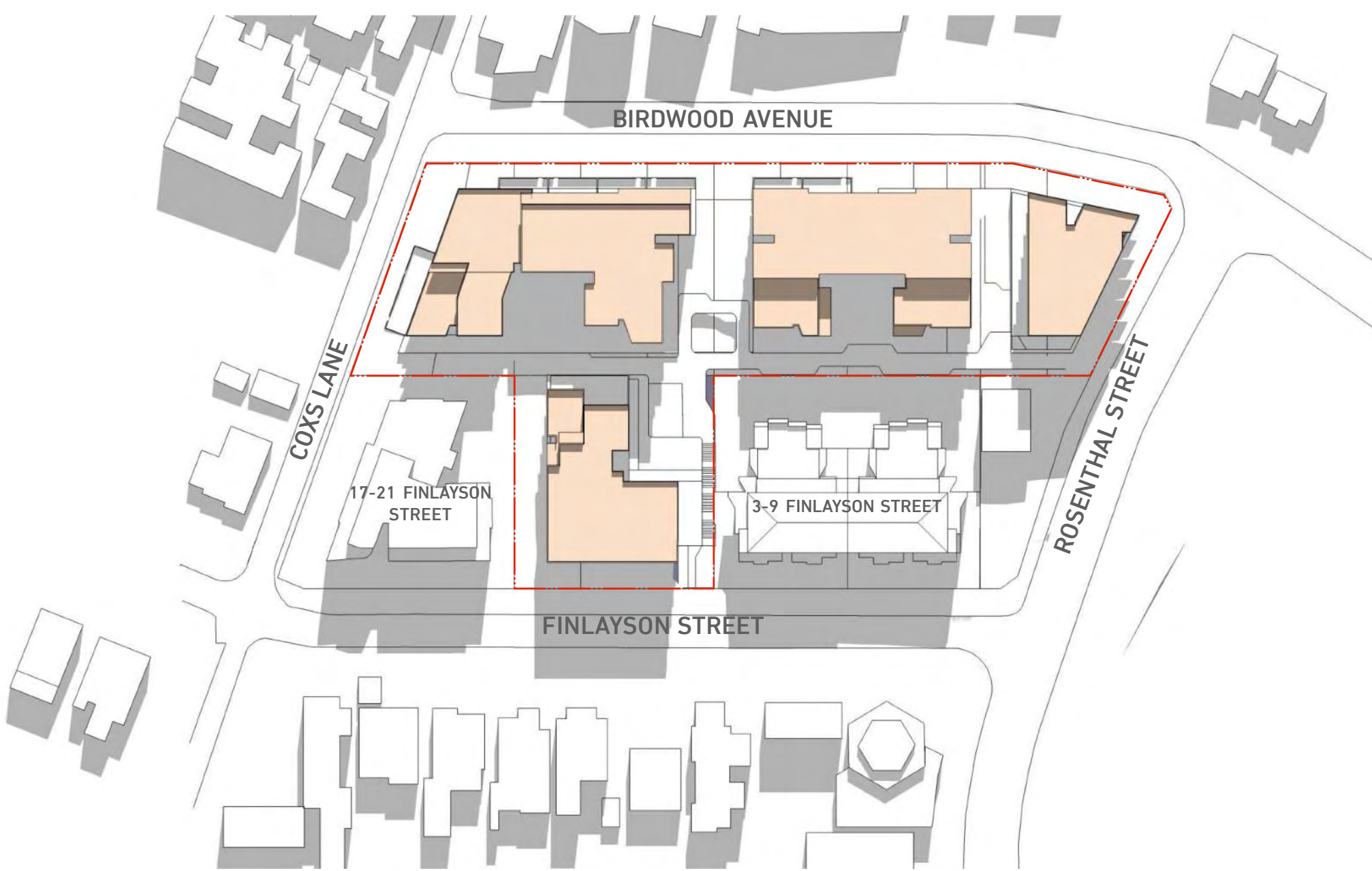
ROSENTHAL
STREET



SOUTH ELEVATION

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Notwithstanding to whomsoever, Turner & Partners, 40/41, 40/42, 40/43, 40/44, 40/45, 40/46, 40/47, 40/48, 40/49, 40/50, 40/51, 40/52, 40/53, 40/54, 40/55, 40/56, 40/57, 40/58, 40/59, 40/60, 40/61, 40/62, 40/63, 40/64, 40/65, 40/66, 40/67, 40/68, 40/69, 40/70, 40/71, 40/72, 40/73, 40/74, 40/75, 40/76, 40/77, 40/78, 40/79, 40/80, 40/81, 40/82, 40/83, 40/84, 40/85, 40/86, 40/87, 40/88, 40/89, 40/90, 40/91, 40/92, 40/93, 40/94, 40/95, 40/96, 40/97, 40/98, 40/99, 40/100, 40/101, 40/102, 40/103, 40/104, 40/105, 40/106, 40/107, 40/108, 40/109, 40/110, 40/111, 40/112, 40/113, 40/114, 40/115, 40/116, 40/117, 40/118, 40/119, 40/120, 40/121, 40/122, 40/123, 40/124, 40/125, 40/126, 40/127, 40/128, 40/129, 40/130, 40/131, 40/132, 40/133, 40/134, 40/135, 40/136, 40/137, 40/138, 40/139, 40/140, 40/141, 40/142, 40/143, 40/144, 40/145, 40/146, 40/147, 40/148, 40/149, 40/150, 40/151, 40/152, 40/153, 40/154, 40/155, 40/156, 40/157, 40/158, 40/159, 40/160, 40/161, 40/162, 40/163, 40/164, 40/165, 40/166, 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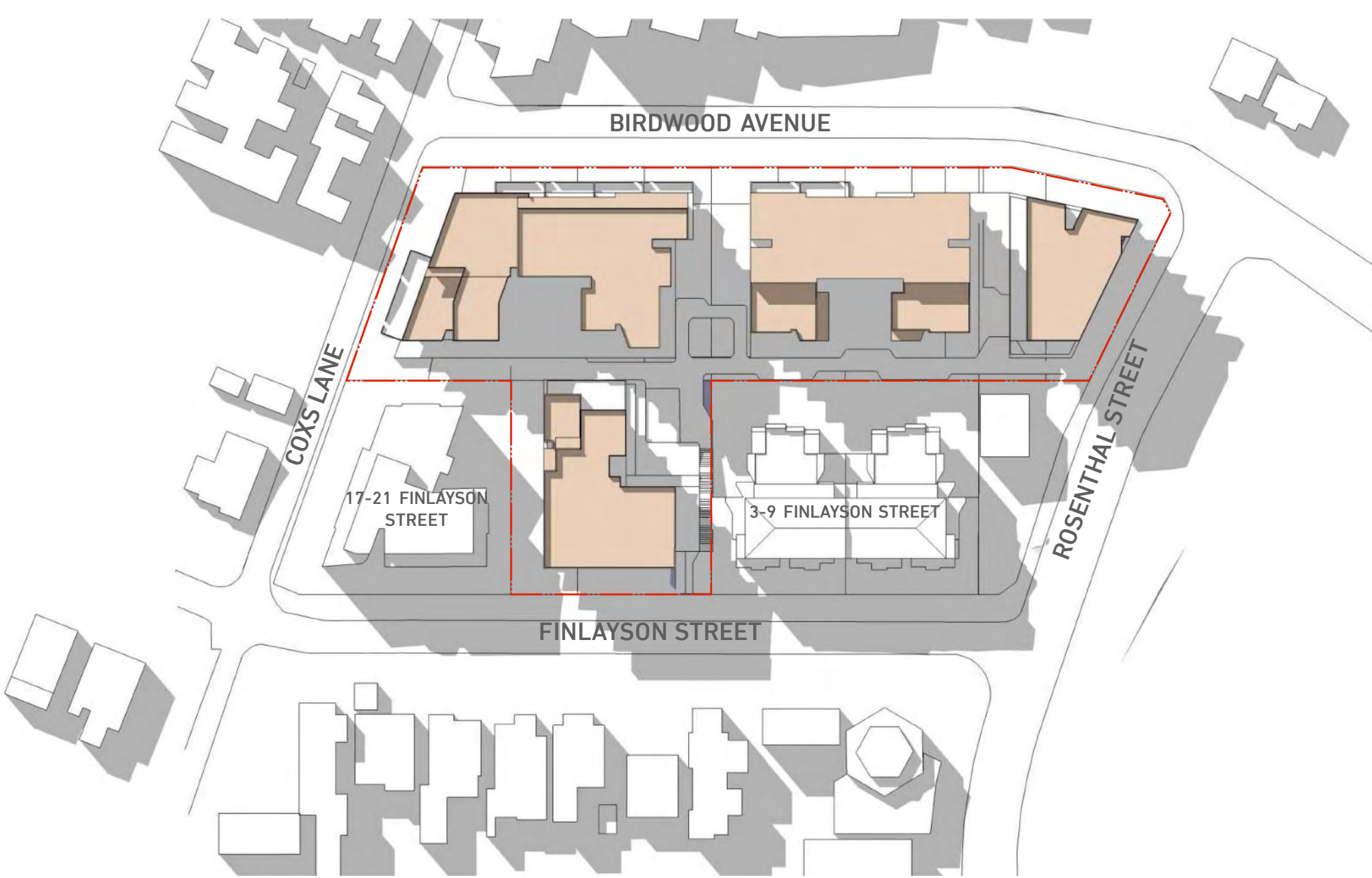
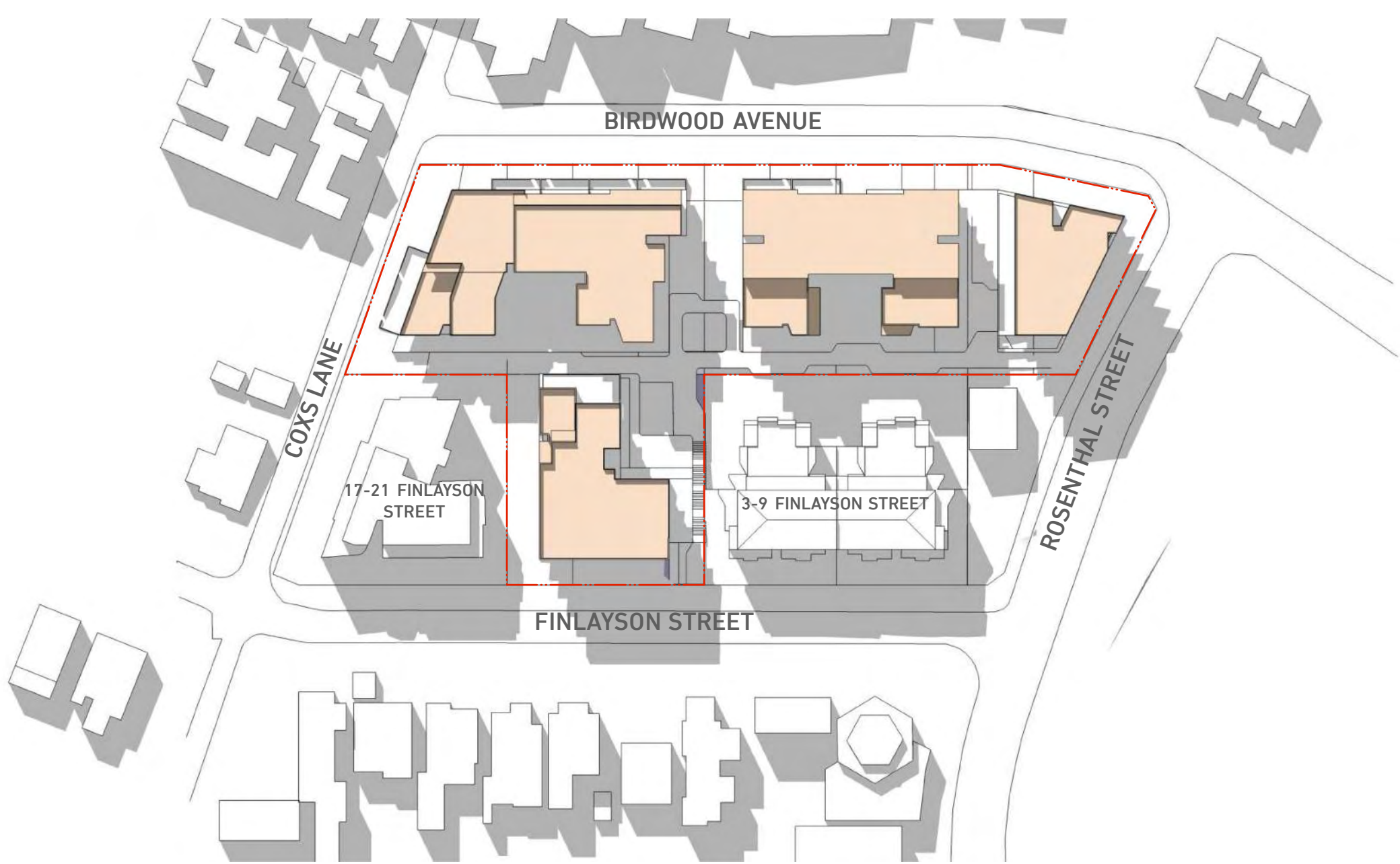
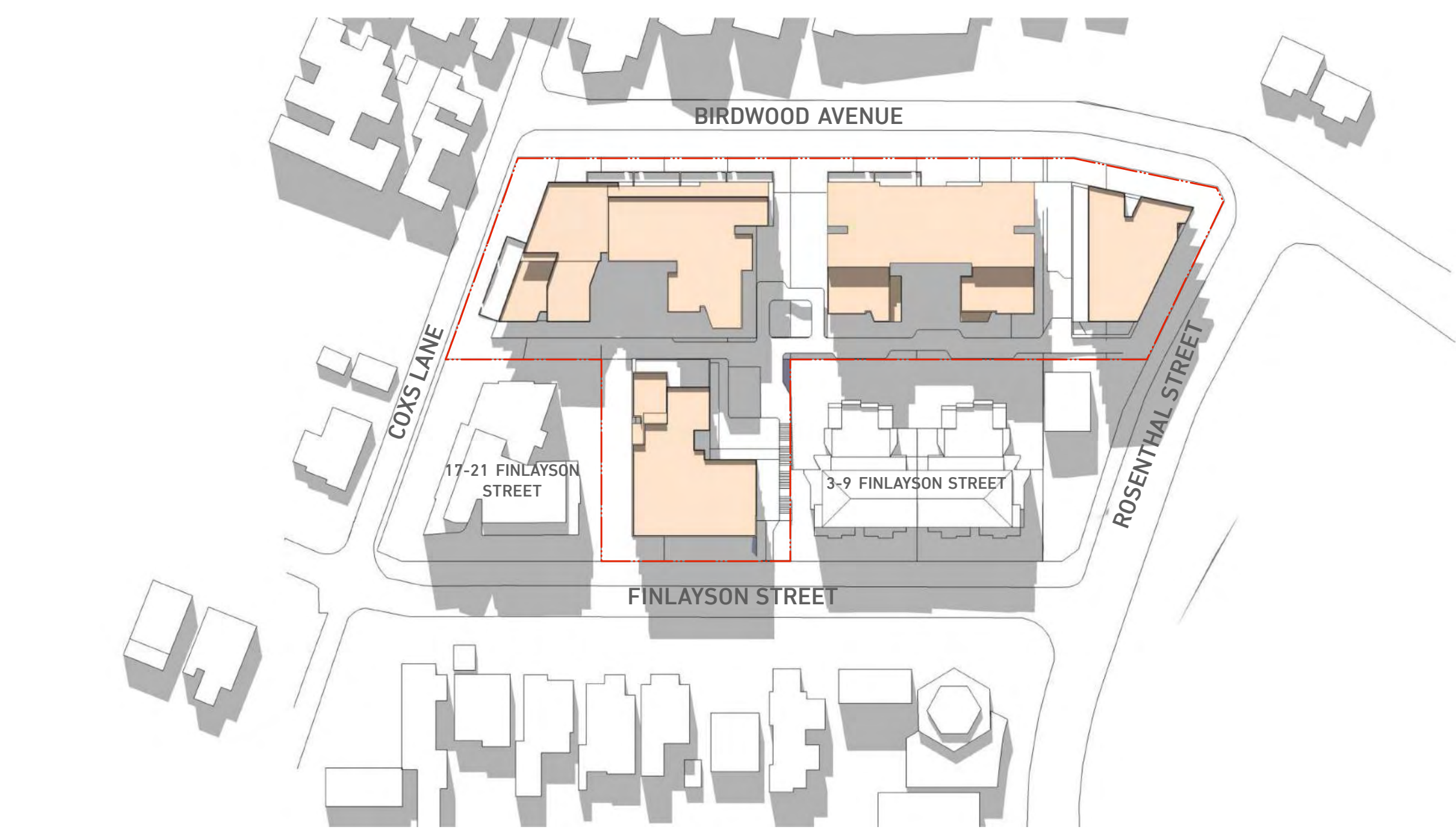


11.00 am _ WINTER SOLSTICE

EXTENT OF SHADOWS CAST BY
EXISTING APPROVED NEIGHBOURING BUILDINGS

EXTENT OF SHADOWS CAST BY
PROPOSED BUILDING FORMS

EXTENT OF SHADOWS CAST BY
PREVIOUSLY SUBMITTED PROPOSED BUILDING FORMS
(THE DIFFERENCE BETWEEN THE RED AND GREEN IS THE IMPROVEMENT)



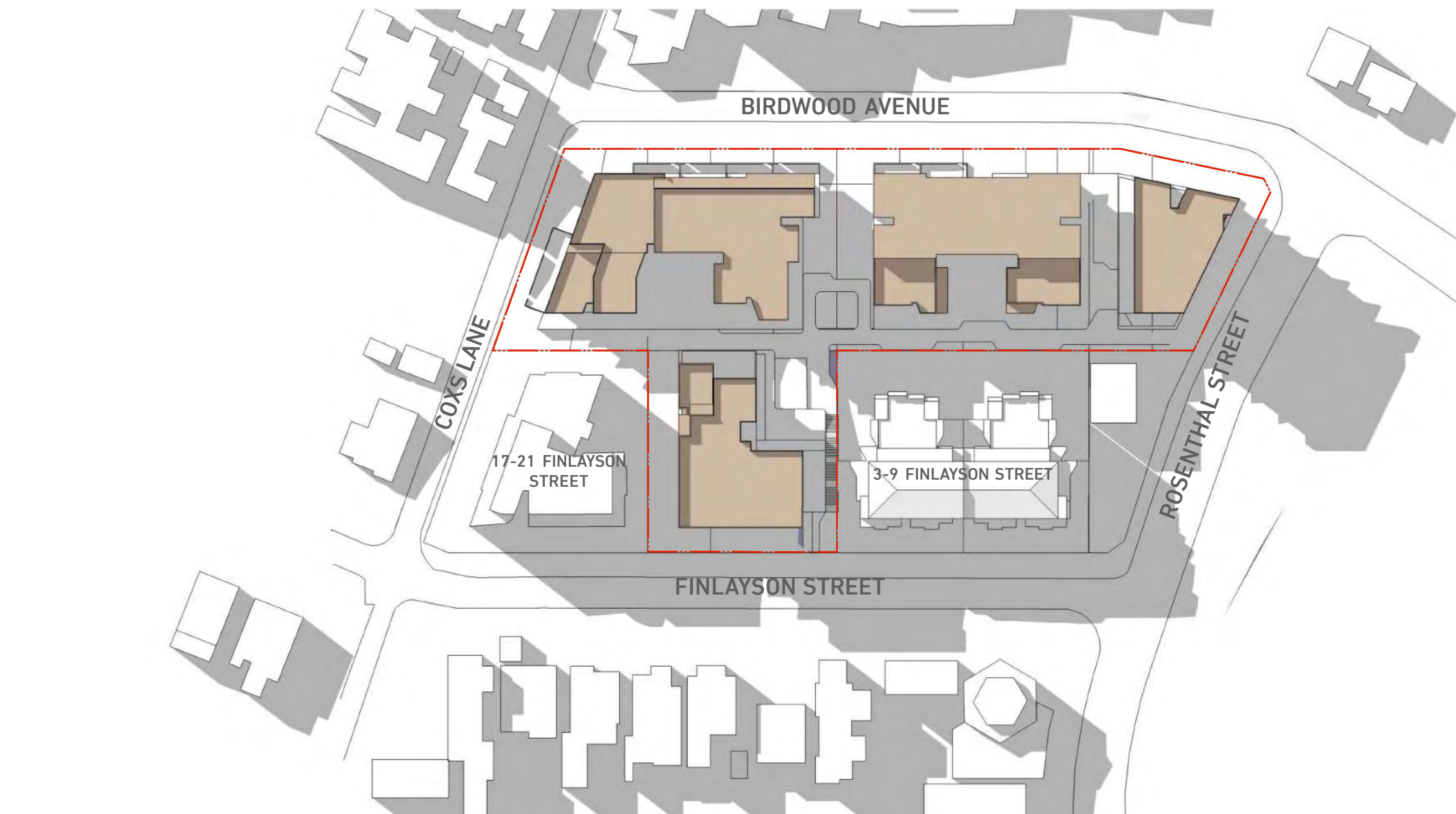
12.00 pm _ WINTER SOLSTICE



1.00 pm _ WINTER SOLSTICE



2.00 pm _ WINTER SOLSTICE



3.00 pm _ WINTER SOLSTICE



- EXTENT OF SHADOWS CAST BY EXISTING APPROVED NEIGHBOURING BUILDINGS
- EXTENT OF SHADOWS CAST BY PROPOSED BUILDING FORMS
- EXTENT OF SHADOWS CAST BY PREVIOUSLY SUBMITTED PROPOSED BUILDING FORMS (THE DIFFERENCE BETWEEN THE RED AND GREEN IS THE IMPROVEMENT)

Annexure 4

Submissions to Council on 10 & 27 February 2014

27 February 2014

General Manager
Lane Cove Council
48 Longueville Road
Lane Cove NSW 2066

Attn: Rebecka Groth, Senior Town Planner

By Email: rgroth@lanecove.nsw.gov.au

Dear Madam,

Re: DA 194/2013 for Stage 1 Concept Plan for Four (4) Residential Flat Buildings
Address: 2-22 Birdwood Avenue & 11-15 Finlayson Street, Lane Cove

This letter is written to you on behalf of our Client, Orca Partners, and the Applicant, Turner, in relation to the above application. It provides a summary to the attached letter, which seeks to provide further clarification and discussion surrounding some of the items discussed at the meeting with yourself, Michael Mason and Rajiv Shankar on 24 February 2014.

In summary, we wish to highlight the following key points:

- Council's concerns regarding the legal mechanisms to facilitate public access to the through-site link and "pocket parks" is simply resolved via a condition of consent to the subject application requiring an easement / right-of way for public access to be created over the land, to be registered on Title prior to the issue of the final Occupation Certificate for the development. A recommended condition has been drafted in the attachment.
- The controls established on this site were predicated on single, site-by-site developments and not as proposed as an integrated consolidated site. This consolidation provides "planning" benefits not envisaged by the existing controls which should not be dismissed due to a concern regarding numerical compliance.
- Whilst the development seeks approval for an additional GFA of 2,220.19m² (12.4% variation to the allowable 1.7:1), importantly, the development also seeks to provide 6,600m² of open space across the site, which equates to an additional 2,410m² or 23% open space greater than is envisaged under Council's controls. This includes 1,600m², or 15.3% of the total site area being allocated to the proposed publicly accessible through-site link and pocket parks. This will benefit the future public of the development but **also** the existing wider public and the future public of the approved Finlayson St developments.
- The true value of the through-site link and pocket parks should not be underestimated. Of particular note is the very significant opportunity to improve the urban grain and pattern of circulation and movement to and from the village centre. This opportunity will be lost if the link is not provided.
- The key objective of Clause 4.6 is to allow flexibility in applying development standards to "*particular*" development to achieve better outcomes for and from development. The variations to the height and FSR standards satisfy the requirements of Clause 4.6 of the LCLEP. The proposal demonstrates a capability of delivering a development that does not result in any adverse or unreasonable

environmental impact and results in a better planning outcome for the site, but also, for Lane Cove on a more strategic and long-term basis.

- The variations are not to a degree or within a context that would warrant a general planning change to the standards in the wider R4 zone and therefore Clause 4.6 is the appropriate planning mechanism to seek approval for the variations.
- In the absence of any tangible environmental impacts, the proposal is considered to be a better planning outcome than a proposal with envelopes which strictly comply with the height and FSR standards, with less open space, no through-site link and devoid of the wide range of benefits outlined in the submission and attached letter. Whilst this might be an acceptable outcome, it is evidently **not** a better planning outcome. Requiring strict compliance with the LCLEP undermines the intent of Clause 4.6 of the LCLEP.

On the basis of the above and the contents of the attached letter, we trust that Council is able to finalise its assessment of the proposal and recommendation to the JRPP which we consider warrants approval.

From the very commencement of this project engagement has been made with Council due to the unique nature of this site and key opportunities to be harnessed. We trust that Council understands our team's vision for the site as a catalyst for growth of the village centre, improvement to the pedestrian village network and a development outcome not originally envisaged by Council's controls.

The Lane Cove Village is undergoing a fundamental transformation from a low-density car-oriented centre to a much higher density environment for living and walking, however the block and street structure is unchanged since its original subdivision. Whereas in a typical low density street, households largely conduct their lives in their private yards and houses, in apartment-living much of people's lives is conducted in streets, parks and the public realm. Therefore, there is far greater need for such spaces. If it were possible to master plan the whole centre anew, any plan would naturally include a fine-grain movement network through a variety of pleasant and accessible spaces. This design and this concept development application has created a window of opportunity to allow such an such an environment to be created.

Should you have any queries in relation to this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

YOURS FAITHFULLY



**SUE FRANCIS
EXECUTIVE DIRECTOR
CITY PLAN STRATEGY AND DEVELOPMENT**

ATTACHMENT 1 LETTER TO COUNCIL

27 February 2014

General Manager
Lane Cove Council
48 Longueville Road
Lane Cove NSW 2066

Attn: Rebecka Groth, Senior Town Planner

By Email: rgroth@lanecove.nsw.gov.au

Dear Madam,

Re: DA 194/2013 for Stage 1 Concept Plan for Four (4) Residential Flat Buildings
Address: 2-22 Birdwood Avenue & 11-15 Finlayson Street, Lane Cove

This letter is written to you on behalf of our Client, Orca Partners, and the Applicant, Turner, in relation to the above application.

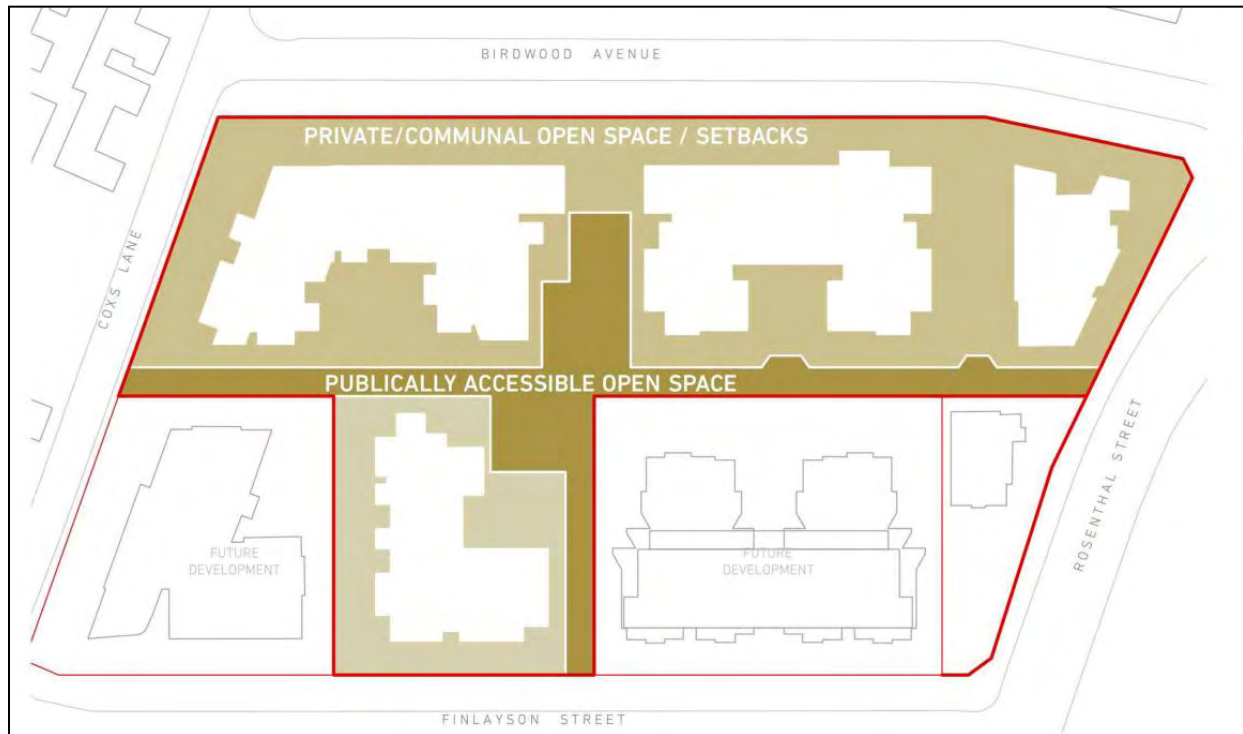
The purpose of this letter is to provide further clarification and discussion surrounding some of the items discussed at the meeting with yourself, Michael Mason and Rajiv Shankar on 24 February 2014. This largely relates to the benefits of the proposal, particularly within the context of the proposed variations to the height and FSR standards.

All of these matters have been addressed in the DA submission and subsequent post-lodgement submissions to Council, but we wish to reinforce some of the key points we have made to assist Council in finalising its assessment of the subject application.

Legal Mechanisms to Facilitate the Through-Site Link and Landscape Connections

One of the matters discussed at the meeting was the legal practicality of how the proposed through-site link may be represented on Title.

As originally submitted in our letter dated 3 February, the proposed through-site link may be established as an easement on Title for public access. This may too be the case for the central "pocket parks" which are directly accessible from the link and is the intention of our Client. This would allow for the link and pocket parks to be kept in the ownership and maintained by the landowner/body corporate, but would allow for the wider public to access these features of the site. The area that would be affected by the easement is shown in the figure below marked as *"publically accessible open space"*.



This easement may also include a drafting mechanism whereby private access to the proposed link may be provided from the rear communal open space areas of the approved developments at 3-9 and 17-21 Finlayson Street.

The issue of a "*legal mechanism*" to ensure public access facilitated for the link could be appropriately ensured through imposition of a condition of consent (to be formalised prior to occupation certificate for future applications). The following is an example of how such a condition could be drafted:

"An easement for public access is to be placed on Title establishing public access over the through-site link and internal pocket parks. The details of this easement are to allow for unfettered public access to these areas as well as the future residents of the approved residential flat buildings at 3-9 Finlayson Street and 17-21 Finlayson Street. Documentation demonstrating that the proposed easement has been created is to be submitted to the principle certifying authority prior to the issue of the final Occupation Certificate for future Stage Development Applications."

Public Benefits

It is understood that Council requires further clarification regarding the benefits of this concept plan application.

The key benefits of the proposal that were outlined in the submission are summarised below:

- **Integrated, Uniform Landscape Treatment to Streetscapes**

The provision of an integrated, uniform landscape treatment to the site's respective streets, which comprises a significant portion of the street block frontages and the entire Birdwood Avenue street block frontage. It would be very difficult to ensure that this occurs if the site was developed in an ad hoc manner and by different landowners.

- **Singular Vehicular Access Point**

A singular vehicular entry point, which controls traffic to and from the site and reduces the visual impact of vehicular accesses to the site and improves general safety (pedestrian and motorist) through a single access point. Specifically regarding this site, there is an ability to provide a vehicular access to the basement level car park at-grade, which would not be achievable for any access from Finlayson Street. This is considered to be a better outcome on planning and traffic grounds.

- **Retention of Significant Street Trees & Other Large Specimens**

Retention of existing significant trees in the central part of the site and large specimens around the site's perimeter. As outlined in the proposal, there are a series of trees that are required to be removed to facilitate the development. This would be the case for any development of the land. However, the ability to develop across the whole of the site not only ensures that key specimens can be retained around the perimeter of the site and centrally, but also allows for the landscaping scheme across the site and to the site's frontages to be uniform and enhanced.

- **Comparatively Greater Open Space vs. Additional Density**

23% increase in open space across the development site in addition to Council's requirement for open space for what is essentially a 12.4% increase in density on the site. In considering the unrealised residential density potential of No. 1 Finlayson Street, the proposal only results in an additional 5% "dwelling yield" increase, over and above what the greater street block is capable of accommodating under the LCLEP controls.

- **Publicly Accessible Through-Site Link & "Pocket-Parks"**

There is a unique opportunity to provide a generous publicly accessible through-site pedestrian link from west to east and through the core of the site with a further north-south link from the core of the site to Finlayson Street. There is also the opportunity to provide a series of internal "pocket parks" which may be enjoyed by future residents of the development and the wider community through their use of the through-site pedestrian link. The publicly accessible link is fully accessible for disabled persons and represents approximately 15% of the total site area. Given the strategic location of this site, this link is considered to be a significant public benefit as it will provide further direct pedestrian accessibility to the Lane Cove Town Centre. This will be discussed further after these key points. This level of "connectivity" would not be achievable without consolidation of the subject lots into the proposed development site.

- **Extension of the Lane Cove Village Centre Movement Network**

Extension of the village movement network through the provision of the abovementioned pedestrian linkages and mid-block permeability through the provision of a publicly accessible north-south link from the internal "pocket park". Again, this would not be achievable without consolidation of the subject lots into the proposed development site.

- **Key Sustainability Initiatives**

A series of key sustainability initiatives that are only possible through site consolidation. As set out in the Sustainability Statement prepared by ARUP, these initiatives are not feasible on smaller redevelopment sites.

- **Internal Site Waste Collection**

The ability to accommodate garbage collection internally within the site and within the proposed basement with a singular access point. Again, this is not something that would be achieved without consolidation of the site.

- **High Level Street and Through-Site Link Activation**

High level activation to the through-site link and adjacent streets through multiple residential entries. The degree of street level "pedestrian" activation is something that would not be achieved without consolidation of the site. This would partly be attributed to the requirement for additional vehicular access points as opposed to the proposed numerous residential entries. Equally, there would be no internal activation of the street block without the through-site link.

It was argued in one of the objections made to the subject application that these "benefits" do not provide justification for the proposed FSR and height standard variations and are therefore not in the public's interest. In response, it is **not** merely argued in the submission that these "benefits" are justification for the height and FSR variations. The justification for the variations extends beyond the delivery of these benefits and notably justifies on the basis of the following:

- The variation is **not** tantamount to a planning proposal. The variations are not of a degree or within a context that would warrant a general planning changes to the standards in the wider R4 zone.
- There is **no quantitative limit** on Clause 4.6 of the LCLEP. Given the concept development adequately demonstrates, or is capable of demonstrating (in future detailed DA's) there will be no adverse or unreasonable environmental impact, Clause 4.6 is the appropriate planning mechanism to seek approval for the proposed variations. This is even further cemented by the fact that the proposal is a concept plan, which undertakes a more "strategic" "whole site" approach to redevelopment than a detailed design DA would. And furthermore, the purpose of Clause 4.6 in the LCLEP is to provide flexibility in the application of development standards where there are opportunities to deliver a better planning outcome. This is one of those scenarios.
- An assessment of the proposal clearly shows that there will be no adverse or unreasonable environmental impact. Specifically, we draw your attention to the amended plans and solar analysis which clearly shows that the proposal would:
 - allow for the approved adjacent developments on Finalyson St to maintain consistency with the RFDC guideline for solar access; and
 - on balance, would reduce the overshadowing that would be granted by a compliant building envelopes on the site. This "whole-site" development approach actually results in some areas of the development receiving more solar access in mid-winter than would be achieved through a compliant scheme. Given the desired future character of the site is for high density residential development, this is an appropriate outcome and a potentially better outcome than what a compliant scheme would deliver in terms of solar access.

Ultimately, the proposed variations satisfy Clause 4.6 regardless of the provision of the through-site link.

Further to the above and specifically in relation to the through-site link, we understand that there has been some scepticism as to its real purpose and true benefit. Again, whilst this has been documented in our submission, we wish to reiterate the importance of this part of the proposal. This is discussed in the following sections of this letter.

Value of the Link and Pocket Parks

Whilst the Council has acknowledged that the proposed through-site link is a positive feature of the design, its true value appears to be underestimated, as is the value of the pocket parks.

There are three (3) key overarching categories whereby the value of the link can be explained:

- The value of the link from a strategic, urban design perspective; and
- The qualitative value of the link and pocket parks to the public.

In discussing the benefit to the "public", it is important to not only consider the existing "public" but also, the future public of Lane Cove; that is, the future residents of the proposed concept plan application, as well as the future residents of the approved Finlayson Street, Birdwood Avenue and surrounding developments. All of these residents, both current and future, will be ratepayers of Lane Cove and therefore, should all be considered in the assessment of whether the proposal is in the public interest. Mere compliance with blanket planning controls applied across generic zones is not the test for determining whether a proposal is in the public interest. This assessment must consider a range of factors, including the impacts of the development (which we assess as not being adverse or unreasonable) and the tangible outcome for future residents and the wider community.

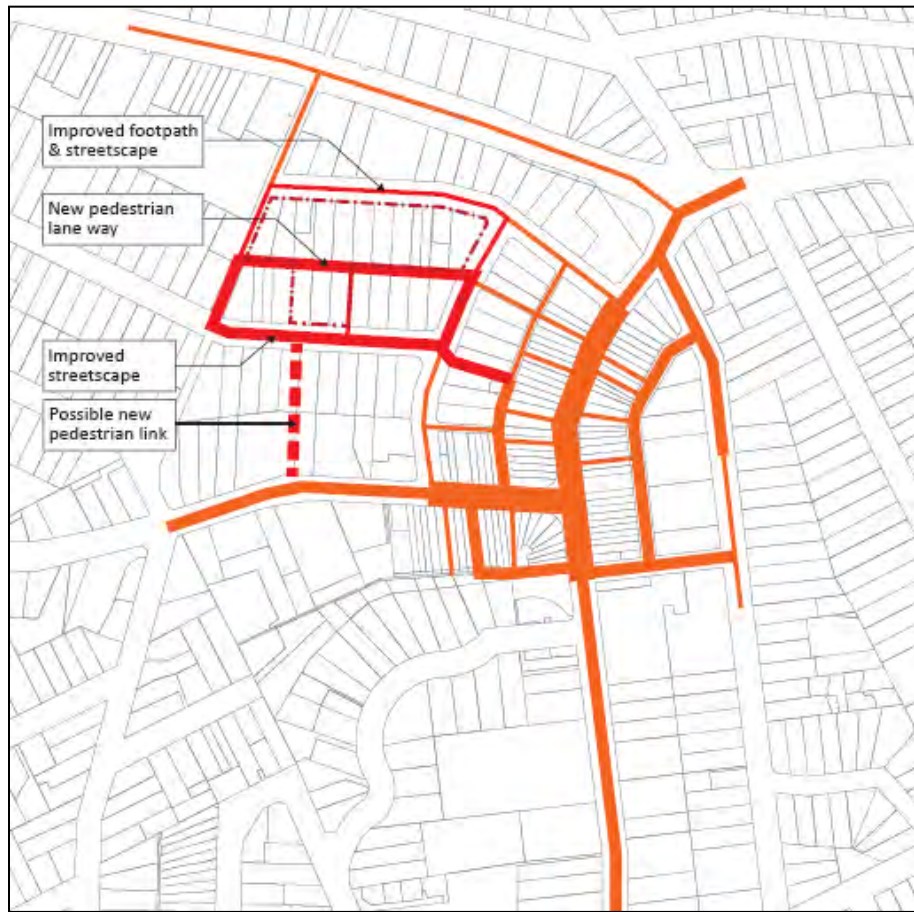
Moreover, the controls established on this site through the LCLEP and LCDCP were predicated on a single site by site development and **not** as proposed as an integrated consolidated site. This consolidation provides "planning" benefits not envisaged by the existing controls which should not be dismissed due to a concern as to numerical compliance.

Each of these categories of "value" with regard to the public interest, is considered below.

Urban Design Value of the Link

It is acknowledged that Council's planning controls, which are derived from a strategic planning exercise, do not envisage a through-site link through the site. This is largely due to the fact that it would be punitive for Council to require that all of the proposed 17 allotments be amalgamated to ensure that this link occurs. Such a link could simply not be envisaged practically if the land was to be developed as development typically occurs; on the basis of development sites under separate ownership, comprising 1,500m² (about 2-3 allotments). Regardless, this is not to say that the link should not occur or does not have any true value to the public.

In the original submission to Council, a "pedestrian network" diagram was included in the design report, which identifies the pedestrian hierarchy in Lane Cove. This image is below:



The greatest activity corresponds with the village centre. The approaches to the centre will become more important pedestrian routes as the number of people within walking distance grows. The proposed development coupled with recent approvals on Finlayson alone will result in hundreds of additional residents within that confined street block.

The circulation pattern within the village centre is very 'fine-grained'. The frequent arcades and links produce circulation blocks of only about 1,000m². Beyond the village centre is a quantum jump in circulation to a 'coarse-grain' of, over 10,000m² (most surrounding blocks are around 1.5 Ha).

From a strategic planning and urban structure/morphology perspective, this is **not** a desirable outcome.

Therefore it is **very significant** that the project presents the opportunity to segment the Birdwood-Finlayson urban block into three parts. These potential through-block links also connect significant existing and future desire-lines. These include the Coxs Lane Park and the proposed new town Square on the Rosenthal Car Park site. The proposed lane is the only opportunity to achieve this connection with moderate gradients (the alternative routes on-street are quite steep).

It has been suggested that there are already functioning footpaths running east-west along Birdwood Avenue and Finlayson Street. The difficulty is that the grades that connect these footpaths, east and west of the street block (along Coxs Lane and Rosenthal Avenue) are significant and do not promote

good accessibility outcomes. The proposed through-site link provides the greater public, as well as the **future public** of the street site (comprising the future residents of the approved Finlayson developments and the proposed concept development), with a more accessible path of travel and a better "grain" of circulation and movement to and from the village centre.

For example, the presence of the link through the site will allow for the aforementioned "*future public*" to exit internally through their respective sites at appropriate accessible grades and travel towards the village centre along a largely at-grade pathway (the maximum grade being 1 in 20). For existing residents to the west of the street block, this link will also be of significant benefit. A future possible connection across Rosenthal Avenue at the juncture of the link would only further enhance this level of accessibility for the current and future public. Such an outcome is also consistent with reducing physical "barriers" in the form of steep gradients and indirect accessibility to promote better planning outcomes to support the evident generational change: ageing in place and young families. A good walking environment is critical to support the demands of this generational change. Opportunities such as the delivery of a fully accessible through-site link to improve movement, circulation and the physical "grain" of the village centre, such as that proposed, are not readily available. Where such opportunities are evident, it is the responsibility of the decision makers to ensure that they are captured and delivered. It is not solely about development in the short term, but more importantly, a more strategic approach to development in the long term and how it will assist growth of the village centre. In the circumstances of this case, this opportunity only arises from the proposed concept plan application and loss of this opportunity would not result in a better planning outcome.

Qualitative Value of the Link and Pocket Parks

The qualitative value of the link and pocket parks can be summarised in the following key points:

- As noted earlier in this letter, the proposed link and pocket parks will be legally formalised as land that may be accessed by the wider public. Enhancement of movement to and from the site and adjacent development sites will result (subject to negotiation with the body corporate organisations of these developments), as well as mid-block permeability and enhancement of disabled access east-west through the site. From a long term, urban structure/morphology perspective, this can only enhance the grain of movement and circulation to and from the village centre which ultimately serves the wider public interest.
- The pocket parks at the core of the site will be available for the current and future public to enjoy. These elements of the proposal will not only enhance overall open space and landscaping on the site, but will provide additional recreation areas within the locality in close proximity to the village centre which can only be seen as a positive contribution.
- The additional building height and density contained in the envelopes will be in-perceivable from street level. The enhanced open space throughout the site and quality landscaping scheme (which will be refined in detailed design), which is largely attributed to the proposed link and pocket parks which comprise 15% of the site area, is seen as a preferable alternative for the public as it is "useable" space that would otherwise comprise building footprint. It would simply not be feasible to dedicate this amount of open space to the link, parks and other additional open space on the site and maintaining the same proposed building footprints with compliant envelopes.
- If the land was to redeveloped as separate development sites, the rear of these sites would comprise private communal open space. Whilst this is a requirement for residential flat developments, the practical reality is that these areas are seldom used by the residents of the respective developments. By "opening up" the site and incorporating the link and pocket parks, the proposal is enhancing

activity and useability of these spaces and inviting the other adjacent developments to be part of a "community", as opposed to a traditional development of the land with buildings which "turn their backs" on their respective neighbours. Fostering that sense of community which Lane Cove is known for is something that should be celebrated and not rejected for the mere purpose of planning compliance particularly where there is a legitimate avenue to vary the development standards in question.

For all intents and purposes, the buildings (subject to detailed design) will be an appropriate bulk and scale for their context. The additional bulk and scale is inconsequential, particularly within the context of the public benefit of the development. The only real tangible and perceivable difference is the outcome in terms of the link and open space and these elements can really only be seen as beneficial to the existing public and the future public of the development site and adjacent approved Finlayson Street development sites.

Concluding Remarks

This project has evolved as a result of a detailed strategic masterplanning exercise by the project team and numerous discussions with the Council. One of those discussions resulted in advice from the Council (dated 18 October 2013) (see attached) which acknowledged the benefits of the proposal and the specifically, the benefits of the proposed through-site link. Whilst Council identified that it had taken a consistent approach to applying its LCLEP provisions, there was no advice at that stage that the proposal would not be supported with variations to the LCLEP standards. In fact, the advice confirmed that Council was "*encouraged*" by the proposal.

Furthermore, dialogue has been maintained with Council, which is evident through our post-lodgement submissions and request to discuss the proposal in the recent meeting held on 24 February 2014.

Whilst Council has requested further information from our team (which we responded to), there has been no further specific feedback regarding the proposal aside from identifying that the development does not comply with the LCLEP height and FSR standards.

As submitted to Council before, approval of the variations is warranted, capable of being assessed under Clause 4.6 of the LCLEP and will not set any precedent for further variations as the urban design/masterplanning analysis undertaken (and as identified in the design report) clearly shows there are no development sites in the surrounding R4 zoned land of the size of this site and proximity to the village centre.

In the absence of any feedback from Council, we trust the information contained in this letter assists Council in finalising its assessment of this application which we wholly consider warrants a positive recommendation to the JRPP.

It is further emphasised that this development application seeks approval for a concept plan. Whilst approval of such an application will set the parameters for future development applications to be considered, it will be on the onus of the Applicant to demonstrate to you in future applications that the detailed design of the buildings deliver the "capability" outcomes or "*commitments*" demonstrated in this application. Such commitments or future requirements may be reinforced through the imposition of appropriate conditions to consent.

It is understood that Council is currently preparing its report to the JRPP. We would welcome any further discussions with the Council regarding the proposal. From the very commencement of this project engagement has been made with Council due to the unique nature of this site and key opportunities to be harnessed. We trust that Council understands our team's vision for the site as a catalyst for growth of the village centre, improvement to the pedestrian village network and a development outcome not originally envisaged by Council's controls.

Should you have any queries in relation to this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

YOURS FAITHFULLY

A handwritten signature in black ink, appearing to read 'Sue Francis', with a stylized flourish at the end.

**SUE FRANCIS
EXECUTIVE DIRECTOR
CITY PLAN STRATEGY AND DEVELOPMENT**

ATTACHMENT 1

PRE-LODGEEMENT LETTER FROM COUNCIL



Lane Cove Council

48 Longueville Road, Lane Cove NSW 2066

Tel: 02 9911 3555

Fax: 02 9911 3600

18 October 2013

Our Ref: MM:nb 50419/13

Mr Duncan Bull
Managing Director
ORCA Partners
GPO Box 231
SYDNEY NSW 2001

Dear Mr Bull,

Meeting with Council staff to provide an overview of a development proposal at 2-22 Birdwood Avenue, and 11 and 15 Finlayson Street, Lane Cove.

I refer to our recent meeting where your team provided an overview of your ambitious residential development proposal. At the meeting you presented an update of your likely development. The presentation included your understanding of the context of the combined sites and an analysis of existing land uses, street network, possible building massing and footprints including an east/west and north/south through link that may be a shared zone for service vehicles and pedestrians.

During the presentation your team highlighted a number of benefits envisaged by the amalgamation of existing dwelling sites in both Birdwood Avenue and Finlayson Street. These benefits include but are not limited to:

- The retention of a significant number of street trees.
- Creation of pedestrian connectivity throughout the site.
- Reduction of the number of driveways and better control and management of vehicles and traffic generally.
- Landscape concept design for the combined site.

The opportunity to amalgamate a significant number of existing dwellings close to the CBD would clearly present design opportunities and advantages over a number of smaller parcels developed individually. These design and connectivity opportunities appear to be central to your team's approach and preliminary plans.

The overall scheme appears well considered and I look forward to receiving a detailed application at the appropriate time.

Council has experienced strong demand in a number of precincts zoned R4 under the new 2009 LEP and has taken a firm stand on compliance, LEP and DCP provisions in particular, with height and FSR provisions of the Planning Instrument.

I note that your proposal indicates building heights of 22m and an FSR of 1.95:1, both of which exceed the maximum provisions of LEP 2009.

I also note your view that such is warranted given the public benefit provided by the quality development proposed. Clearly, Council may consider exceptions to development standards under the provisions of Clause 4.6 of the Planning Instrument. I would advise, however, that Council consulted widely and received broad community support for the height and FSR provisions of the new LEP gazetted in 2010. Since that time Council and the community have consistently resisted requests to exceed these development standards.

The LEP and DCP provisions for residential flat buildings are well researched and seek best practice for design excellence and the presentation of existing vegetation and landscape character to the rear of existing lots. You appear to have consideration of such in the presentation I observed. Your development proposal would hopefully set a benchmark for others to follow and I assume that the high quality internal and external building design will attract and reflect an appropriate price in the market.

I would close by advising that I am personally encouraged by your vision and desire to amalgamate the sites in both Birdwood Avenue and Finlayson Street. I would also encourage you to make contact with the owners of the sites adjoining your development with the view to identifying opportunities to add value to the existing and proposed landscape area between sites.

Please advise me when you wish to lodge your formal application and I will arrange for staff to review the submitted materials to limit delays and aide communication during the assessment process.

If I can be of any further assistance in this exciting project please do not hesitate to call me directly on 9911 3690.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Michael Mason', written over a horizontal line.

Michael Mason
EXECUTIVE MANAGER
ENVIRONMENTAL SERVICES DIVISION

CC: Sue Francis, City Plan Services

10 February 2014

General Manager
Lane Cove Council
48 Longueville Road
Lane Cove NSW 2066

Attn: Rebecka Groth, Senior Town Planner

By Email: rgroth@lanecove.nsw.gov.au

Dear Madam,

Re: DA 194/2013 for Stage 1 Concept Plan for Four (4) Residential Flat Buildings
Address: 2-22 Birdwood Avenue & 11-15 Finlayson Street, Lane Cove

We write to you on behalf of our Client, Orca Partners, and the Applicant, Turner, in relation to the above application.

The purpose of this letter is to submit a further response to Council's letter (dated 17 January 2014), supplementing our preliminary response issued to Council on 3 February 2014.

In our letter dated 3 February 2014, we advised Council that Turner had undertaken the requested solar analysis of a "*compliant building height*" envelope on the site and a comparison with the solar analysis for the proposed concept plan. We also noted in our response that in undertaking this analysis, some issues were identified that we have sought to address, which are discussed in this letter.

Please find attached:

- 1) The requested mid-winter shadow diagrams of a "*compliant building height*" envelope for the site. This includes two (2) separate sets of diagrams:
 - a) Mid-winter shadow diagrams for an "ultimate" envelope of massing to the maximum height of 18 metres (and with setbacks in accordance with the DCP). The purpose of this diagram is to demonstrate the ultimate envelope across the site whereby a building could possibly be proposed within, in accordance with Council's controls.
 - b) Mid-winter shadow diagrams for a theoretical building envelope which is consistent with Council's controls and other relevant provisions such as the RFDC guidelines.
- 2) Amended architectural plans which propose a reduction in the western part of the proposed building envelope for Building D. This results in a reduction in building height in this location, deletion of four (4) units, a reduction in gross floor area of 400m² and a reduction in the proposed floor space ratio for the site from 1.95:1 to 1.92:1. The premise behind these amended plans relates to the additional analysis undertaken in 1) above and to respond to concerns that were raised in the submission made by 17-21 Finlayson Street. Further discussion is provided in this letter in this regard.
- 3) Amended mid-winter shadow diagrams for the proposed development to reflect the proposed amendments referred to in 2) above. These diagrams show that proposed Building envelope D does not cast any additional shadow in mid-winter on the eastern-most elevation of the adjacent approved

building at 17-21 Finlayson Street, over and beyond what a compliant building would. In fact, there is an improvement in solar access to the north-facing units of this approved building.

All of the above diagrams and plans, as appended to this letter at **Attachments 1** and **2**, have been prepared by Turner.

In terms of the documentation which demonstrates *"compliant building height"* envelopes for the site, the following discussion is provided by City Plan Urban Design to explain the methodology of determining this envelope:

"An analysis has been prepared for the purpose of comparison between the proposal and a fully complying hypothetical scheme. This scheme demonstrates what could reasonably be expected under a 'business as usual' development pattern. The building typology and scale of this scheme directly adopts the patterns of the adjacent approved apartment buildings.

The scheme presents a building immediately to the north of 3-9 Finlayson Street, the orientation of the hypothetical building is the same as 3-9 Finlayson (rather than mirror-image). This orientation increases the north-facing 'surface area', thus improving the amenity of its apartments. We consider that this is a built form that could reasonably be expected on this site."

The following discussion provides an analysis of the additional shadow diagrams produced by Turner, with regard to the two (2) adjacent approved developments at 3-9 Finlayson Street and 17-21 Finlayson Street.

17-21 Finlayson Street

The additional mid-winter solar analysis comparison of the proposed concept versus a *"compliant building height"* envelope, identified an area of potential concern. This concern relates to solar access to eight (8) east-facing units in the approved development at 17-21 Finlayson Street. The location of these units is shown below in **Figure 1**.



Figure 1 - 3D Modeling of Proposed Concept Development and Surrounding Existing and Approved Developments. East-facing units referred to above are circled in green

Source: Turner

Based on the mid-winter solar analysis undertaken by Turner, the eight (8) units shown in this location¹ receive less than 3 hours of solar access in mid-winter between 9am and 3pm, largely as a result of "self-shadowing". To this end, we understand that these units would not have formed part of this approved developments numerical "compliance" with the Residential Flat Design Code ("RFDC") guideline for solar access.

Notwithstanding this, given our solar analysis identified that the additional building height for proposed Building D further reduced the already non-compliant solar access to these units, we considered that it would be reasonable to address this issue and amend the building envelope for proposed Building D to ensure that appropriate levels of residential amenity are provided to these units, with improved solar access provided to the upper level units from the scheme originally submitted to Council. This has been addressed by reducing the western part of the proposed Building D envelope to ensure that solar access to these units is not reduced any further than would be reasonably expected by a compliant building in the location of Building D. The submitted amended plans result in solar access to all units on this elevation and an outcome that is consistent with a height compliant building envelope in this location.

The reduction in the overall scale of proposed Building D also results in a reduced visual impact when viewed from the approved development at 17-21 Finlayson Street and when viewed from the Finlayson Street public domain. This will be further improved in the detailed design of the proposed building envelope, which will be the subject of future stage applications. The elevation below shows where the building envelope for proposed Building D has been amended:

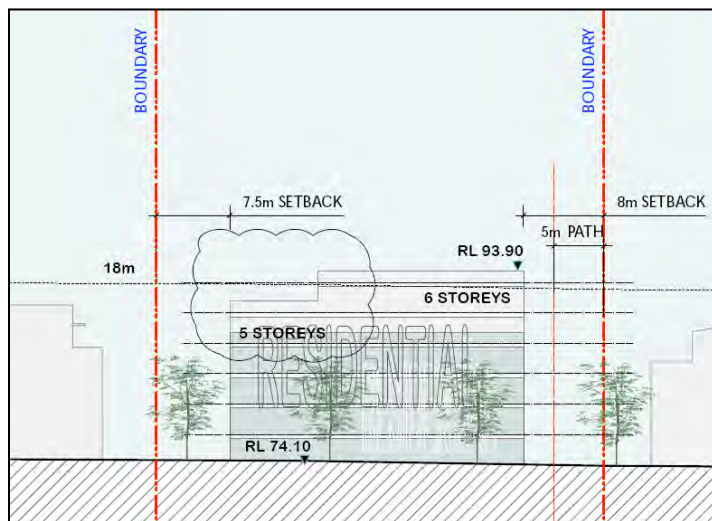


Figure 2 - Proposed Southern Elevation - View of Building D Envelope from Finlayson Street
Source: Turner

This amendment results in an overall reduction of:

¹ These apartments have been designed with their primary open space/balcony and living rooms oriented towards the east (rather than the north which would have resulted in a more desired design solution for solar access, rather than relying on access over a side boundary).

- four (4) apartments;
- 400m² of gross floor area;
- a reduction in the total proposed FSR from 1.95:1 to 1.92:1; and
- the height of proposed Building D to the common boundary with 17-21 Finlayson Street, being now **less** than the maximum LEP 18 metre height limit.

It is also important to note that the Proponent (Orca Partners) and Applicant (Turner) has undertaken discussions with the development manager of 17-21 Finlayson Street to discuss the issues raised in the objection he commissioned. Our understanding is that a key concern relates to solar access to the apartments at 17-21 Finlayson Street and specifically those with an eastern orientation. As a consequence, the proposed amendments address his concern regarding solar access. It should also be noted that the increased side setbacks to Building D further assists in improving solar access and privacy for the approved building at 17-21 Finlayson Street. The proposed concept development also results in an improvement in solar access to the lower level north-facing units of 17-21 Finlayson Street above the levels of solar access that would be achievable from a "*compliant*" building in the location of proposed Building A. This is clearly demonstrated on the shadow diagrams at **Attachment 1** by the "yellow" shaded areas which represent additional solar access proposed in comparison to a "*height compliant*" building envelope.

3-9 Finlayson Street

The proposed concept development results in some overshadowing to the approved building at 3-9 Finlayson Street in mid-winter. There is a reasonable expectation that some overshadowing *would* occur given the orientation of the approved building (with units maximised to the north to promote solar access), the fact that the subject site is located directly to the north of the approved building, and given the "*up-zoning*" of the land from a low to high density residential development.

Notwithstanding this, there is an equally reasonable expectation that:

- a) The approved development would be able to maintain consistency with the solar access guideline in the RFDC which requires 70% of apartments to receive 3 hours of solar access between 9am-3pm in mid-winter;
- b) The amount of solar access to the approved development, and more relevantly, the north-facing units, would maintain appropriate levels of solar access; and
- c) Any *additional building height* over a compliant scheme would not result in any units in the approved development generally being overshadowed such that the quantitative level of sunlight is reduced below 3 hours.

These matters are discussed below:

The approved development at 3-9 Finlayson Street has well in excess of 70% of apartments meeting the RFDC guideline for solar access. Based on our review of Council's assessment report to the JRPP for this approval, we understand that the development was approved with approximately 80% units receiving 3 hours of solar access and a further 16% receiving 2.5 hours of solar access. Our understanding is that this level of solar access was calculated on the basis of the existing situation at that time and without accommodating for a likely building envelope of the subject site. To this end, it is a reasonable assumption that a fully developed subject site would result in *some* impact on solar access to this

approved development, providing the impact is reasonable and consistency is maintained with the RFDC guidelines for solar access.

Taking this into consideration, and in response to a), as was confirmed in the shadow analysis originally submitted with the subject application, the proposed concept plan **does not** result in a reduction in solar access to the approved building at 3-9 Finlayson Street, such that it would result in an inconsistency with the guidelines in the RFDC. That is, the proposed concept development does not restrict the ability for the majority of the north-facing units in 3-9 Finlayson Street to maintain at least 3 hours of solar access in mid-winter (to at least 70% of units). The proposed concept *does* result in *some* reduction in solar access to the four (4) north-facing units on the ground floor of the approved building. Three (3) of these four (4) units maintain at least two (2) hours of solar access in mid-winter and one (1) of these units receives approximately 1.5 hours of solar access. It is pertinent to note however that a *"height compliant"* envelope to the north of 3-9 Finlayson Street would likely result in similar, if not less, solar access to this unit. The *"height compliant"* building envelopes shown in the attached shadow diagrams demonstrate no solar access to this unit in mid-winter (refer to drawings MP_700-011 & MP_700-012). Therefore, in response to c), it is not the *"additional building height"* under the proposed concept which results in any units in the approved development receiving less than 3 hours of solar access.

Furthermore and to summarise the above response to b), it is pertinent to note that:

- A proposed *"height compliant"* building envelope in the general location of proposed Buildings B and C would have a comparable resultant outcome for solar access in mid-winter. In fact, there are areas of improved solar access to 3-9 Finlayson Street under the proposed concept plan when compared to a *"height compliant"* envelope. On balance with the marginal areas of reduced sunlight, the proposed concept results in a better outcome for solar access than a *"height compliant"* envelope on the site. This is demonstrated in the accompanying solar analysis prepared by Turner.
- Two (2) hours of solar access is identified in the RFDC as being acceptable in dense urban areas. Given the zoning of the land and the gradual transition of the locality into a high density urban area, we consider that the provision of two (2) hours of solar access for a proportion of units is acceptable. The provision of 1.5 hours of solar access to a single unit at the ground floor level of 3-9 Finlayson Street is also considered to be acceptable in the circumstances of this case and in considering the overall quantitative level of solar access to the approved development.
- It is necessary under this concept application to seek approval for the ultimate massing of the buildings (and therefore consider the maximum shadow impact), but Council can be reasonably satisfied that any future application will likely result in a lesser shadow impact due to the required building modulation and articulation to ensure an appropriate visual aesthetic is achieved for the buildings.

Within the context of the submitted Clause 4.6 variation request for height and FSR, we consider that the above (and attached) analysis provides further justification and reasonable grounds for approval of these variations.

Landscape Connections

As noted in our letter issued to Council on 3 February 2014, more detailed graphic representations of how the connections from the adjacent approved developments on Finlayson Street to the proposed through-site link are currently being prepared and will be submitted to Council early this week.

Request for a Meeting with Council

Further to our discussions, we would like to request a meeting with Council to discuss the proposed amended plans with you and our response to the issues raised in Council's letter. In addition to your attendance, we would like to formally request that Michael Mason (Executive Manager of the Environmental Services Division) be in attendance at the meeting due to his attendance at pre-lodgement discussions regarding this project. Should you determine that any other Council personnel attend the meeting to discuss the proposal, we would welcome the opportunity to meet with them also.

Concluding Remarks

We trust the information contained in this letter and attached amended plans assists Council in undertaking its assessment of the subject concept plan application. The submitted plans which seek to reduce the height and scale of Building D seek to not only improve solar access to the adjacent approved building at 17-21 Finlayson Street, but seek to directly respond to a concern that has been raised by the development manager of this property.

We wish to further emphasise that this proposed concept plan application offers a range of key benefits that were not necessarily envisaged under Council's precinct-specific controls for the site. In the absence of any adverse or unreasonable environmental impacts and given the provisions of Clause 4.6 are adequately met, the proposed development is supportable on planning grounds and the proposed variations to the height and development standards are within the ambit of Clause 4.6 of the LEP.

Specifically with regard to the bulk and scale of the development, it is pertinent to highlight that this is a concept plan application. Approval is sought for building envelopes. The difficulty with concept plans is that approval is required to be sought for generous three-dimensional "spaces" within which quality residential design can be achieved. Evidently there are matters to be resolved regarding the detailed design and management of the staged development. This is typical for a concept plan application. However, this application adequately demonstrates the capability of the concept development to be consistent with Council's requirements and this will be demonstrated in future applications.

We trust that the information contained in this letter assists Council in continuing its assessment of the subject concept plan development application. We will submit the additional information noted in this letter under separate cover.

Should there be any matters that the Council wishes to further discuss, we would welcome the opportunity to attend a meeting with Council.

Should you have any queries in relation to this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

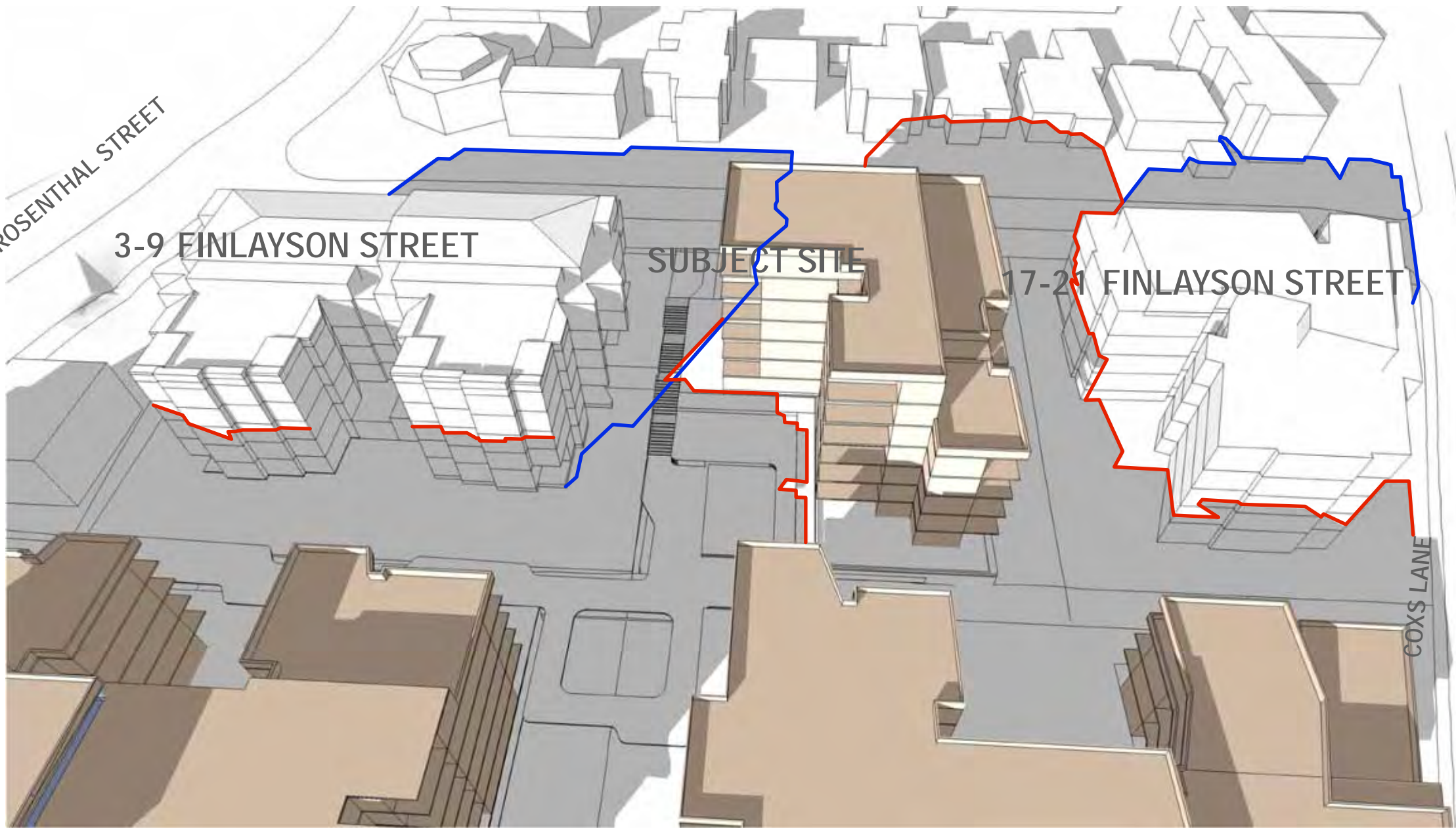
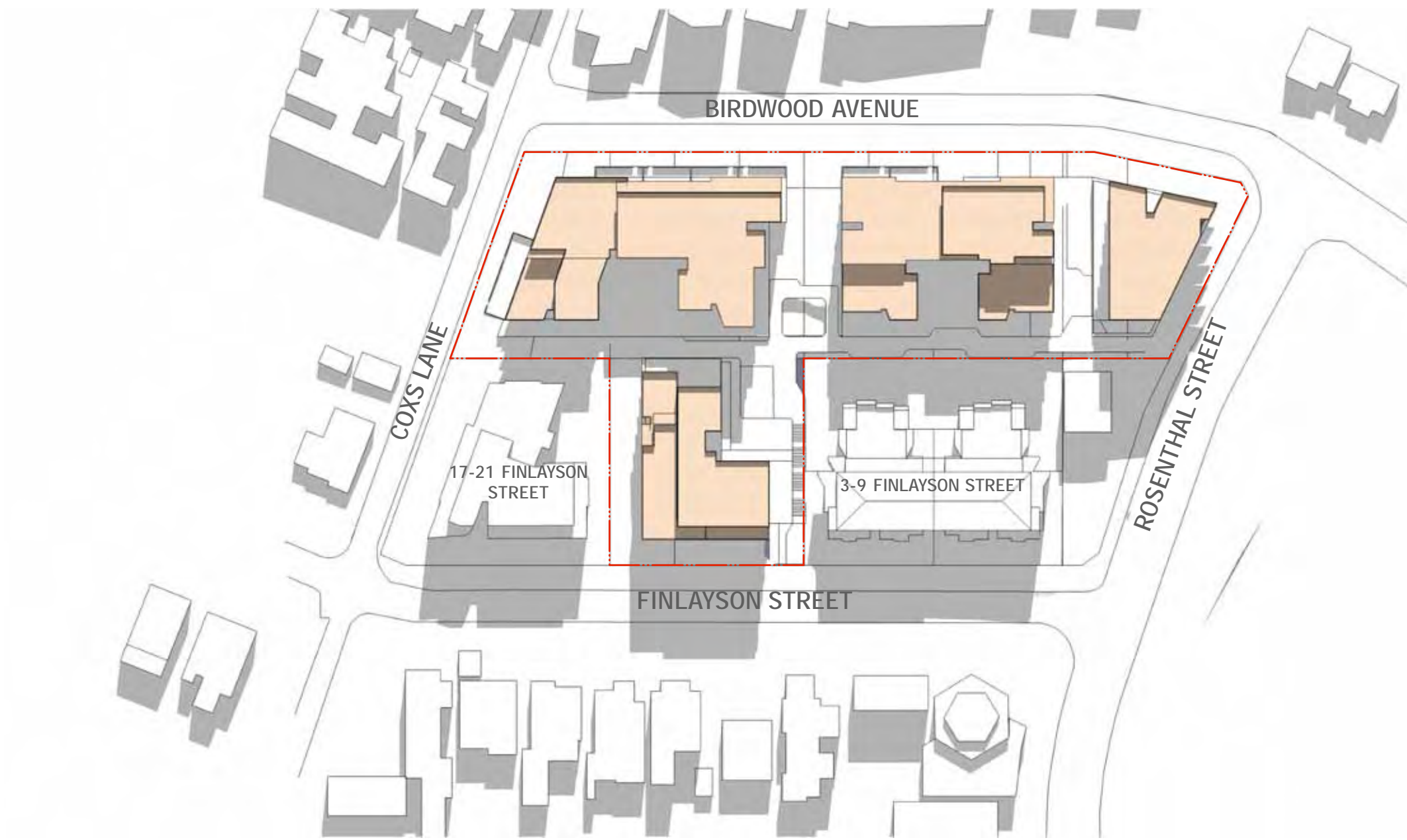
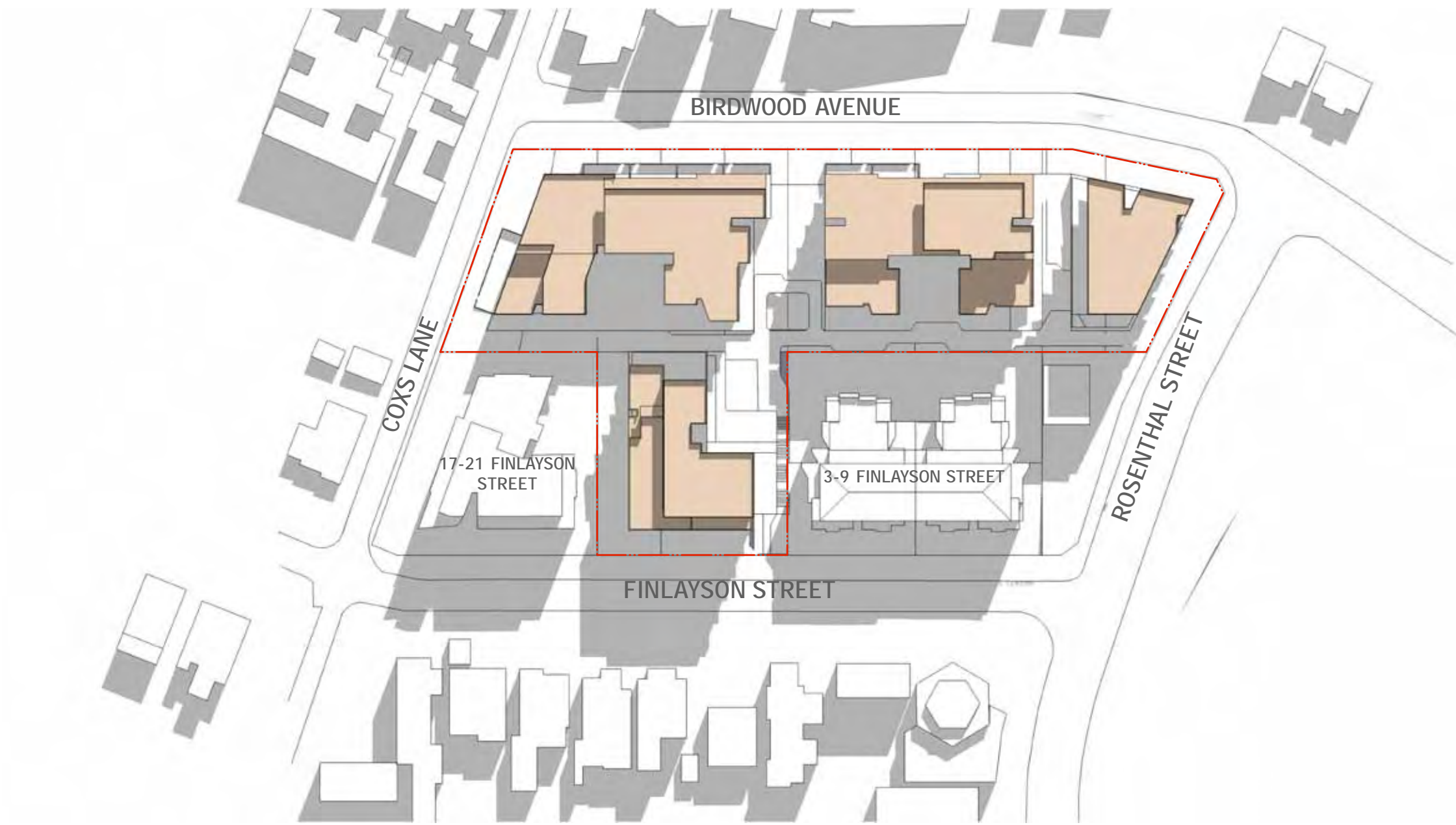
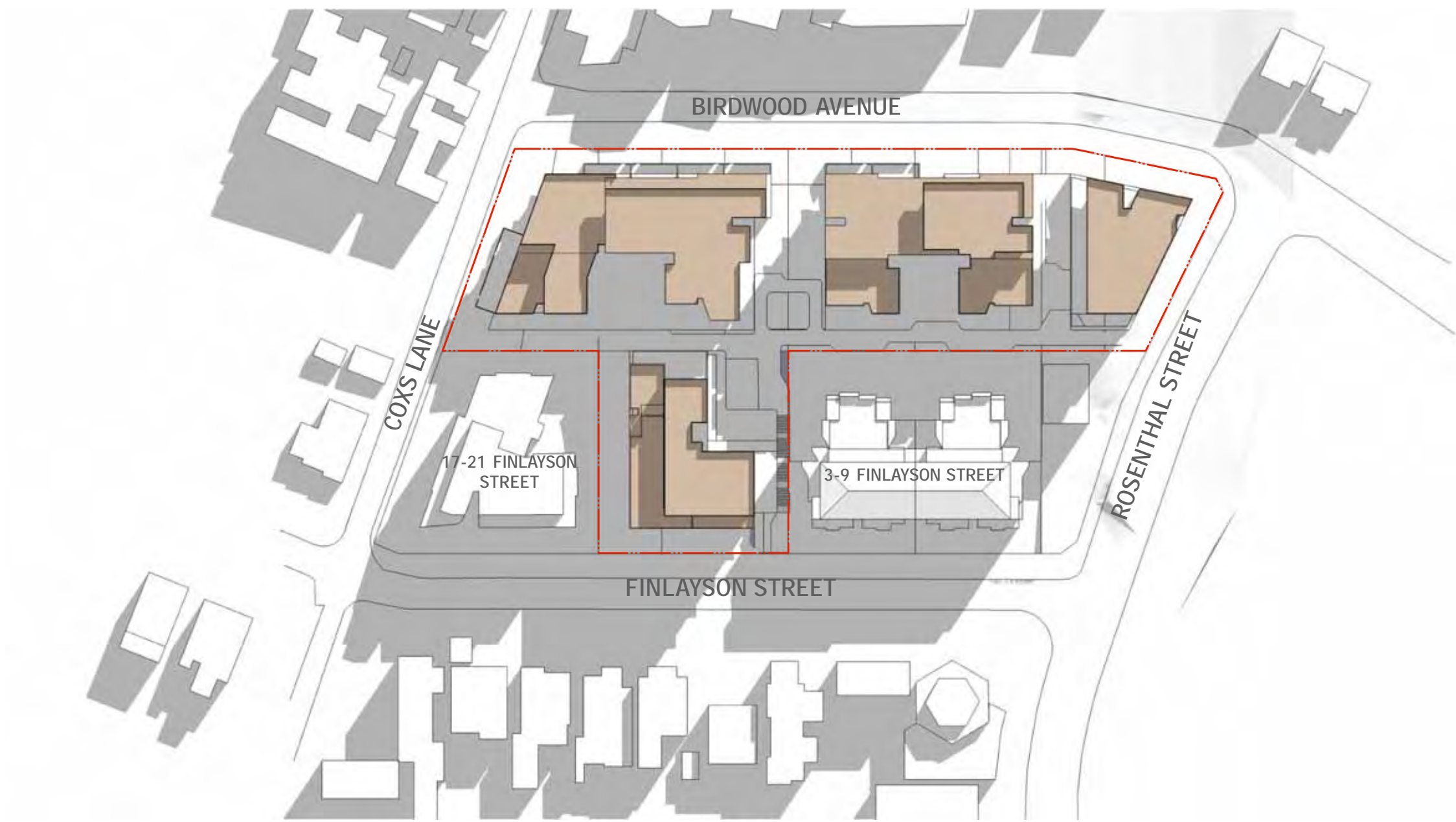
YOURS FAITHFULLY

A handwritten signature in black ink, appearing to read "Sue Francis", with a stylized flourish at the end.

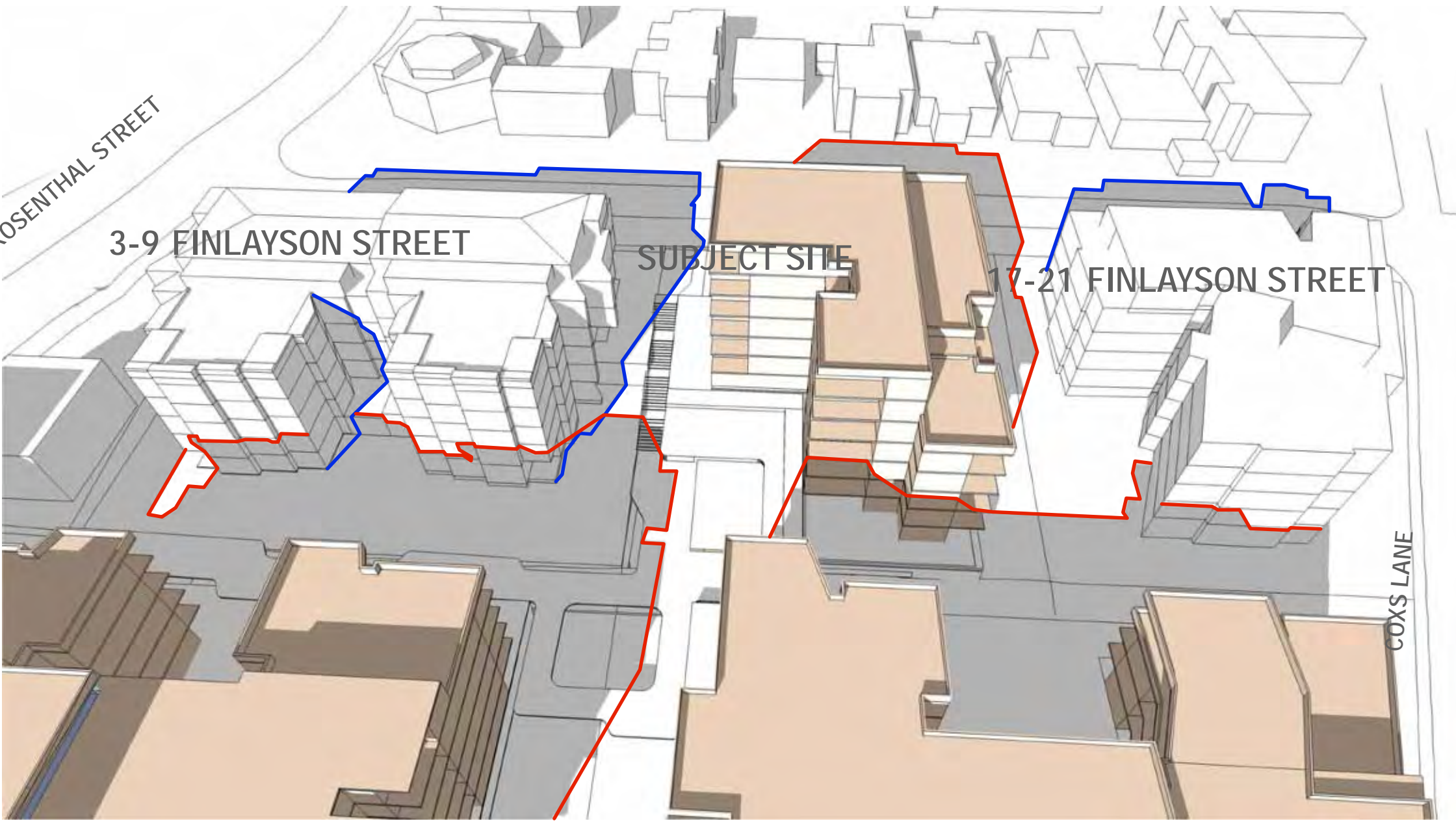
**SUE FRANCIS
EXECUTIVE DIRECTOR
CITY PLAN STRATEGY AND DEVELOPMENT**

Attachment 1

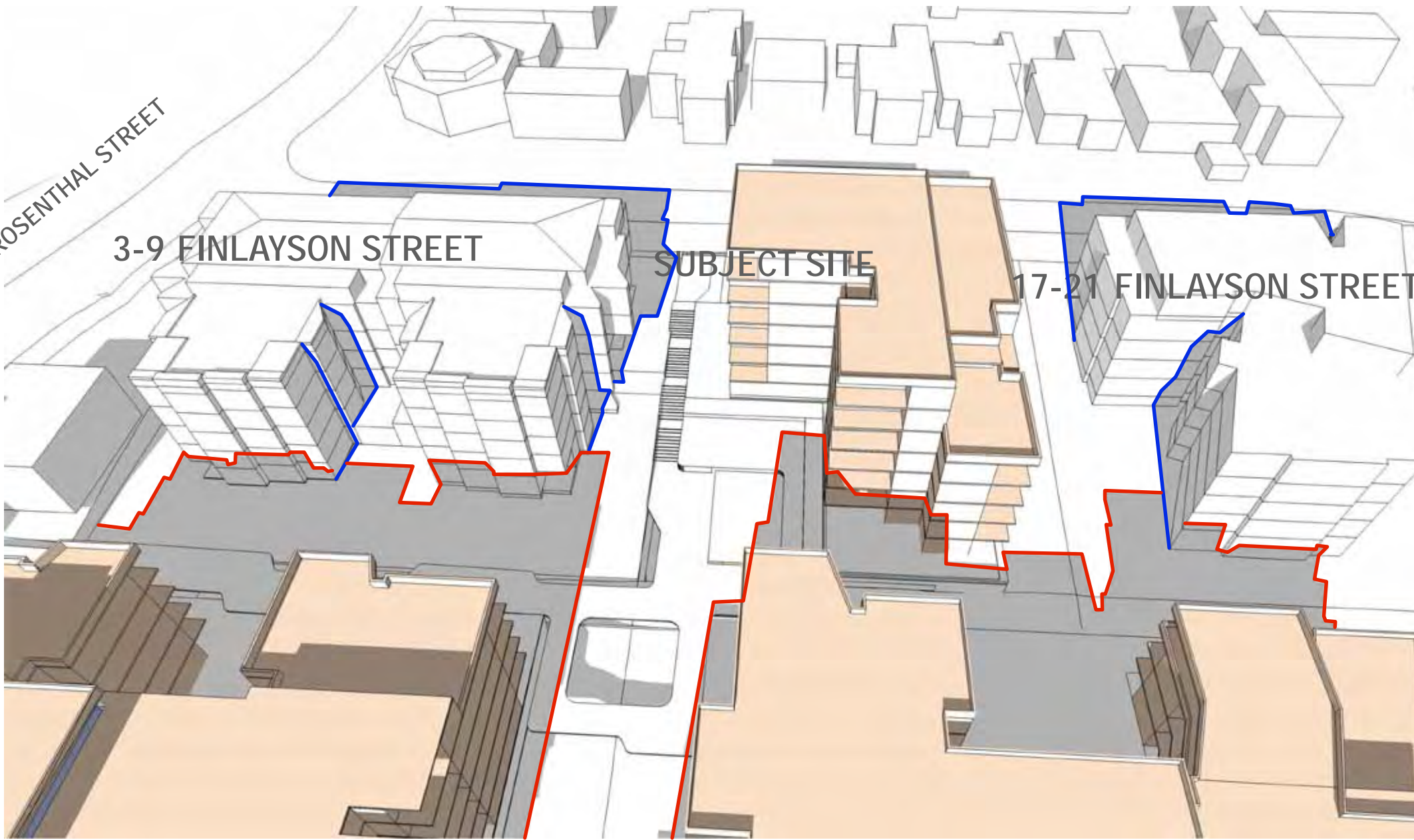
Shadow Diagrams



9.00 am _ WINTER SOLSTICE



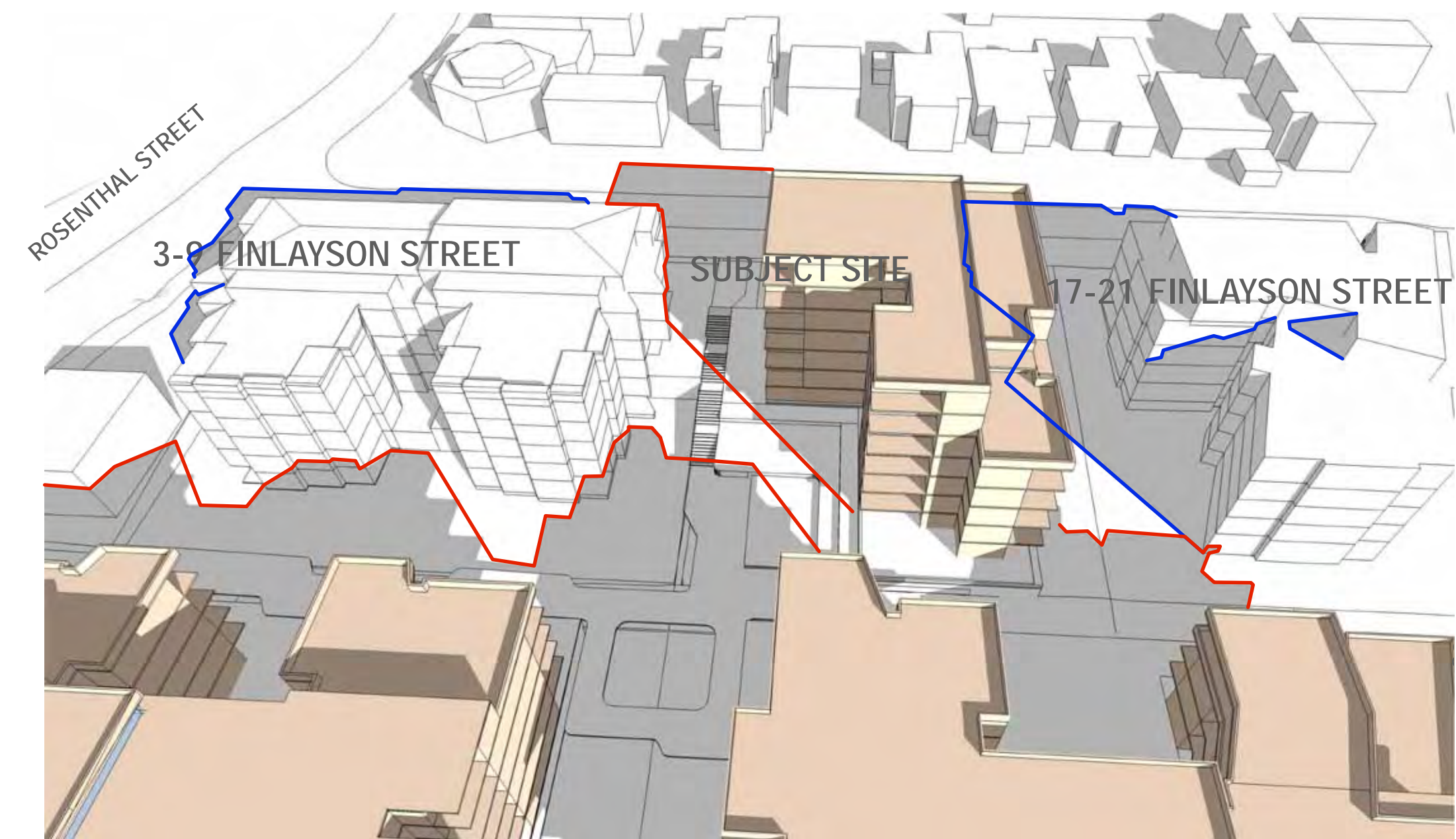
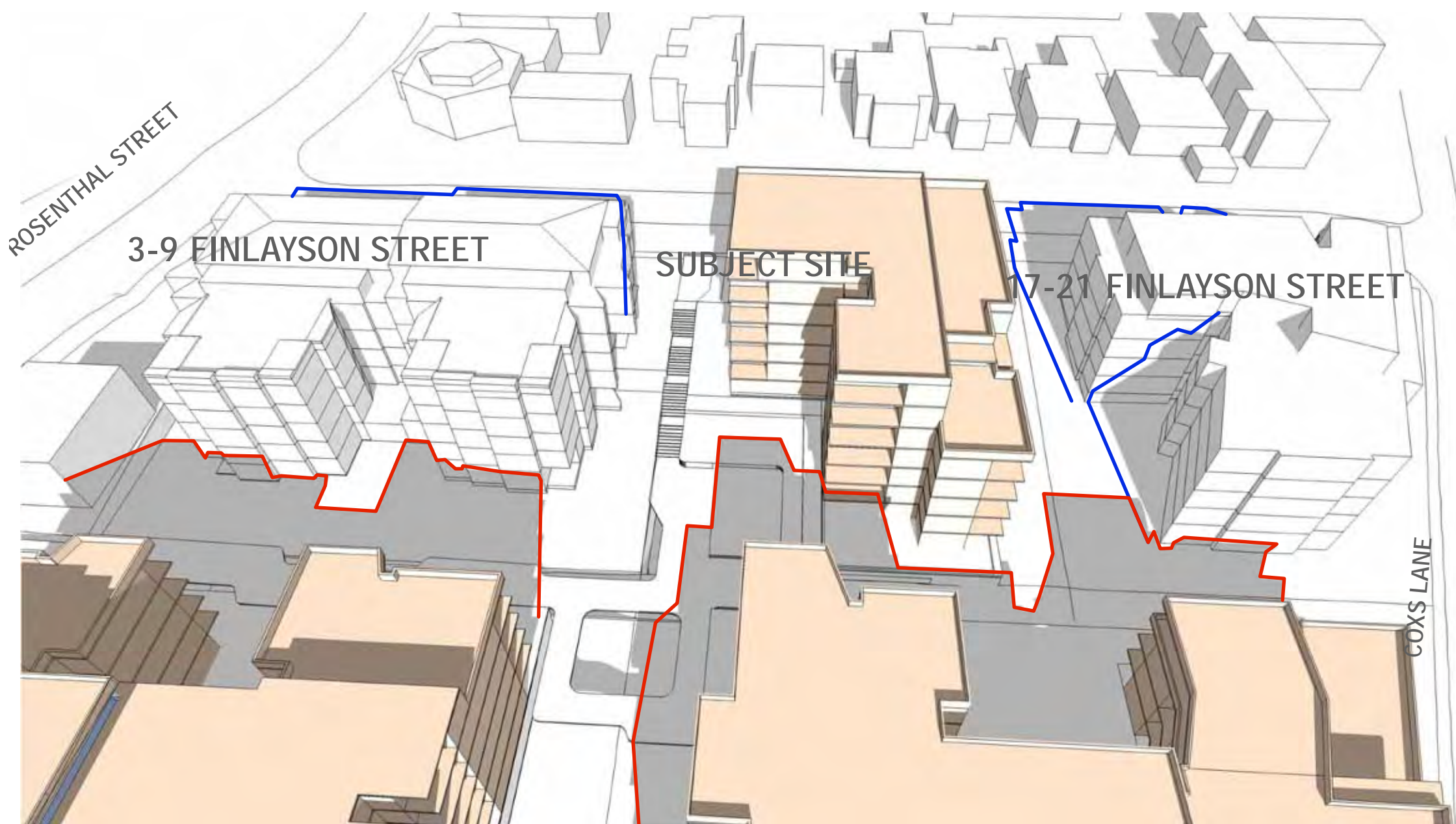
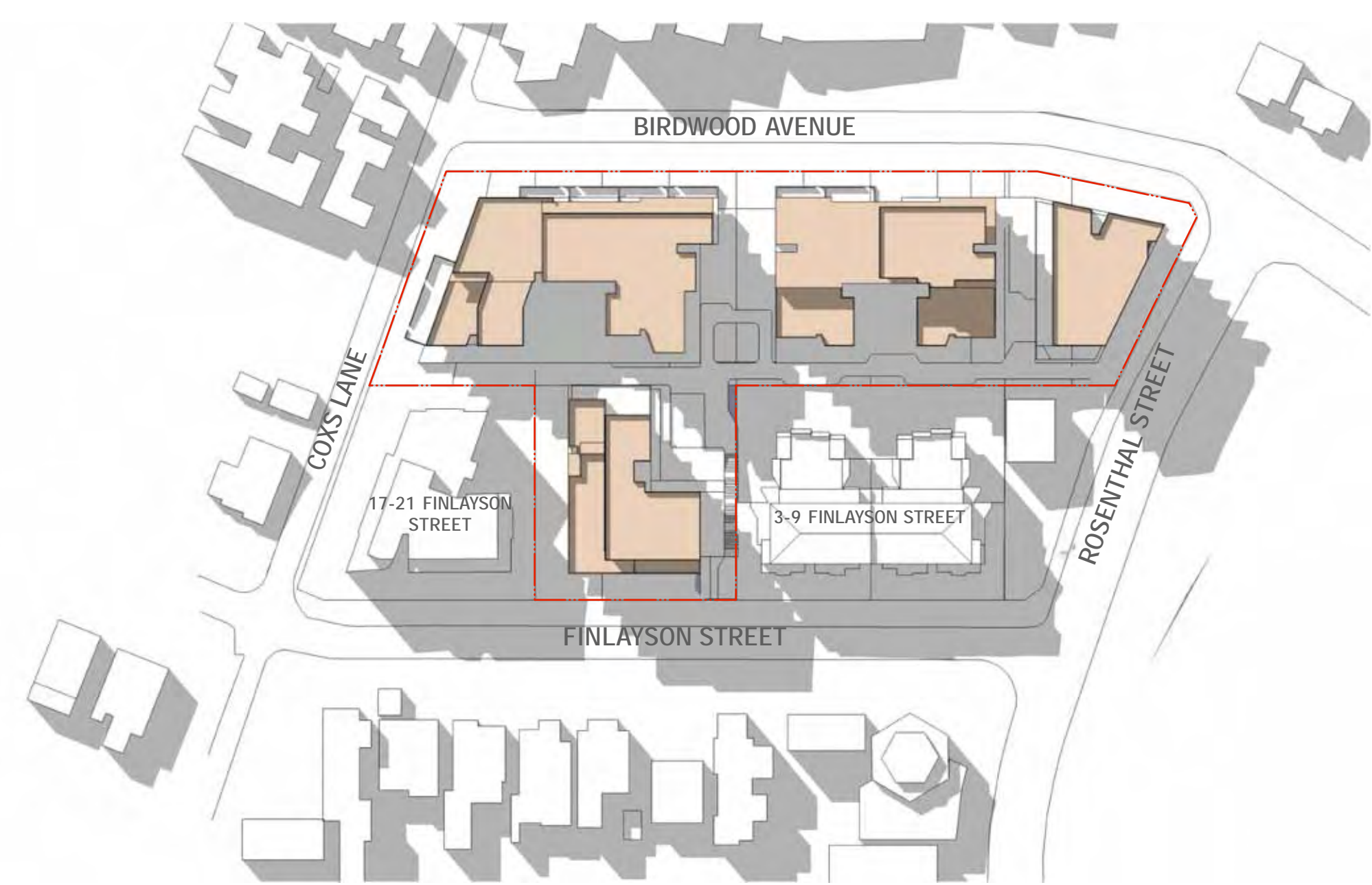
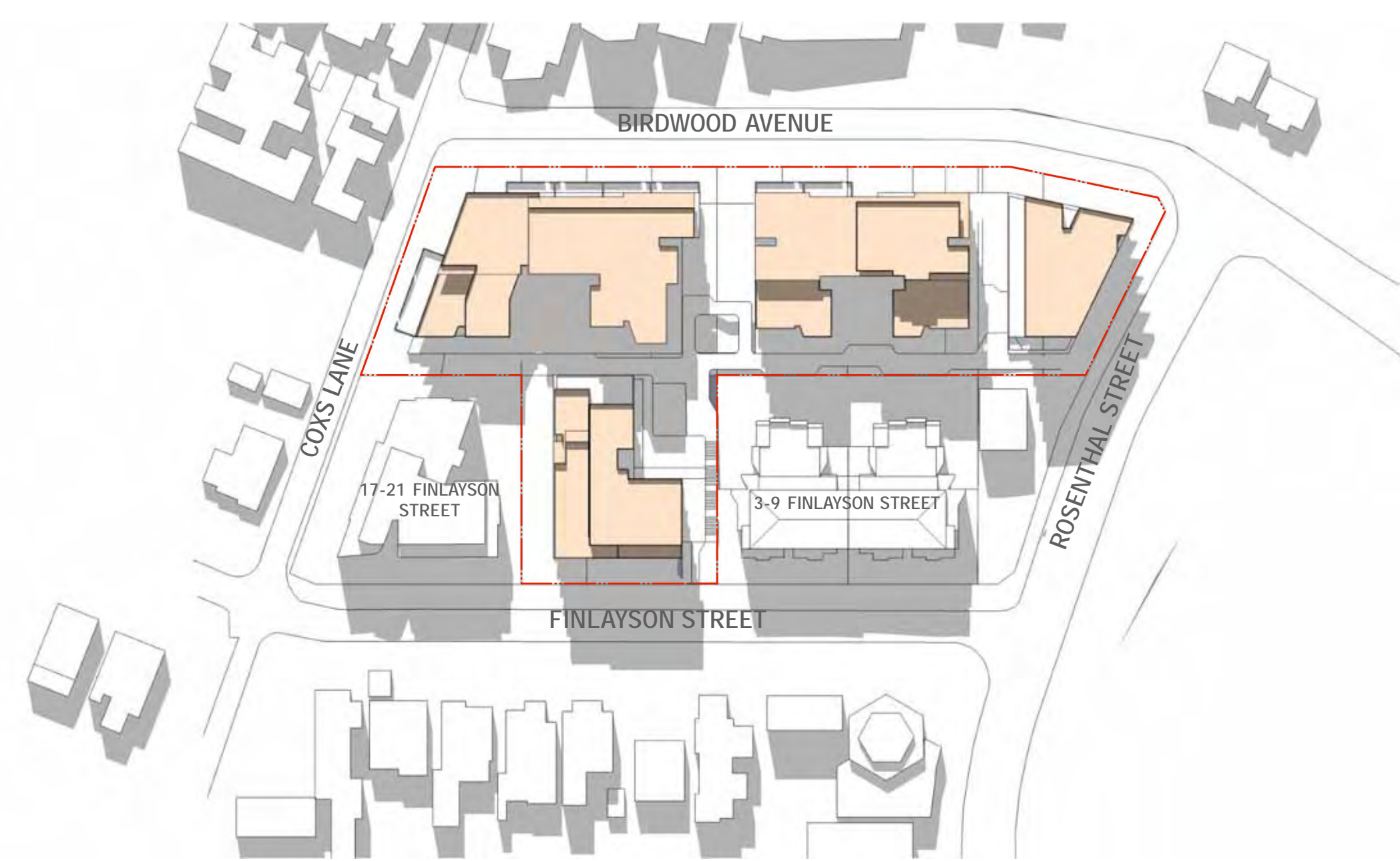
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11.00 am _ WINTER SOLSTICE

— EXTENT OF SHADOWS CAST BY
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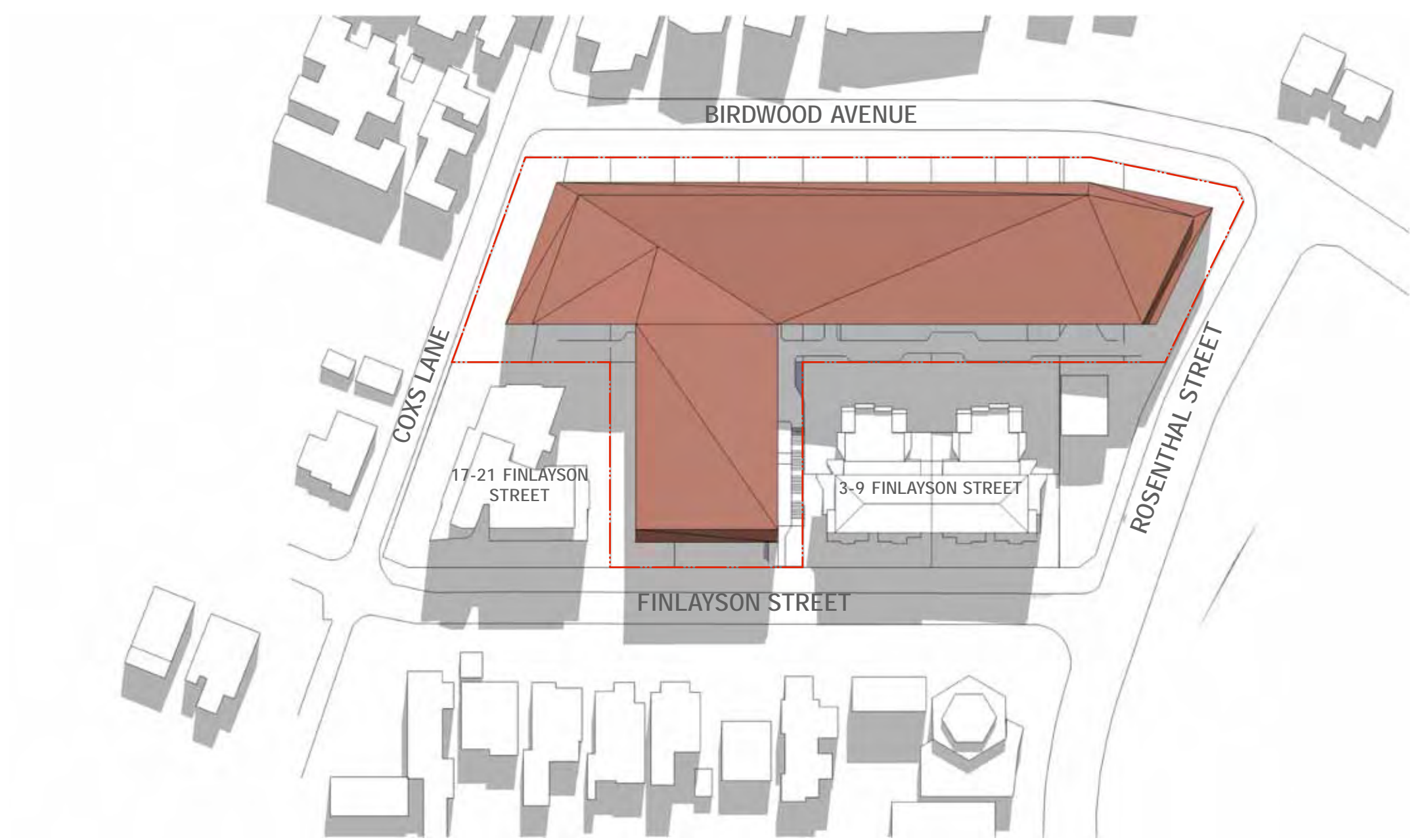
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PROPOSED BUILDING FORMS



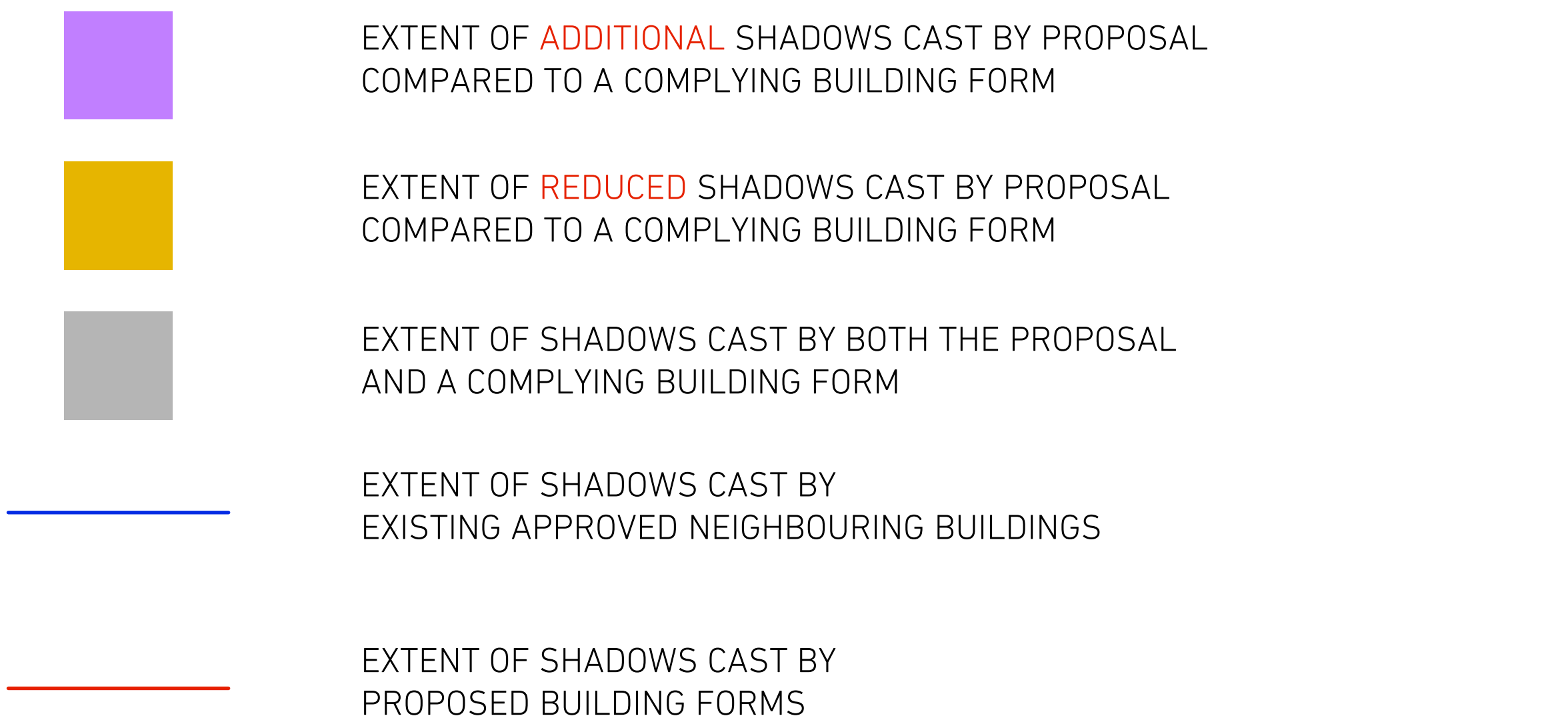
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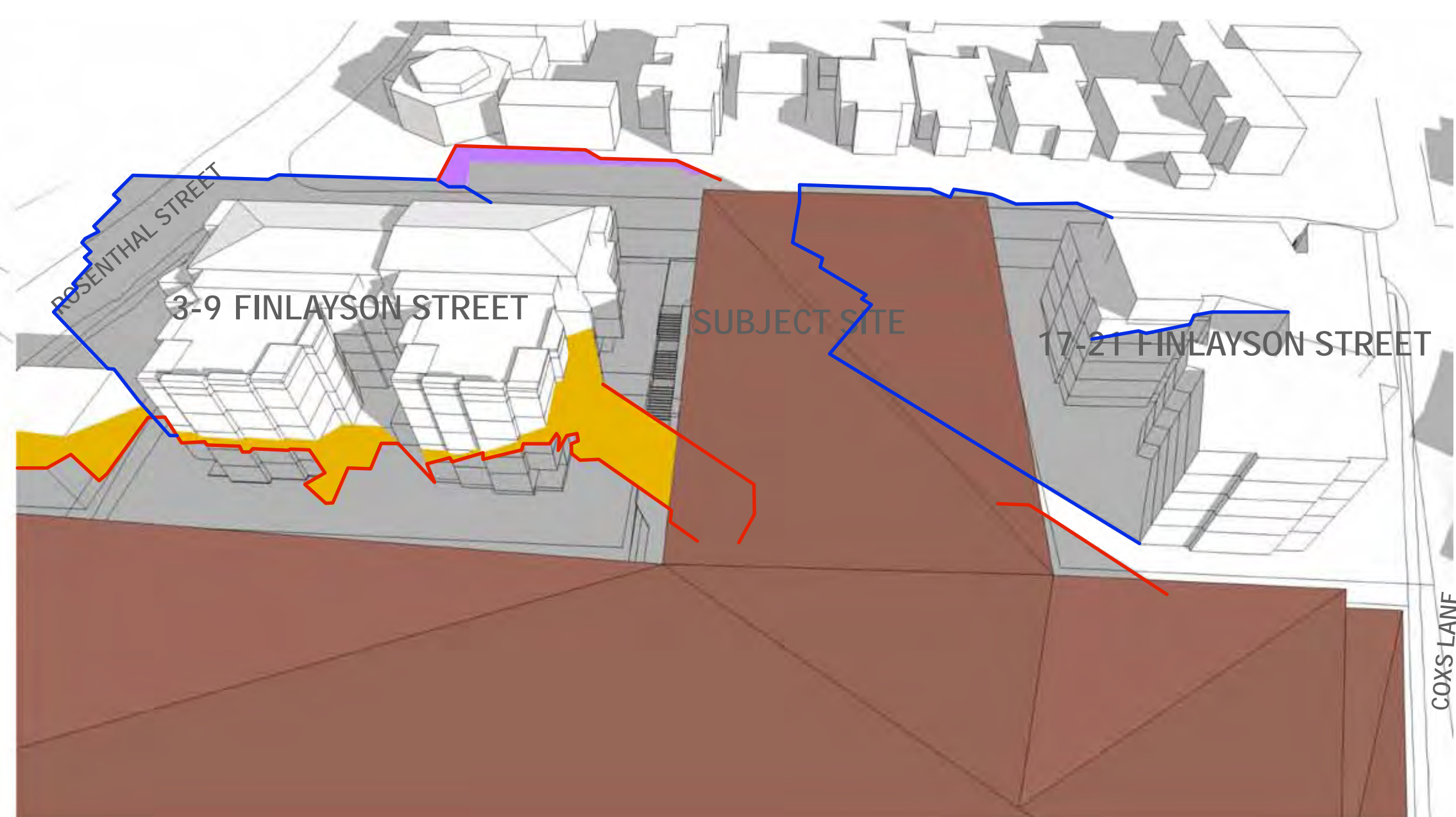
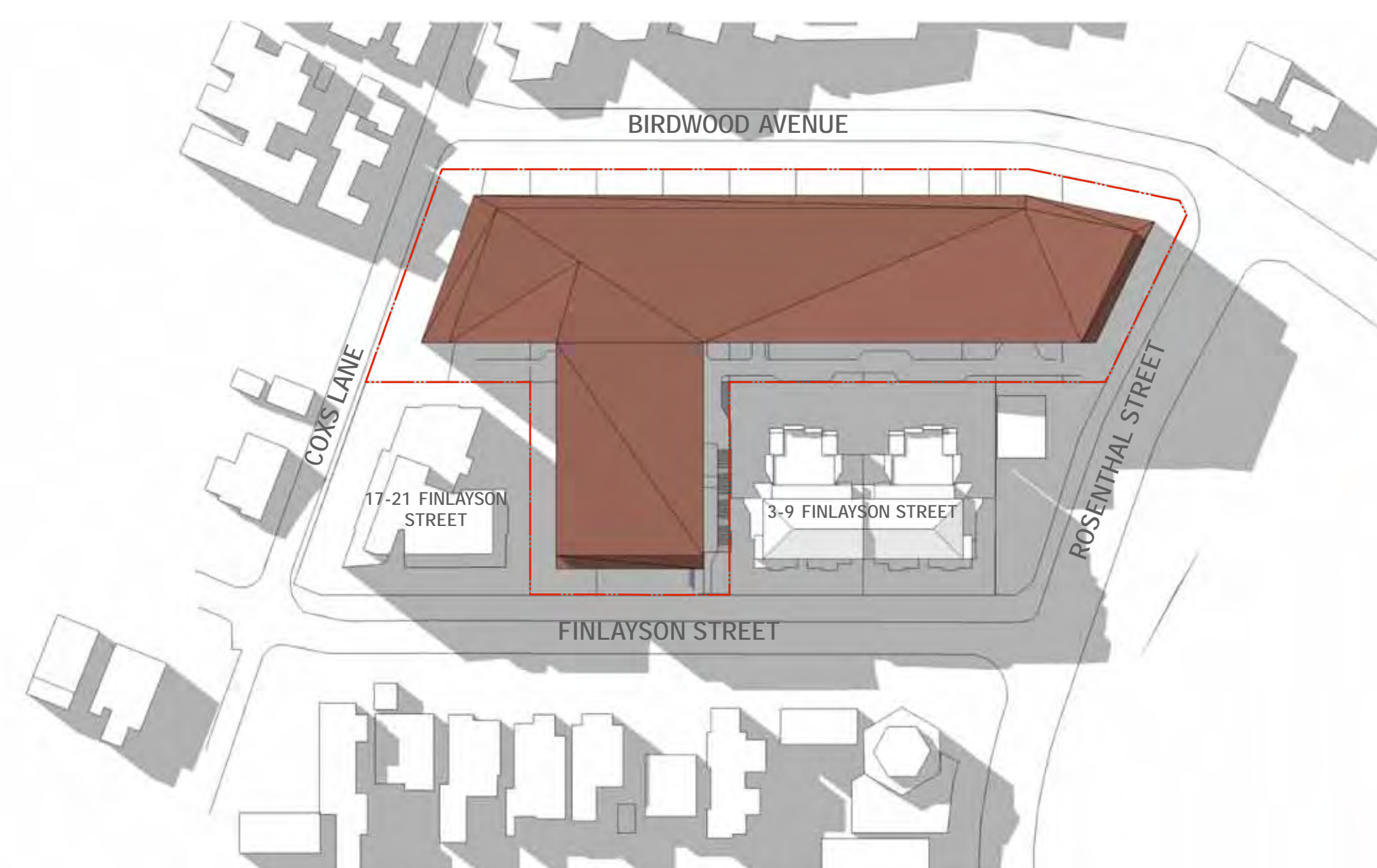
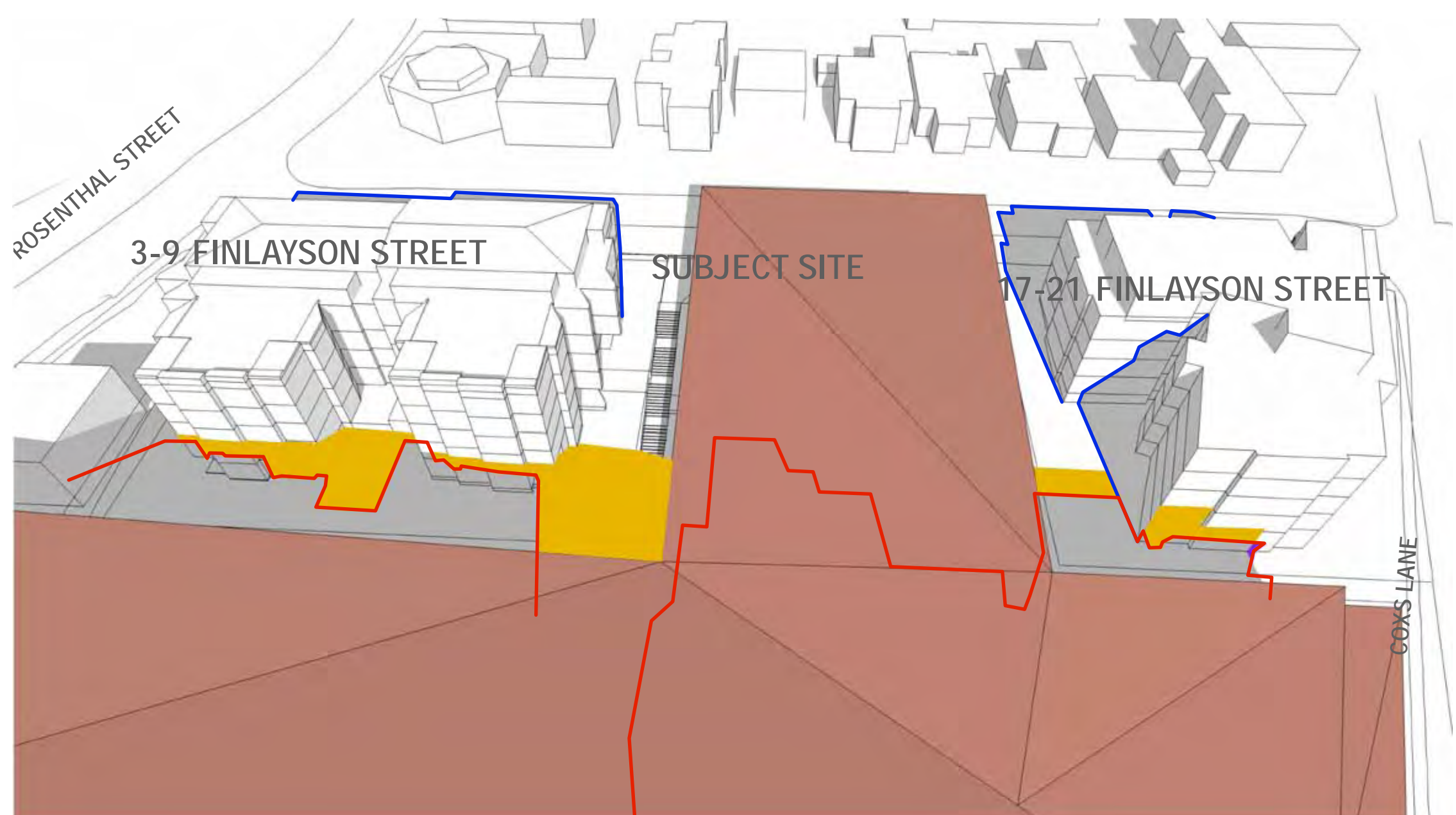
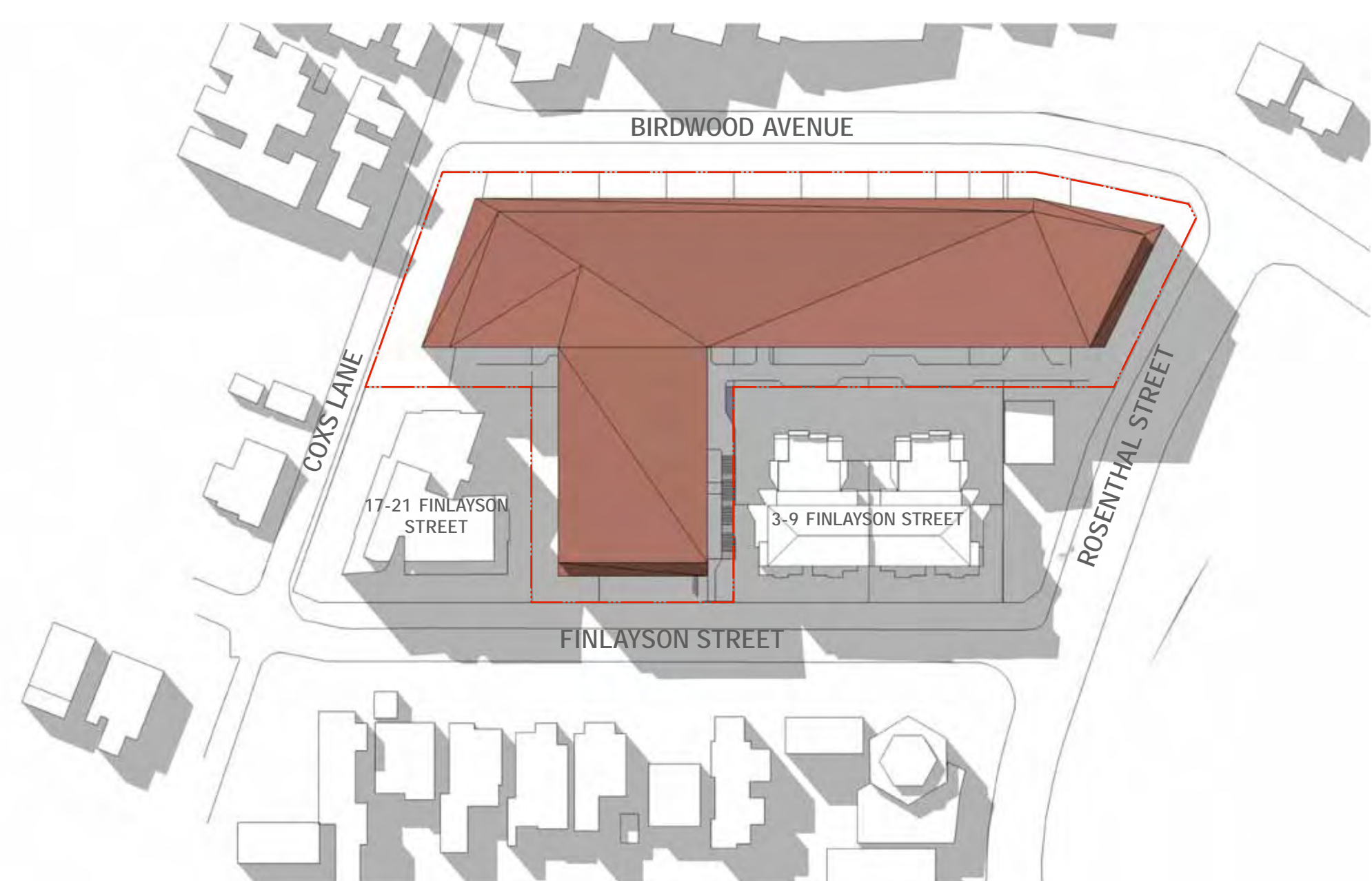
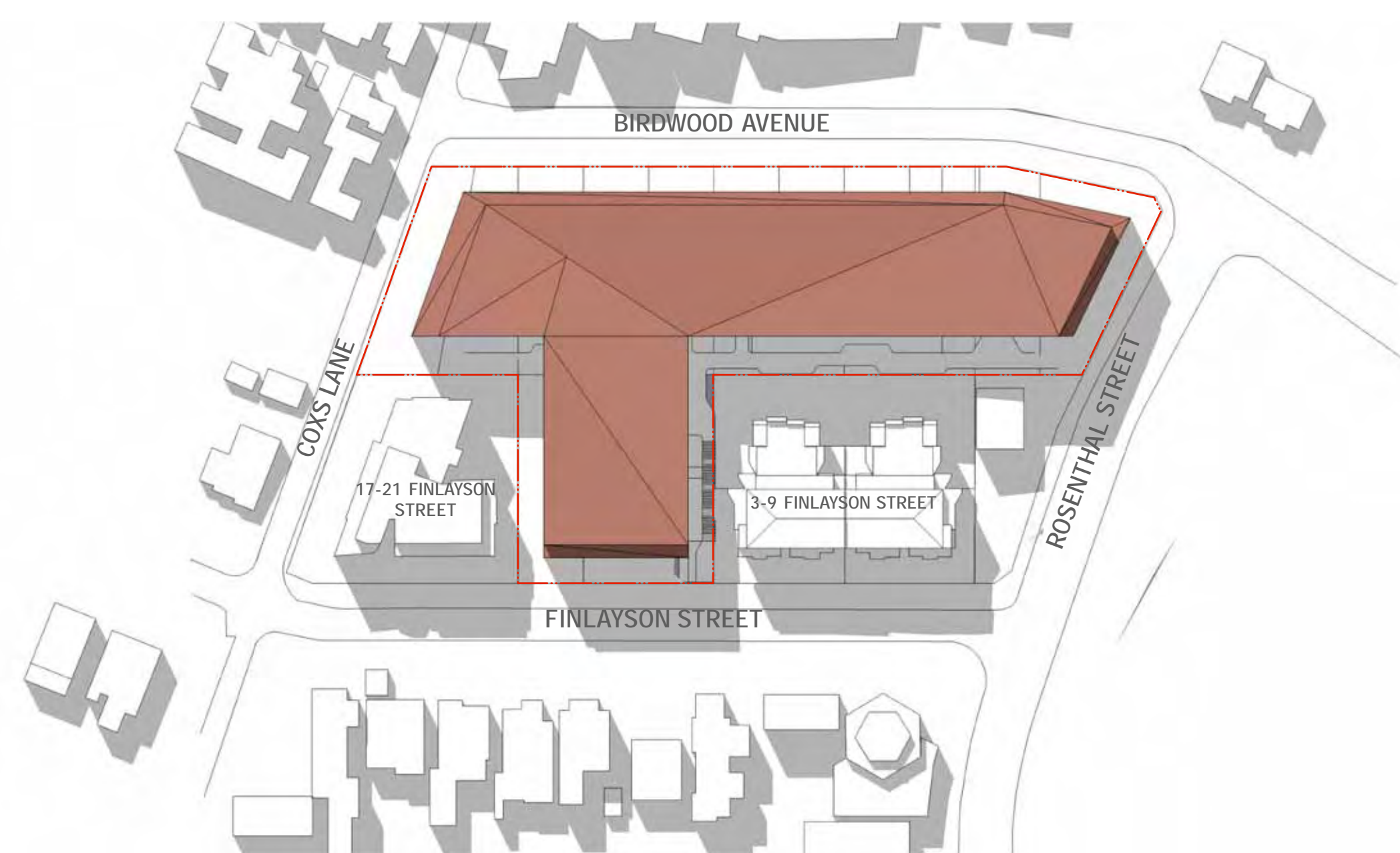
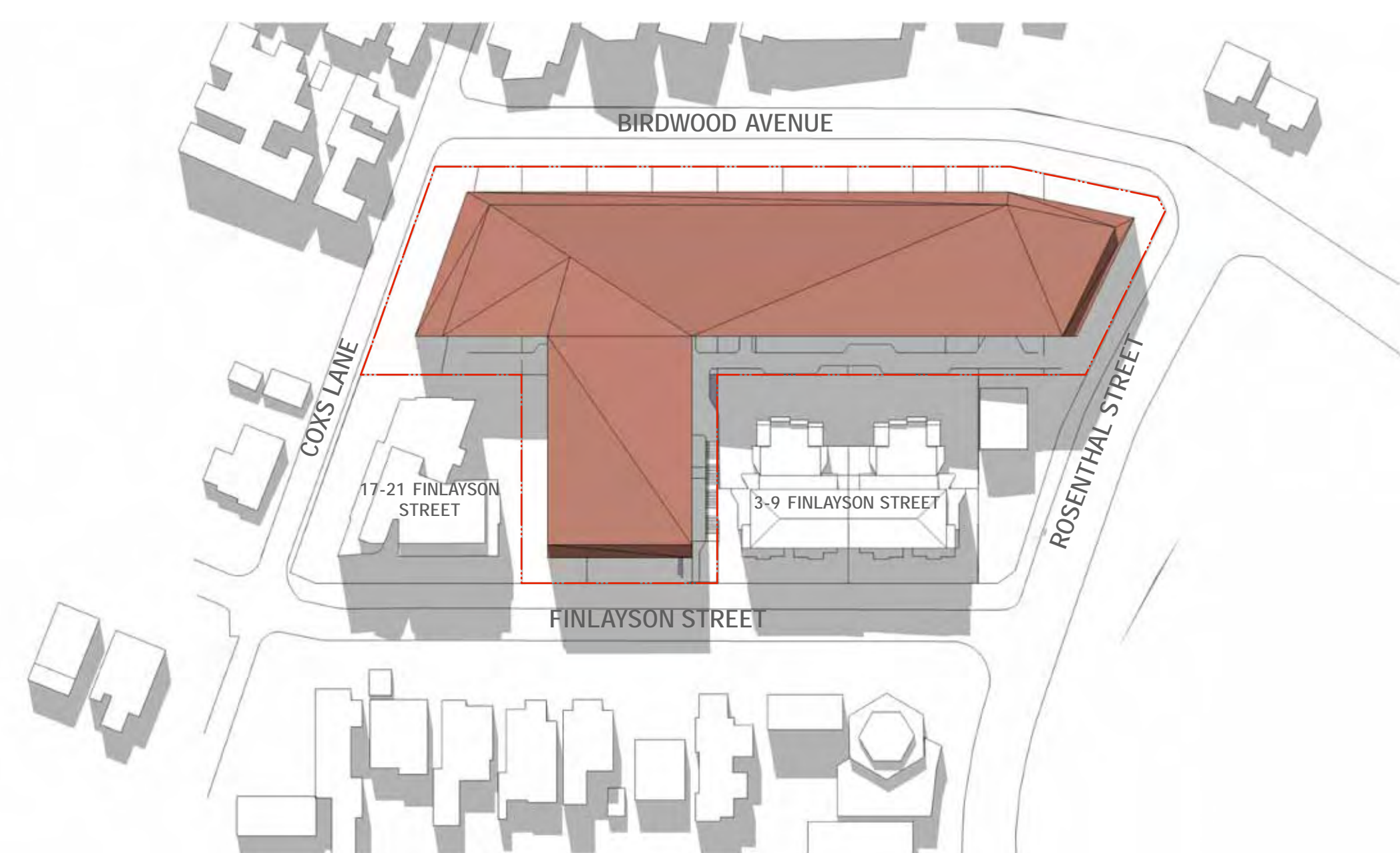
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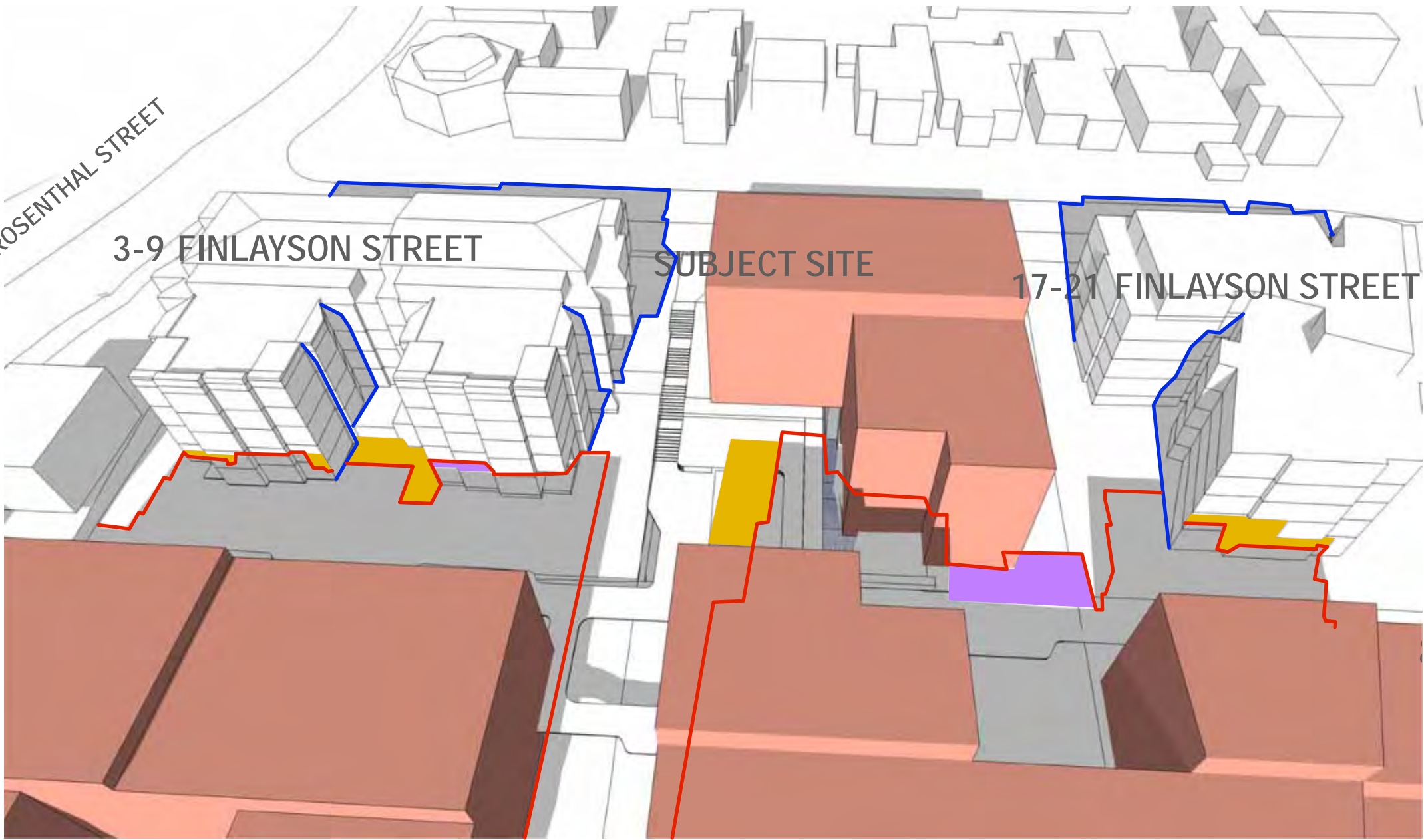
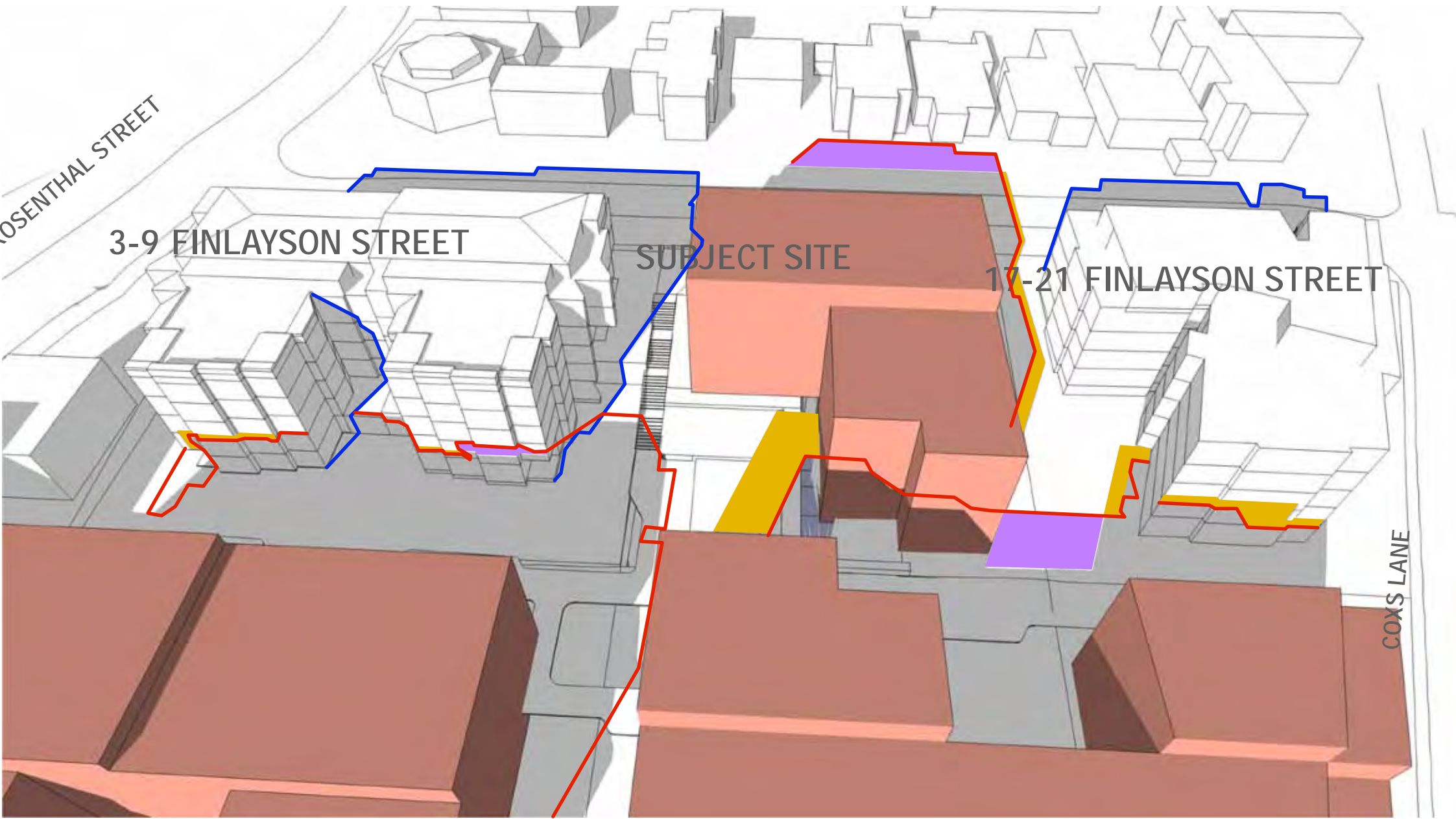
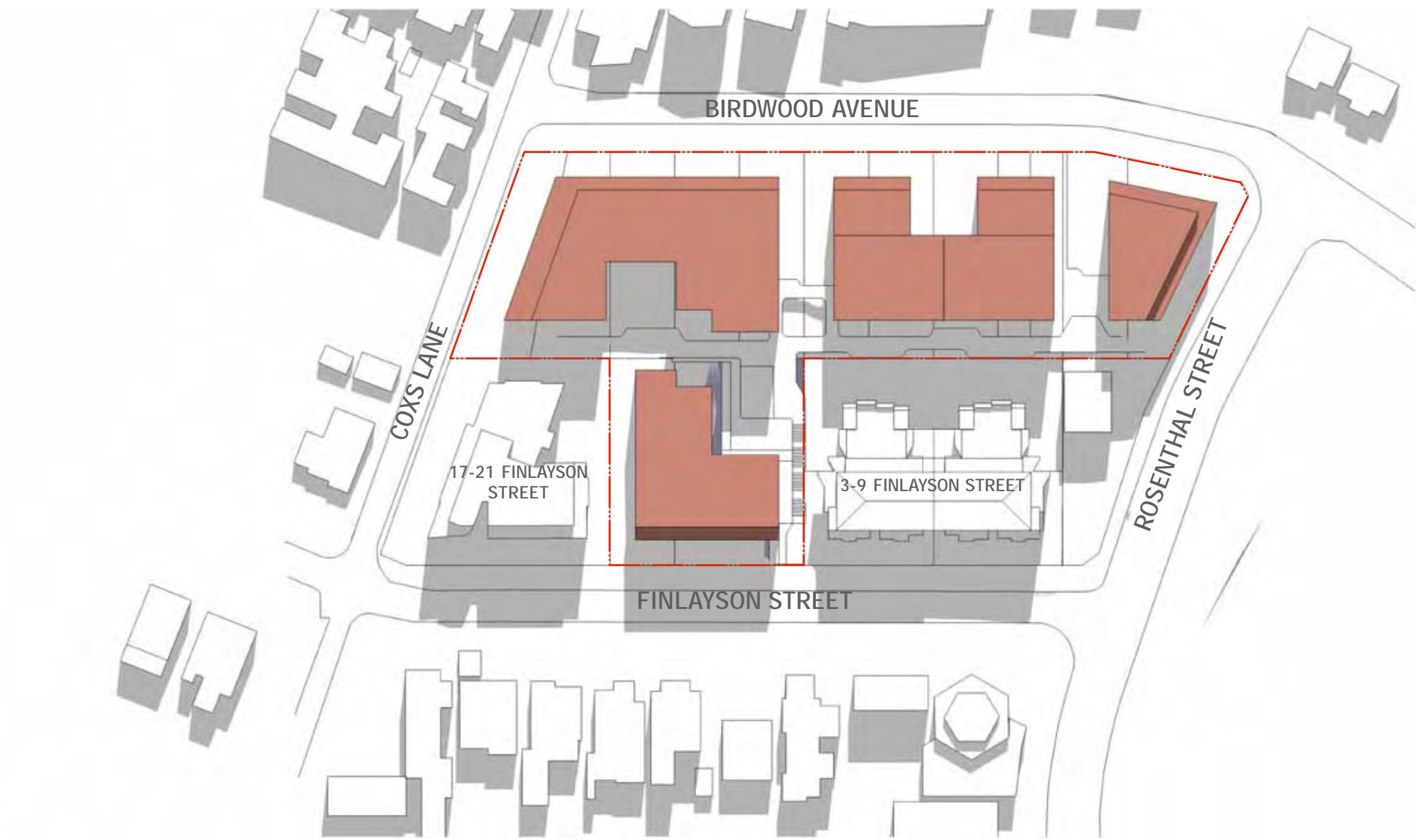
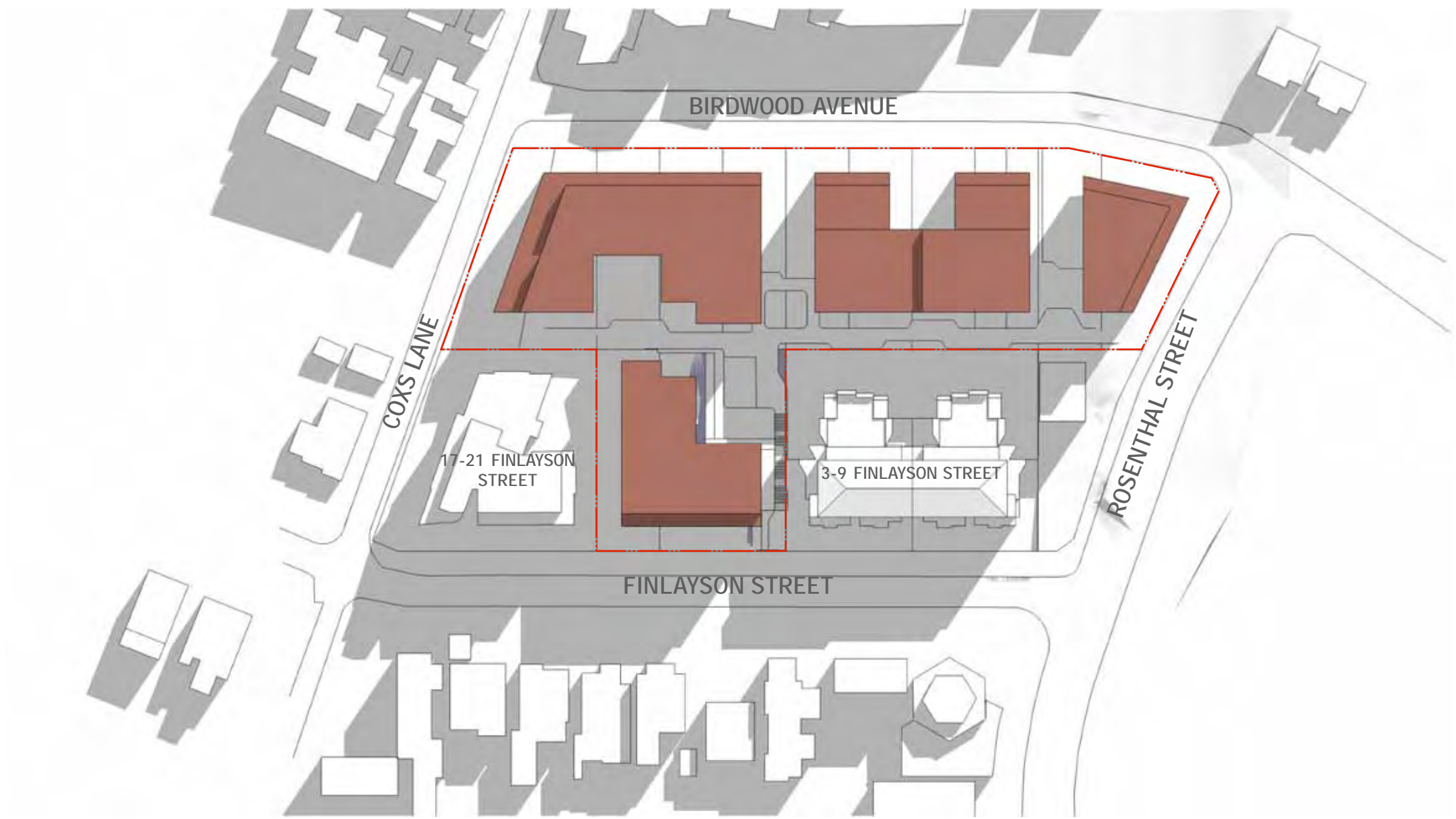


11.00 am _ WINTER SOLSTICE










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 - EXTENT OF SHADOWS CAST BY BOTH THE PROPOSAL AND A COMPLYING BUILDING FORM
 - EXTENT OF SHADOWS CAST BY EXISTING APPROVED NEIGHBOURING BUILDINGS
 - EXTENT OF SHADOWS CAST BY PROPOSED BUILDING FORMS



9.00 am _ WINTER SOLSTICE

10.00 am _ WINTER SOLSTICE

11.00 am _ WINTER SOLSTICE

-  EXTENT OF **ADDITIONAL** SHADOWS CAST BY PROPOSAL COMPARED TO A COMPLYING BUILDING FORM
-  EXTENT OF **REDUCED** SHADOWS CAST BY PROPOSAL COMPARED TO A COMPLYING BUILDING FORM
-  EXTENT OF SHADOWS CAST BY BOTH THE PROPOSAL AND A COMPLYING BUILDING FORM
-  EXTENT OF SHADOWS CAST BY EXISTING APPROVED NEIGHBOURING BUILDINGS
-  EXTENT OF SHADOWS CAST BY PROPOSED BUILDING FORMS

