

EXHIBIT 1

RESOLUTION NO. 2019-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING DENSITY BONUS AGREEMENT APPLICATION NO. 2018-01 AS CONDITIONED FOR A NEW MIXED-USE FAMILY AFFORDABLE RENTAL RESIDENTIAL AND COMMERCIAL DEVELOPMENT FOR THE PROPERTY LOCATED 609 NORTH SPURGEON STREET

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines and declares as follows:

1. Alexa Washburn, representing National Community Renaissance of California (“National CORE”, hereinafter referred to as “Applicant”), is requesting approval of Density Bonus Agreement Application No. 2018-01, as conditioned, to allow the construction of a new mixed-use 93-unit family affordable rental residential and commercial development at 609 North Spurgeon Street.
2. The Transit Zoning Code was adopted in 2010 to provide the zoning necessary to support the long-term development of a successful transit program. The regulating plan, which establishes land uses and development standards, allows a variety of housing and commercial projects, including mixed-use residential communities, live/work units, service and retail, and professional offices.
3. The California Density Bonus law allows developers to seek increases in base density for providing on-site housing units in exchange for providing affordable units on site. To help make constructing on-site affordable units feasible, the law allows developers to seek incentives/concessions or waivers that would help the project be built without significant burden and without detriment to public health.
4. On January 14, 2019, the Planning Commission of the City of Santa Ana held a duly noticed public hearing regarding the density bonus application and at that time considered all testimony, written and oral.
5. Section 41-1607 of the Santa Ana Municipal Code (SAMC) requires an application for a density bonus agreement containing deviations (incentives/concessions and/or waivers) to be approved by the Planning Commission.

6. The Planning Commission determines that the following findings, which must be established in order to grant this Density Bonus Agreement application pursuant to SAMC Section 41-1607, have been established for Density Bonus Agreement No. 2018-01 to allow construction of the proposed project:

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city.

The proposed development will provide 92 affordable rental family housing units, contributing toward the City's rental housing stock to serve the needs of diverse and underserved populations. The area in which the project is proposed, the Transit Zoning Code, currently contains an affordable mixed-use community and market-rate multi-family housing. The construction of this project will contribute toward an economically balanced community by providing housing for different demographic and income levels in an area rich with employment opportunities, commercial development, and market-rate housing.

2. The development will not be inconsistent with the purpose of the underlying zone or applicable designation in the general plan land use element.

The project site is in an area already identified in both the City's Zoning Code (the Transit Zoning Code) and General Plan (the Land Use and Housing elements) for new residential communities. Moreover, the City's General Plan land use designation for the project site is Urban Neighborhood which applies to primarily residential areas with pedestrian oriented commercial uses, schools and small parks. This designation allows for a mix of residential uses and housing types, such as mid to low rise multiple family, townhouses and single-family dwellings; with some opportunities for live work, neighborhood serving retail and service, public spaces and use, and other amenities. Lastly, the proposed density of 53.4 units is below the density bonus provisions in the California Density Bonus Law for family-oriented projects (35-percent density bonus) and in the City's Housing Opportunity Ordinance (35-percent density bonus).

3. The deviation is necessary to make it economically feasible for the Applicant to utilize a density bonus authorized for the development pursuant to section 41-1603.

The proposed project requires two deviations through incentives/concessions: building setbacks (front) and encroachments, as well as one deviation through a waiver in permitted building types and architectural styles. The three deviations are described as follows:

First, maintaining the required 10'-0" front yard setback would involve the significant loss of mixed-use space and the loss of six (6) three-bedroom units at approximately 1,185 sq. ft. In addition, implementing the required front yard setback standard would result in the building being set back an additional 6-7 feet from the front property line, resulting in a significant loss of parking area and common open space. In order to maintain the current proposed unit count, the Applicant would be required to construct an additional level, resulting in a different type of construction (steel-frame versus wood), further increasing development costs. In addition, in order to maintain the current parking count the developer would be required to construct additional parking either above- or below-grade, resulting in increased construction costs and/or a loss of additional residential units.

Second, maintaining the maximum encroachment of 2'-0" into the required street side setbacks would result in the significant loss of the required private open space balconies. In addition, implementing the required standard would result in the building being setback an additional 5-6 feet along the eastern and western property lines, resulting in a significant loss of parking area, common open space and residential units. In order to maintain the current parking count and open space, the Applicant would be required to construct additional parking, resulting in increased construction costs and/or a loss of additional residential units.

Third, the proposed building is required to be designed as one of the building types and architectural styles permitted by the UN-2 zone. Pursuant to the TZC, the building type and architectural style are considered development standards that are eligible to be waived if they physically preclude the construction of the project. The project proposes a Hybrid Courtyard Building Type and Main Street Commercial architectural style which are only permitted in the UN-2 zone in certain locations of the TZC, but not permitted on the project site. However, if the project were designed as any other permitted building type or architectural style the project would result in a significant

loss of residential units and a loss of any retail, service or office use. As a result, a waiver from the allowable building type and architectural style is required so the development standards do not physically preclude the construction of the project.

The two requested concessions could be avoided if the project were constructed using a different site plan and building type. If the project were designed with a multi-level parking and/or subterranean parking structure, or if the Applicant used different building materials (non-combustible, Type I) to construct a taller project, additional area on site would become available to provide parking and to meet the required front yard setback. However, these changes would increase development costs, resulting in the affordable housing project becoming financially infeasible due to the significantly increased financial implications of using Type I construction.

7. The Applicant agrees to indemnify, hold harmless, and defend the City of Santa Ana, its officials, officers, agents, and employees, from any and all liability, claims, actions or proceedings that may be brought arising out of its approval of this project, and any approvals associated with the project, including, without limitation, any environmental review or approval, except to the extent caused by the sole negligence of the City of Santa Ana.

Section 2. In accordance with the California Environmental Quality Act (CEQA), Sections 15070 to 15075 of the CEQA Guidelines, an Initial Study and Mitigated Negative Declaration (IS/MND) has been prepared which discloses the environmental impacts associated with implementing the proposed project and includes mitigation measures that can reduce potential impacts to the extent possible or to below a level of significance. Impacts from components such as agriculture and forestry resources, air quality, geology and soils, greenhouse gas emissions, hydrology and water quality, land use and planning, mineral resources, population and housing, recreation, transportation and traffic, and utilities and service systems were found to have no impacts or impacts considered less than significant. However, the project was found to have a less than significant impact on the following environmental categories when proposed mitigation measures are implemented: aesthetics, biological resources, cultural resources, hazards and hazardous materials, noise, public services, and tribal cultural resources.

The IS/MND's analysis determined that the above-mentioned environmental categories would cause no substantial adverse change to the environment with the inclusion of environmental commitments, or other enforceable measures, that would be adopted by the City. All mitigation measures in the original Transit Zoning Code (TZC) EIR and associated Mitigation Monitoring and Reporting Program (MMRP) have been enforced and are carried over within the IS/MND, with exception of Tribal Cultural

Resources and Cultural Resources which required new mitigation measures. A traffic impact analysis was performed to analyze any potential changes in area traffic as a result of the proposed development. The study concluded that no additional significant impacts would trigger the requirement for additional environmental review.

Assembly Bill 52 (AB 52) requires meaningful consultation with California Native American Tribes on potential impacts on tribal cultural resources (TCRs), as defined in Public Resources Code Section 21074. TCRs are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either eligible or listed in the California Register of Historical Resources or local register of historical resources. In order minimize impacts on potential TCRs, the IS/MND outlined mitigation measure TCR 1 requiring consultation of a qualified archaeologist and the local Native American representative, if unanticipated discoveries are made during construction activities. With implementation of mitigation measure TCR 1, potential project impacts on TCRs would be less than significant.

A cultural resources study was also performed to analyze the two existing buildings of the First United Methodist Church of Santa Ana, the Sanctuary and Anderson Court Complex (1964-1966) and the Educational Building (1928-1929) located on the property. The study included systematic field recordation of the existing buildings on the property, historical background research on the buildings, and consultation with local historical organizations. The study determined the Educational Building to be a "historical resource" for CEQA-compliance purposes and determined that it requires proper mitigation of potential impacts from the proposed demolition. In addition, because the Sanctuary and Anderson Court Complex have also reached the commonly recognized 50-year age threshold for potential "historical resources," and the two buildings are integral parts of the same religious establishment that has occupied this location for more than a century, the Sanctuary and Anderson Complex should also be considered a component of the "historical resource."

To reduce potential impacts of the proposed demolition to a less than significant level, the IS/MND outlined mitigation measures consistent with the Transit Zoning Code EIR which required "written and photographic recordation of the resource in accordance with the level of Historic American Building Survey (HABS) documentation that is appropriate to the significance (local, state, national) of the resource." In addition, prior to demolition, the developer will be required to document the buildings to Historic American Building Survey (HABS) -like documentation for the historical resources slated for demolition. The HABS-like package will document in photographs and descriptive and historic narrative the historical resources slated for demolition. Documentation prepared for the package will draw upon primary and secondary source research and available studies previously prepared for the project. Specifically, the specifications for the HABS-like package will include photographs focusing on the historical resources/features slated for demolition, with overview and context photographs for the campus and adjacent setting. In addition, the historian or architectural historian will prepare descriptive and historic narrative of the historical resources/features slated for demolition with physical descriptions detailing each

resource, elevation by elevation, with accompanying photographs, and information on how the resource fits within the broader campus during its period of significance.

As outlined in the accompanying staff report, the project is consistent with the City's General Plan and the Transit Zoning Code regulating plan. Further, it is consistent with the density bonus provisions outlined in the City's Housing Opportunity Ordinance. The project site is located within city limits and is less than five acres in size. It is already in an urbanized setting surrounded by urban uses, and the project has not been identified as habitat for endangered, rare or threatened species.

Section 3. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves the Density Bonus Agreement Application No. 2018-01 as conditioned in Exhibit A attached hereto and incorporated as though fully set forth herein. This decision is based upon the evidence submitted at the above said hearing, which includes, but is not limited to: the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 14th day of January, 2019 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

Mark McLoughlin
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Lisa Storck
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH BERNAL Recording Secretary, do hereby attest to and certify the attached Resolution No. 2019-xx to be the original resolution adopted by the Planning Commission of the City of Santa Ana on January 14, 2019.

Date: _____

Recording Secretary
City of Santa Ana

EXHIBIT A
Conditions for Approval for Density Bonus Agreement Application No. 2018-01

Density Bonus Agreement Application No. 2018-01 is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, it shall meet the following conditions of approval:

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by the Density Bonus Agreement.

The Applicant must remain in compliance with all conditions listed below throughout the life of the development project. Failure to comply with each and every condition may result in the revocation/termination of the Density Bonus Agreement.

A. Planning Division

1. All proposed site improvements must conform to the Development Project Review approval of DP No. 2018-44.
2. Any amendment to the DP No. 2018-44, including modifications to approved materials, finishes, architecture, site plan, landscaping, unit count, mix, and square footages must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the Development Project Review must be amended.
3. A residential property manager shall live on site, and the Applicant and onsite management shall at all times maintain a 24-hour emergency contact and contact information on file with the City.
4. All mechanical equipment shall be screened from view from public and courtyard areas.
5. A final detailed amenity plan must be reviewed and approved prior to issuance of any building permits. The plan shall include details on the hardscape design, lighting concepts and outdoor furniture for amenity, plaza, or courtyard areas as well as an installation plan. The exact specifications for these items are subject to the review and approval by the Planning Division.
6. Prior to installation of landscaping, the Applicant shall submit photos and specifications of all trees to be installed on the project site for review and approval by the Planning Division. Specifications shall include, at a minimum, the species, box size (24 inches minimum), brown trunk height (10-foot minimum), and name and location of the supplier.

7. After project occupancy, landscaping and hardscape materials must be maintained as shown on the approved landscape plans.
8. Prior to issuance of building permits, the Applicant shall submit a construction schedule and staging plan to the Planning Division for review and approval. The plan shall include construction hours, staging areas, parking and site security/screening during project construction.

EXHIBIT 2

DBA 2018-01, Legacy Square 609 North Spurgeon Street

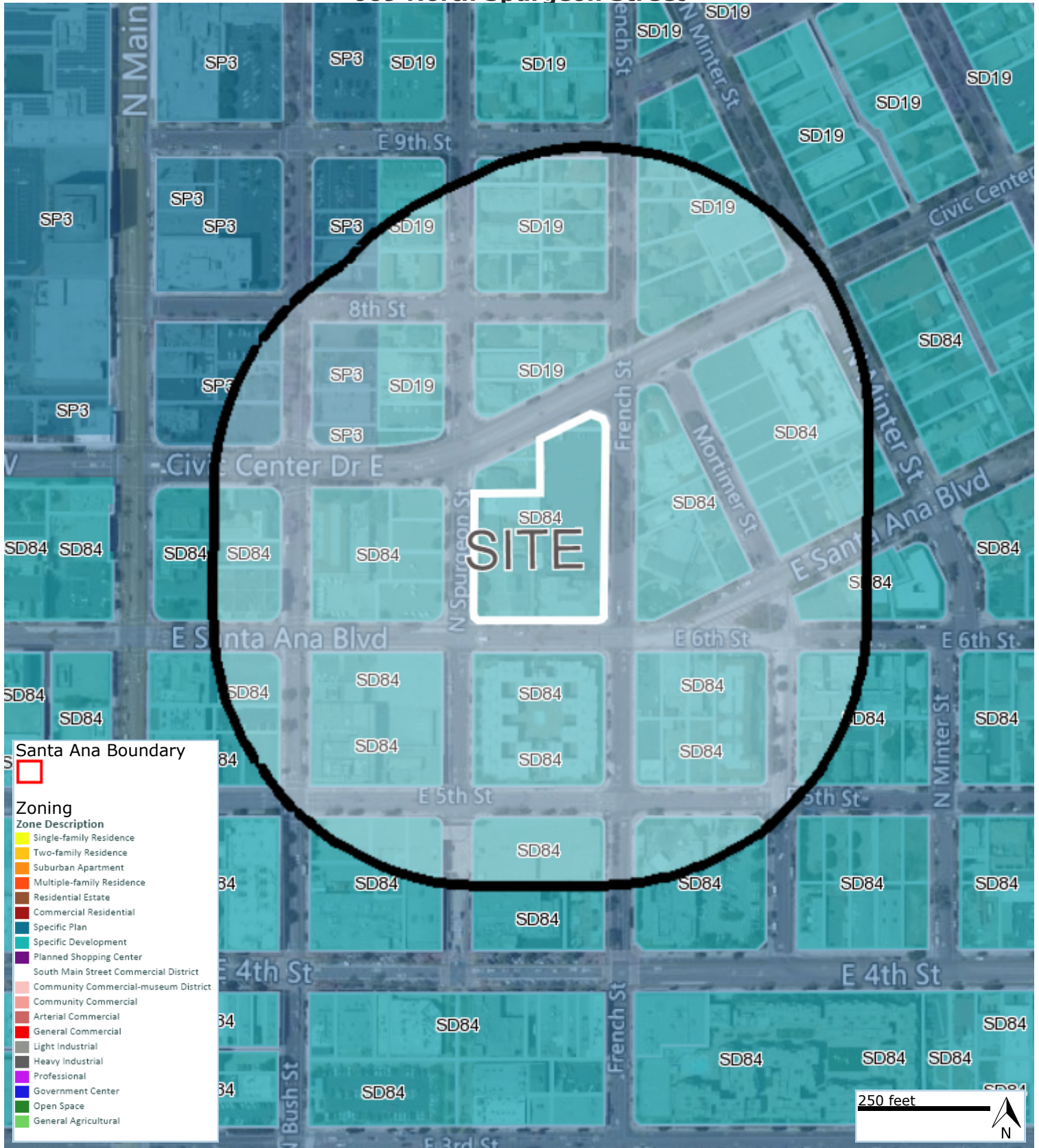


Exhibit 2 – Vicinity Zoning and Aerial View

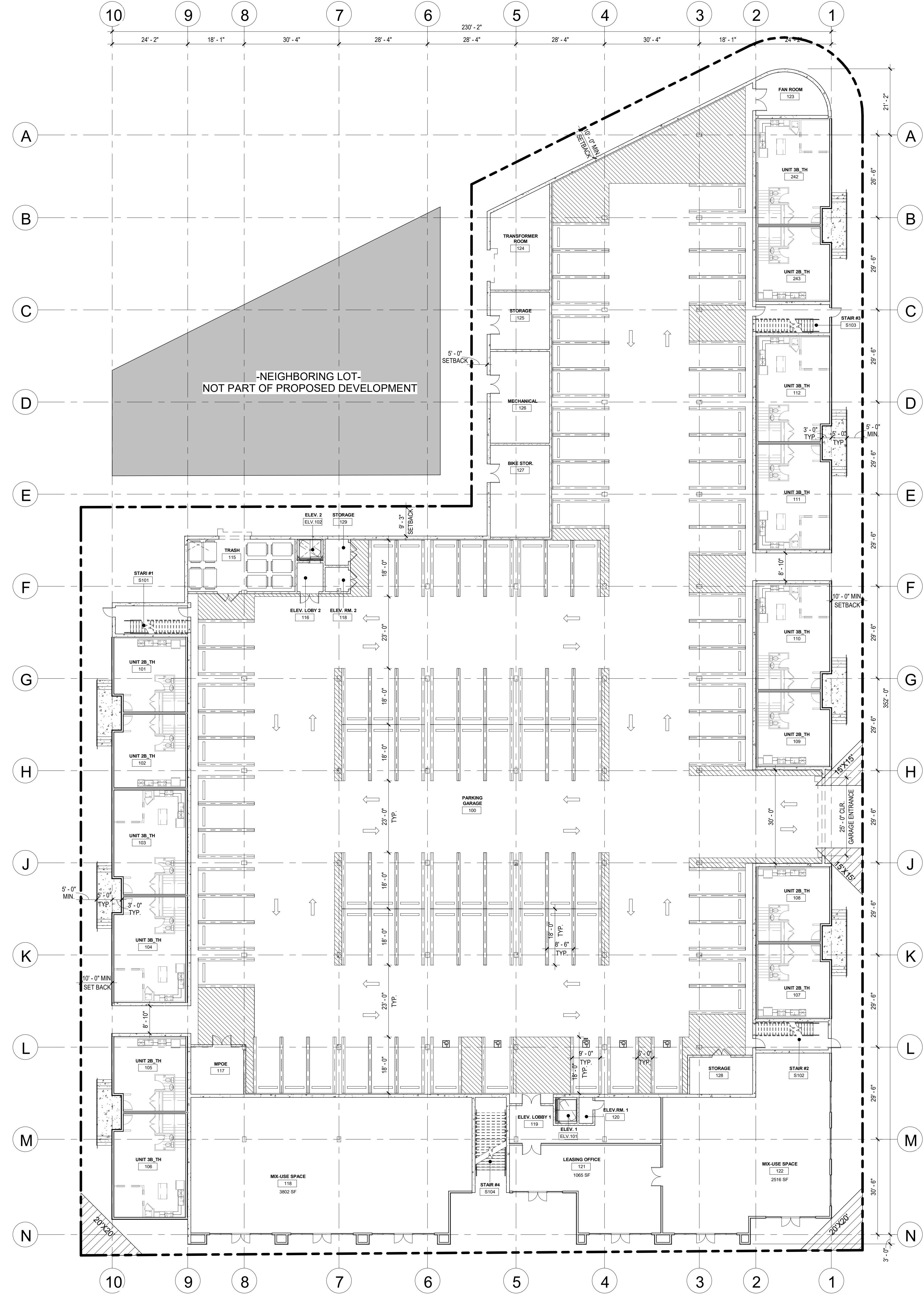
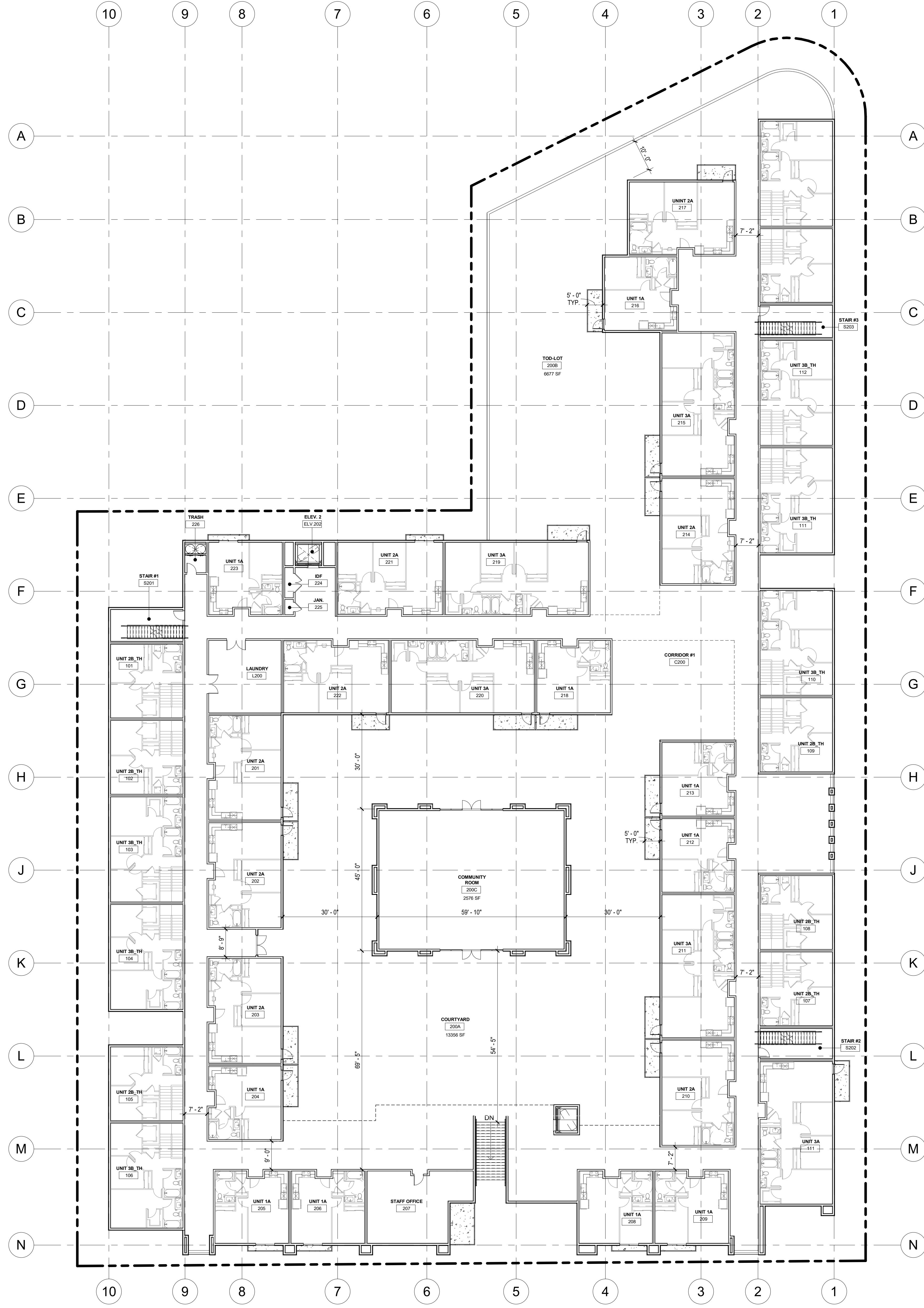


EXHIBIT 3



DBA 2018-01
LEGACY SQUARE DEVELOPMENT PROJECT
609 NORTH SPURGEON STREET
SITE PHOTO
EXHIBIT 3

EXHIBIT 4



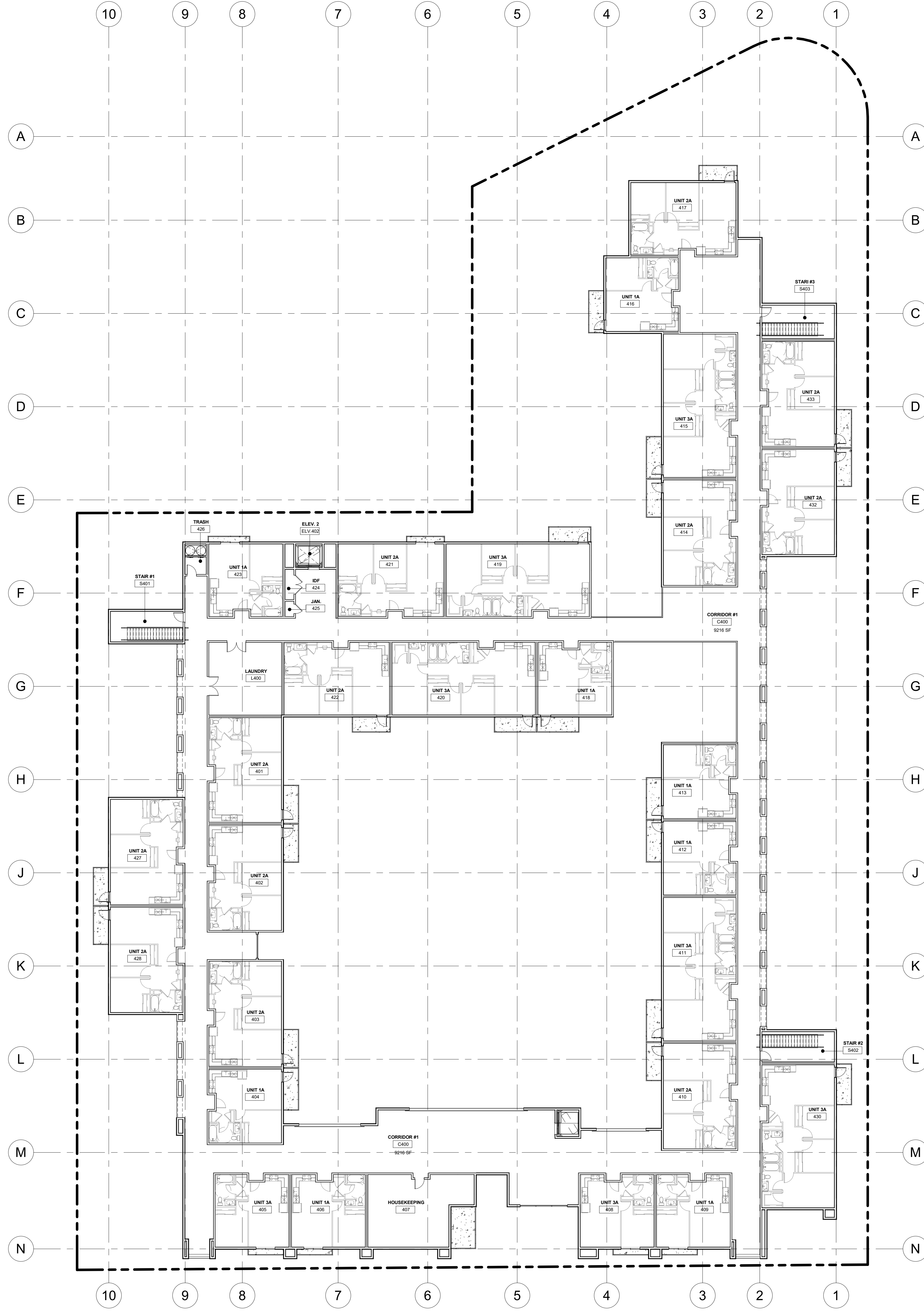
A-1.1

First & Second Level Building Plans

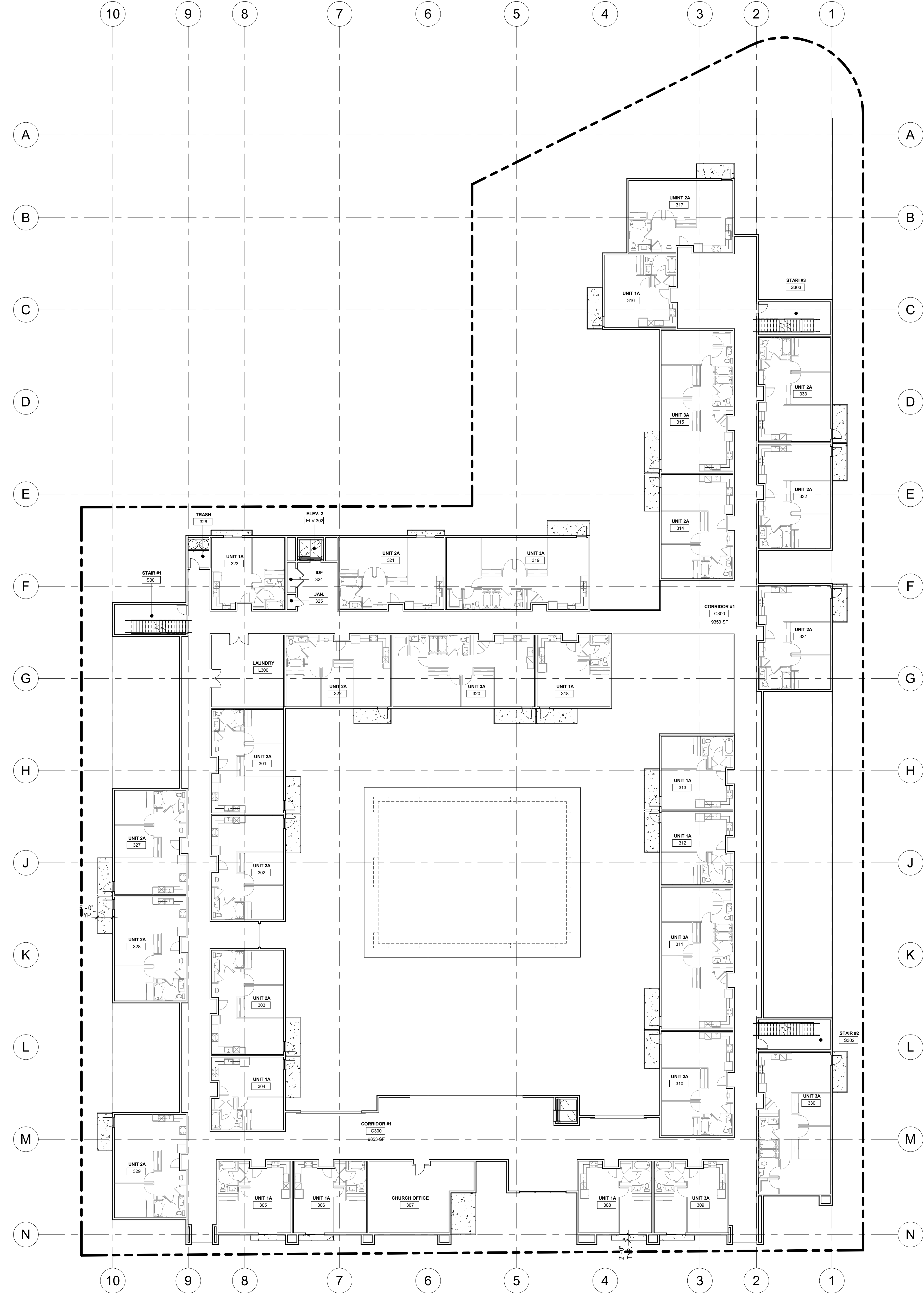
LEGACY SQUARE | 609 N. SPURGEON STREET, SANTA ANA, CA

DATE ISSUED: 12-21-18
PROJECT NO: 2018-40109





SCALE: 1/16" = 1'-0" | LEVEL 4 COMPOSITE PLAN



SCALE: 1/16" = 1'-0" | LEVEL 3 COMPOSITE PLAN

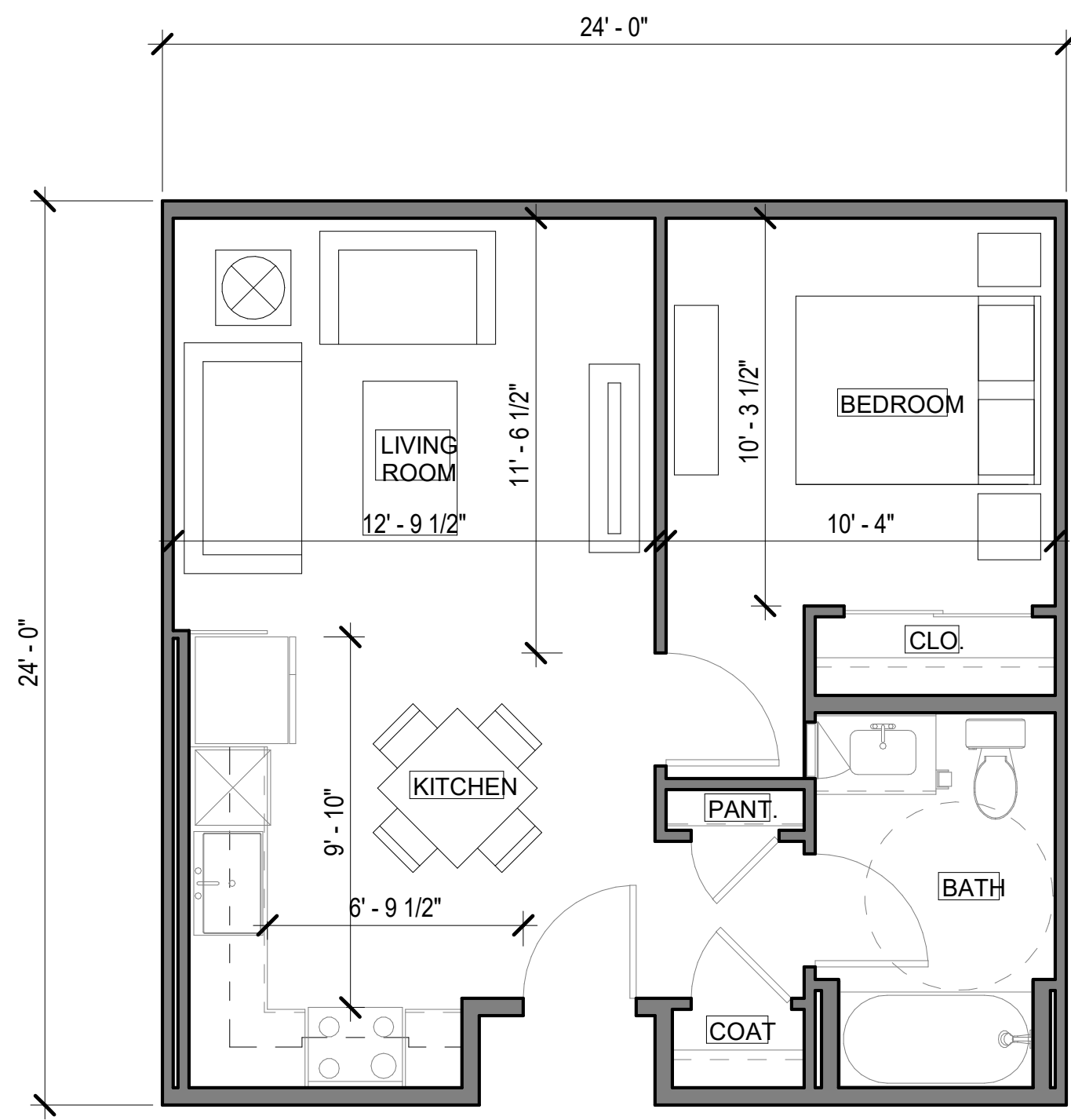
A-1.2

Third & Fourth Level Building Plans
 LEGACY SQUARE | 609 N. SPURGEON STREET, SANTA ANA, CA

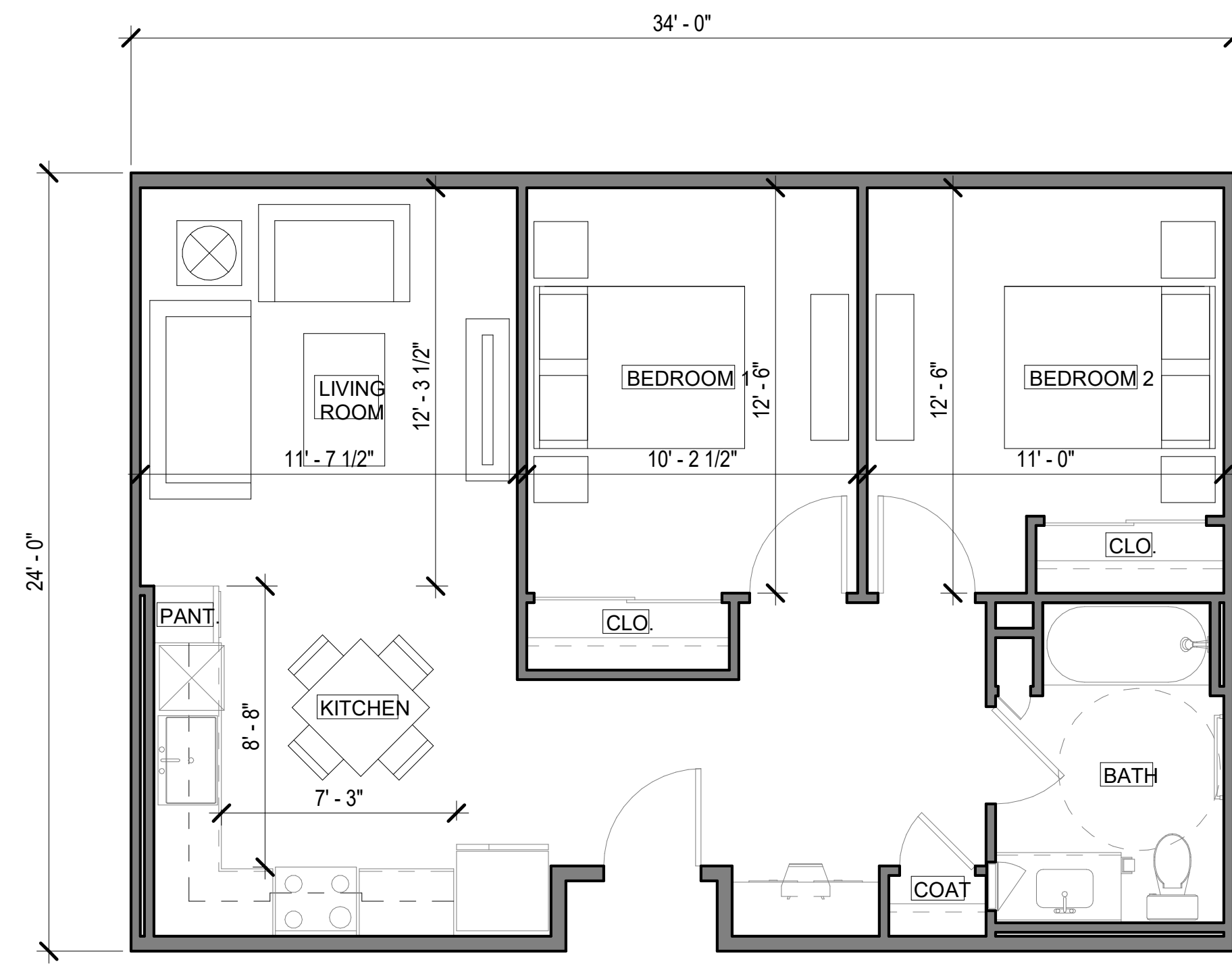
DATE ISSUED: 12-21-18
 PROJECT NO: 2018-40109



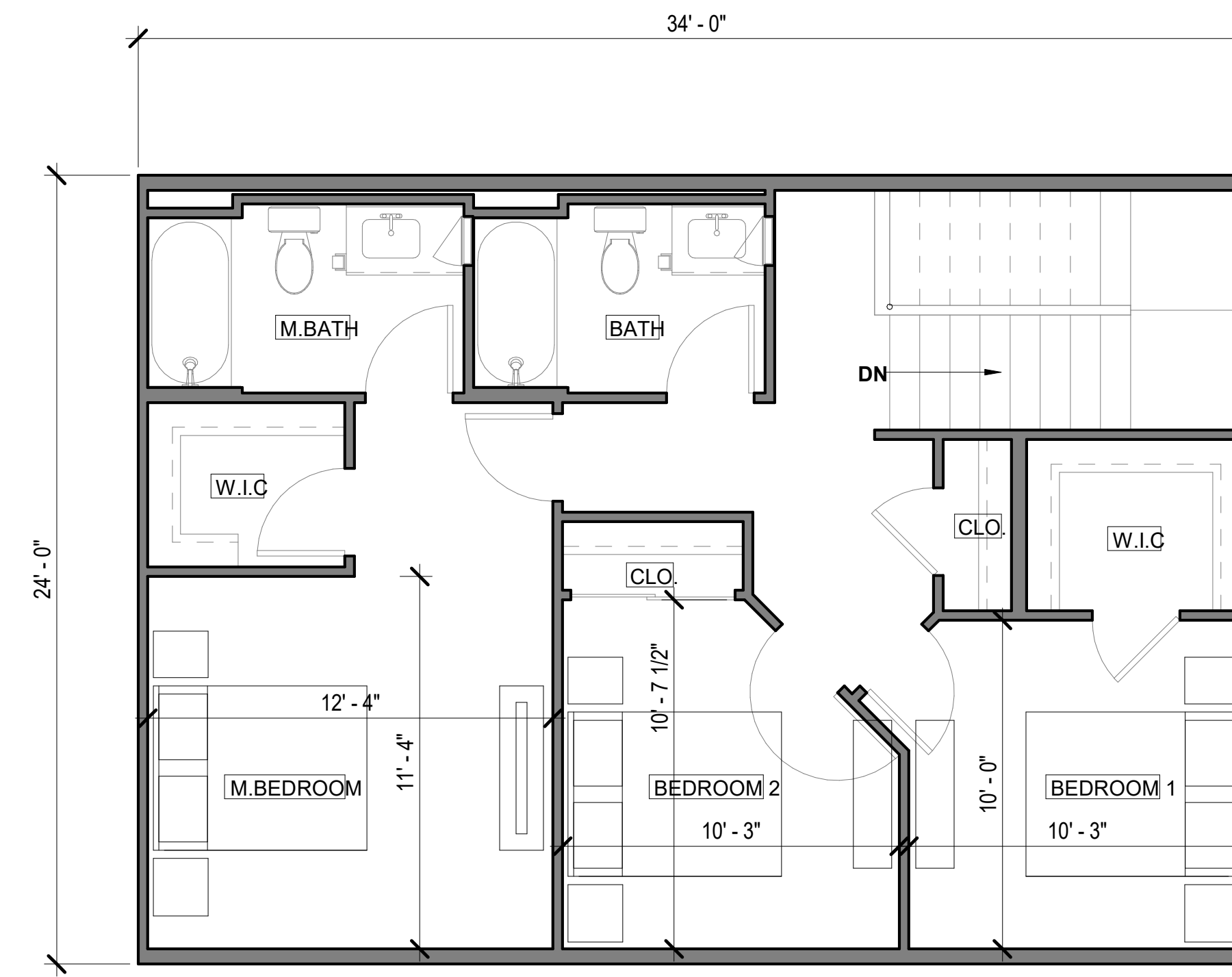
EXHIBIT 5



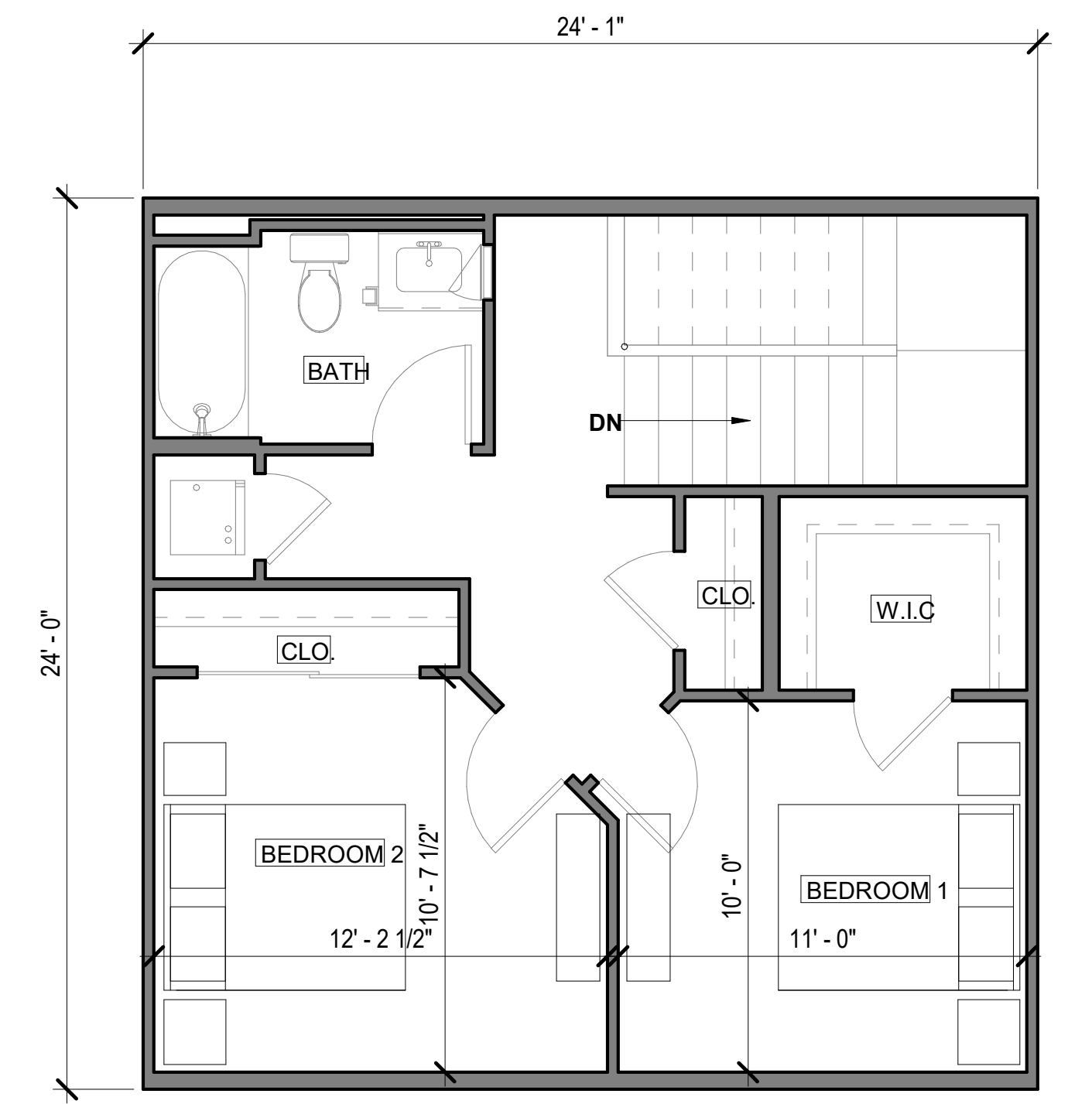
UNIT TYPE 1A
 SCALE: 1/4" = 1'-0"
 1 BED / 1 BATH
 565 SF.



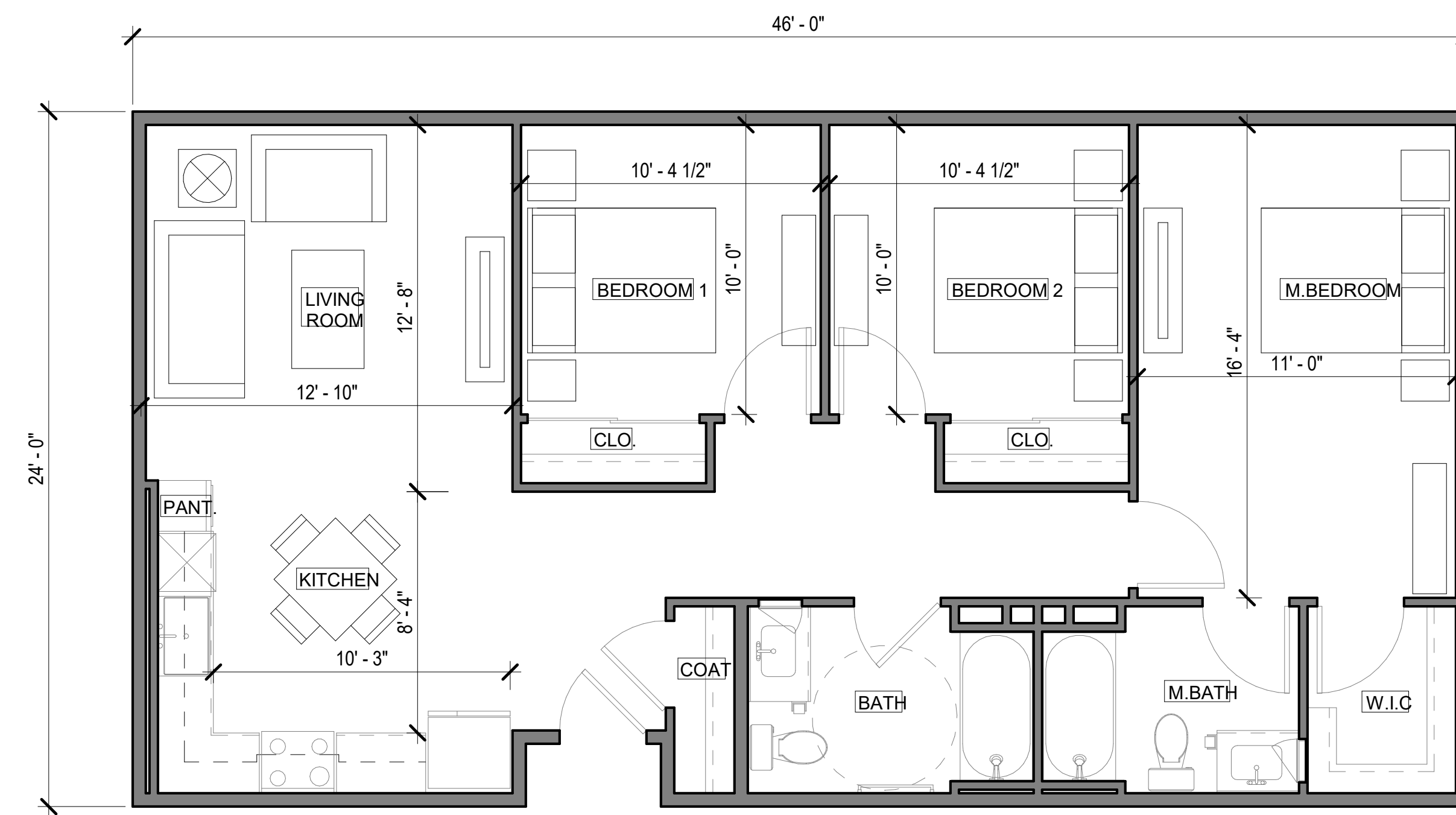
UNIT TYPE 2A
 SCALE: 1/4" = 1'-0"
 2 BED / 1 BATH
 806 SF.



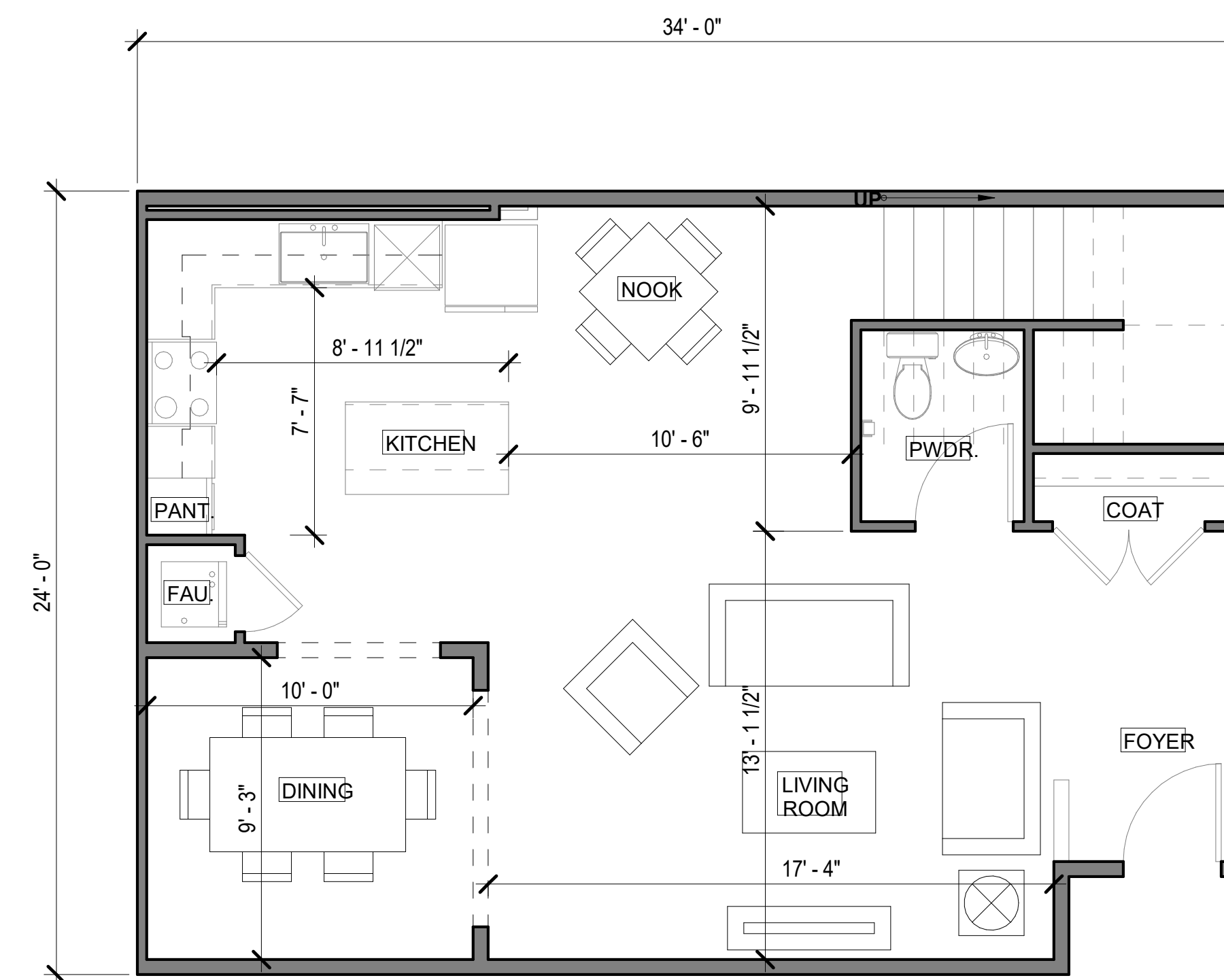
UNIT TYPE 3B - LEVEL 2
 SCALE: 1/4" = 1'-0"
 TOWNHOME _ 3 BED / 2.5 BATH
 816 SF. @ 2ND LVL.



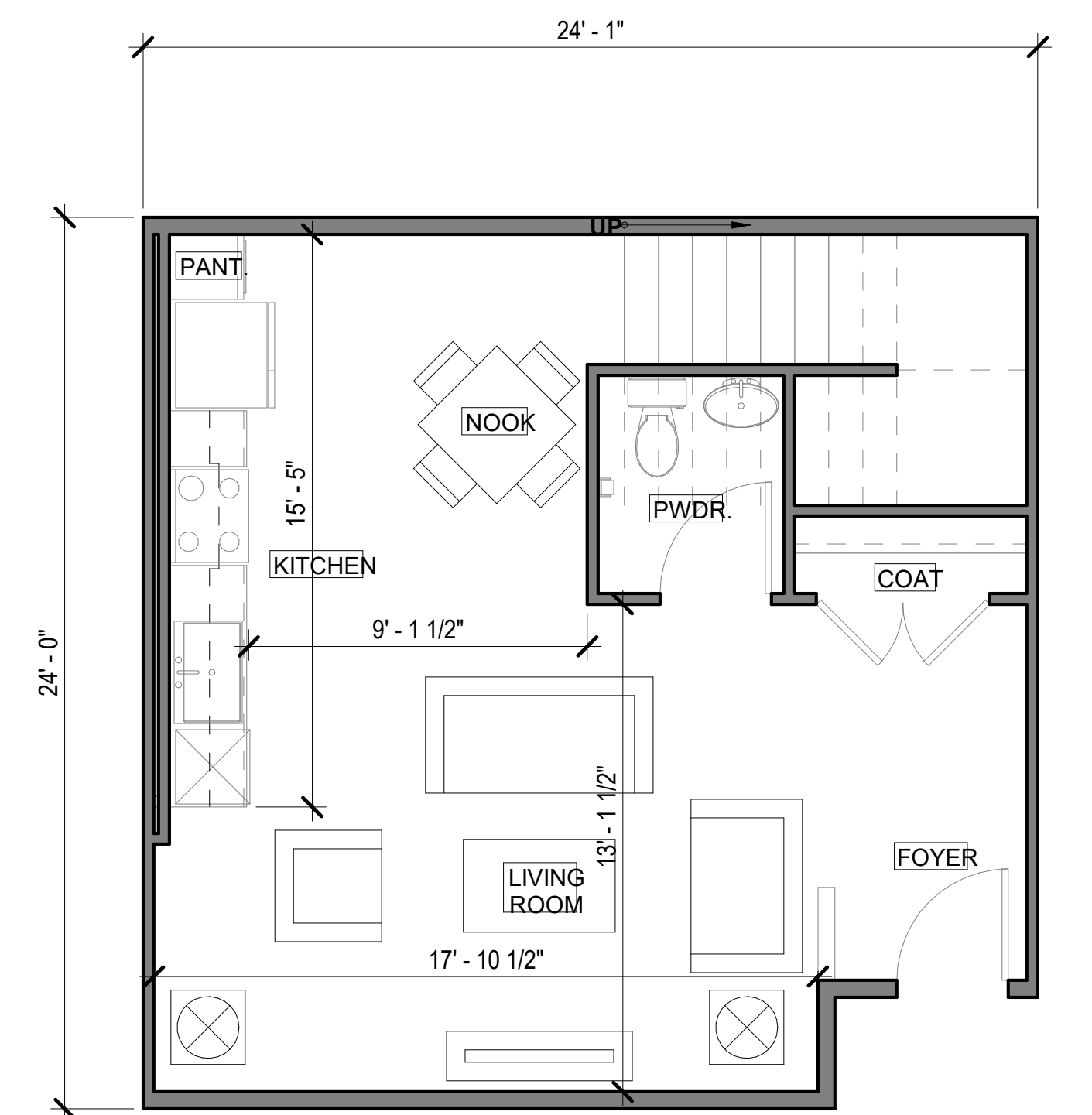
UNIT TYPE 2B - LEVEL 2
 SCALE: 1/4" = 1'-0"
 TOWNHOME _ 2 BED / 1.5 BATH
 578 SF. @ 2ND LVL.



UNIT TYPE 3A
 SCALE: 1/4" = 1'-0"
 3 BED / 2 BATH
 1,094 SF.

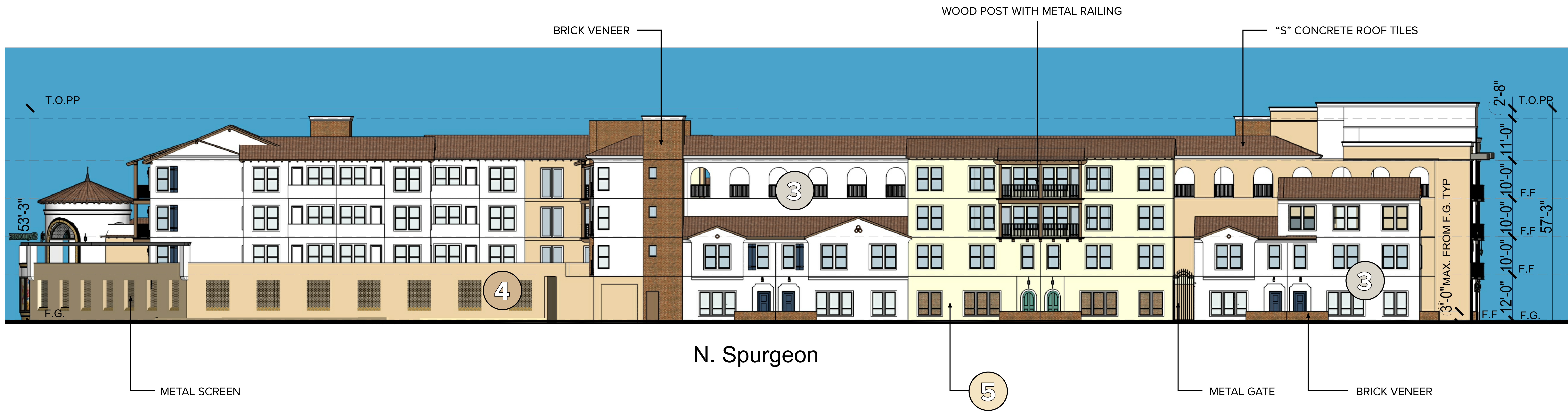


UNIT TYPE 3B - LEVEL 1
 SCALE: 1/4" = 1'-0"
 TOWNHOME _ 3 BED / 2.5 BATH
 731 SF. @ 1ST LVL.
 1,547 SF. TOTAL

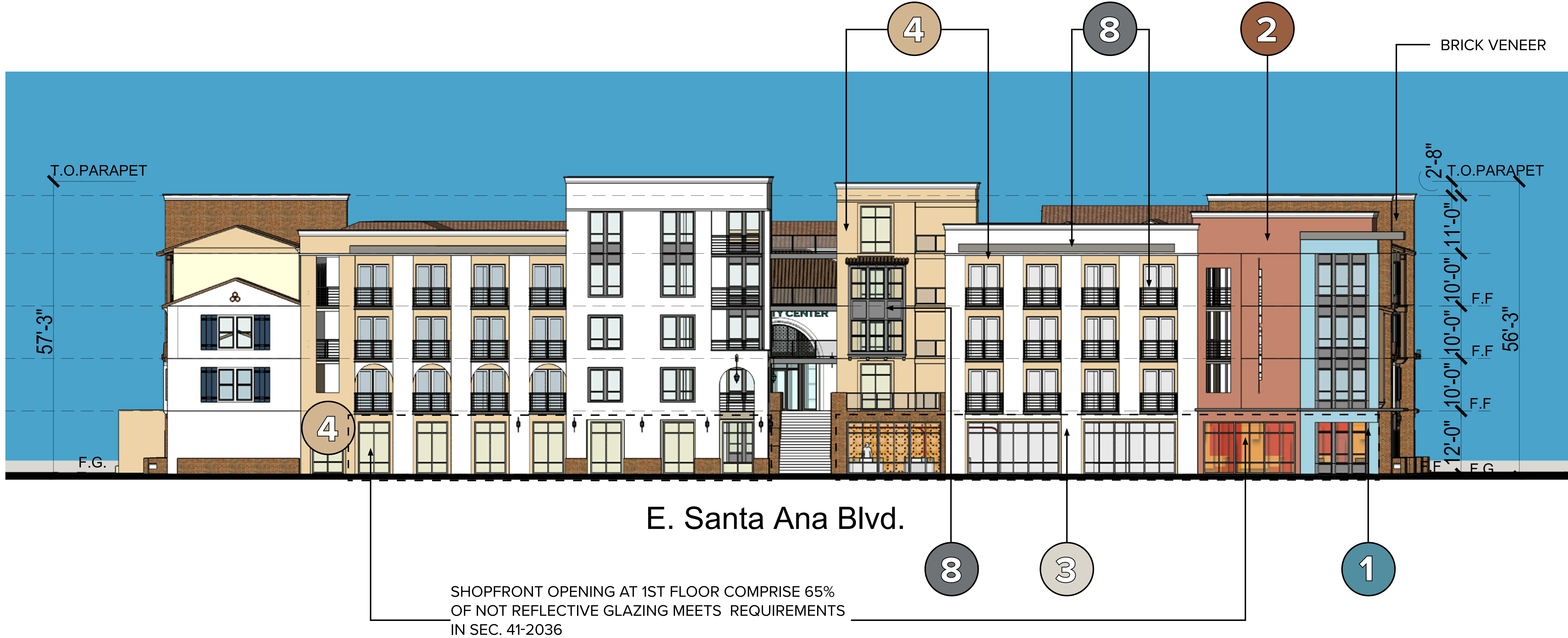


UNIT TYPE 2B - LEVEL 1
 SCALE: 1/4" = 1'-0"
 TOWNHOME _ 2 BED / 1.5 BATH
 496 SF. @ 1ST LVL.
 1,071 SF. TOTAL

EXHIBIT 6



N. Spurgeon



E. Santa Ana Blvd.

SHOPFRONT OPENING AT 1ST FLOOR COMPRISE 65% OF NOT REFLECTIVE GLAZING MEETS REQUIREMENTS IN SEC. 41-2036

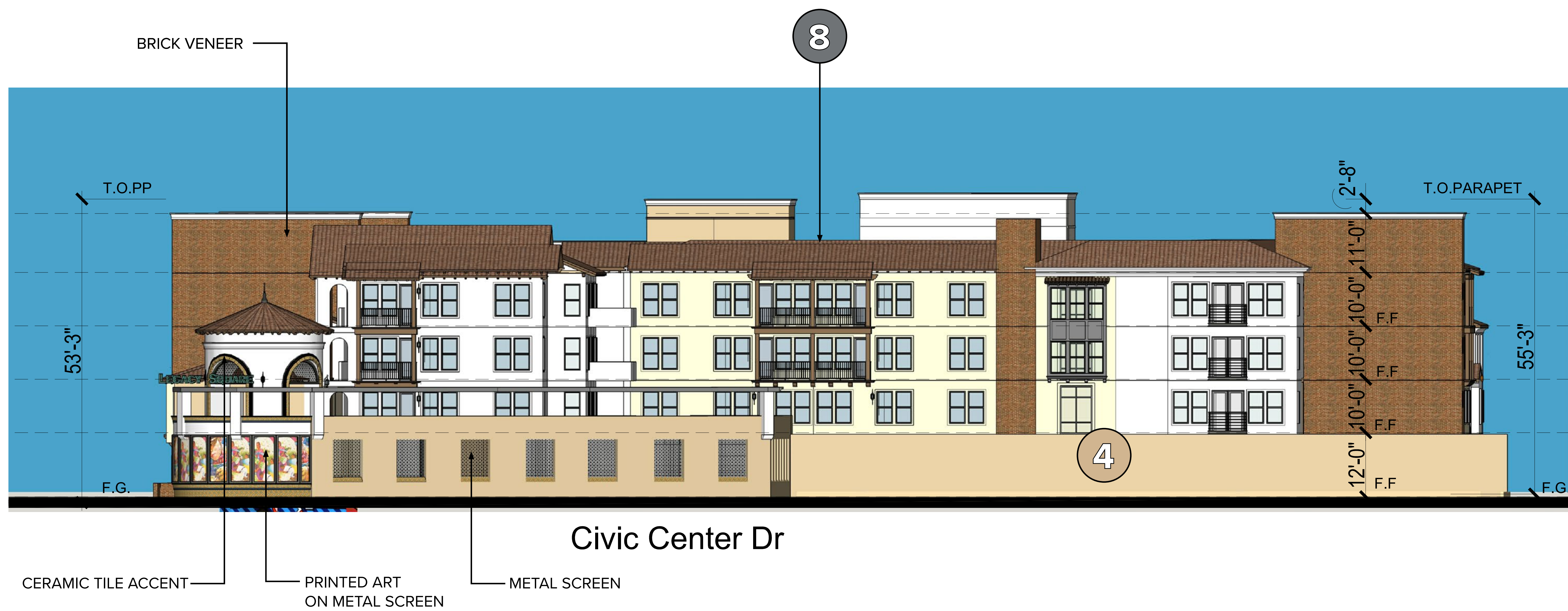
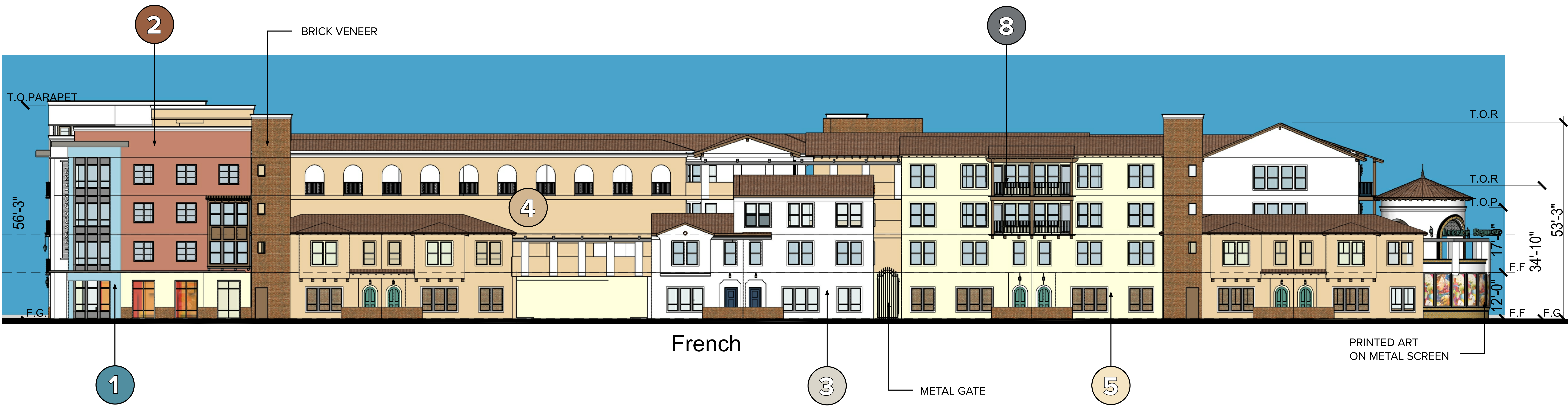
See Color Board on page A-7 for reference

Conceptual Elevations

LEGACY SQUARE | 609 N. SPURGEON STREET, SANTA ANA, CA

DATE ISSUED: 12-21-18
PROJECT NO: 2018-40109





See Color Board on page A-7 for reference

Conceptual Elevations

LEGACY SQUARE | 609 N. SPURGEON STREET, SANTA ANA, CA

DATE ISSUED: 12-21-18
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EXHIBIT 7



*See L-1 for proposed landscape and foliage elements

Perspective Views

LEGACY SQUARE | 609 N. SPURGEON STREET, SANTA ANA, CA



FRENCH STREET



FRENCH STREET

CIVIC CENTER DR.



CIVIC CENTER DR.

*See L-1 for proposed landscape and foliage elements

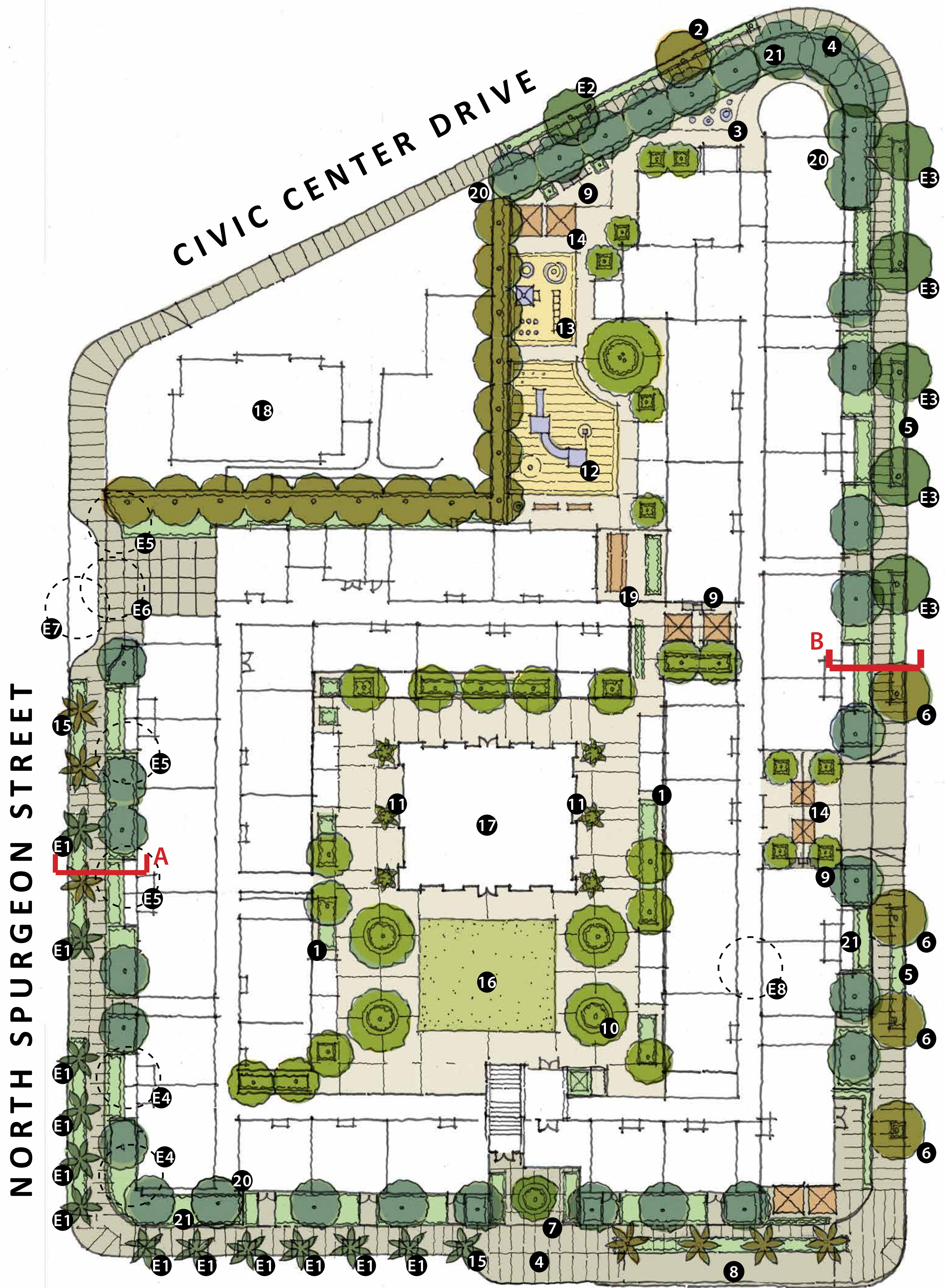
Perspective Views

LEGACY SQUARE | 609 N. SPURGEON STREET, SANTA ANA, CA

DATE ISSUED: 12-21-18
PROJECT NO: 2018-40109

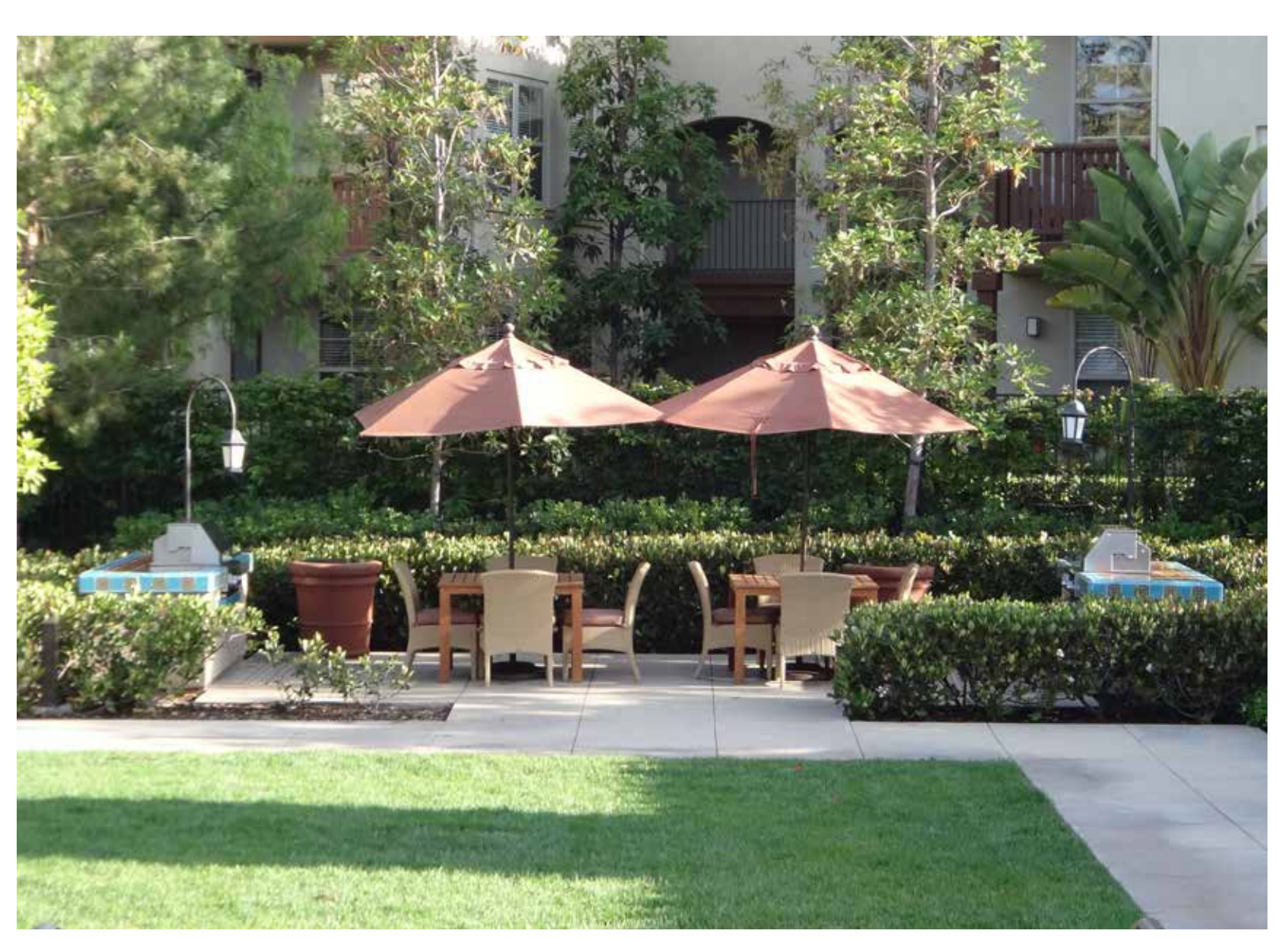
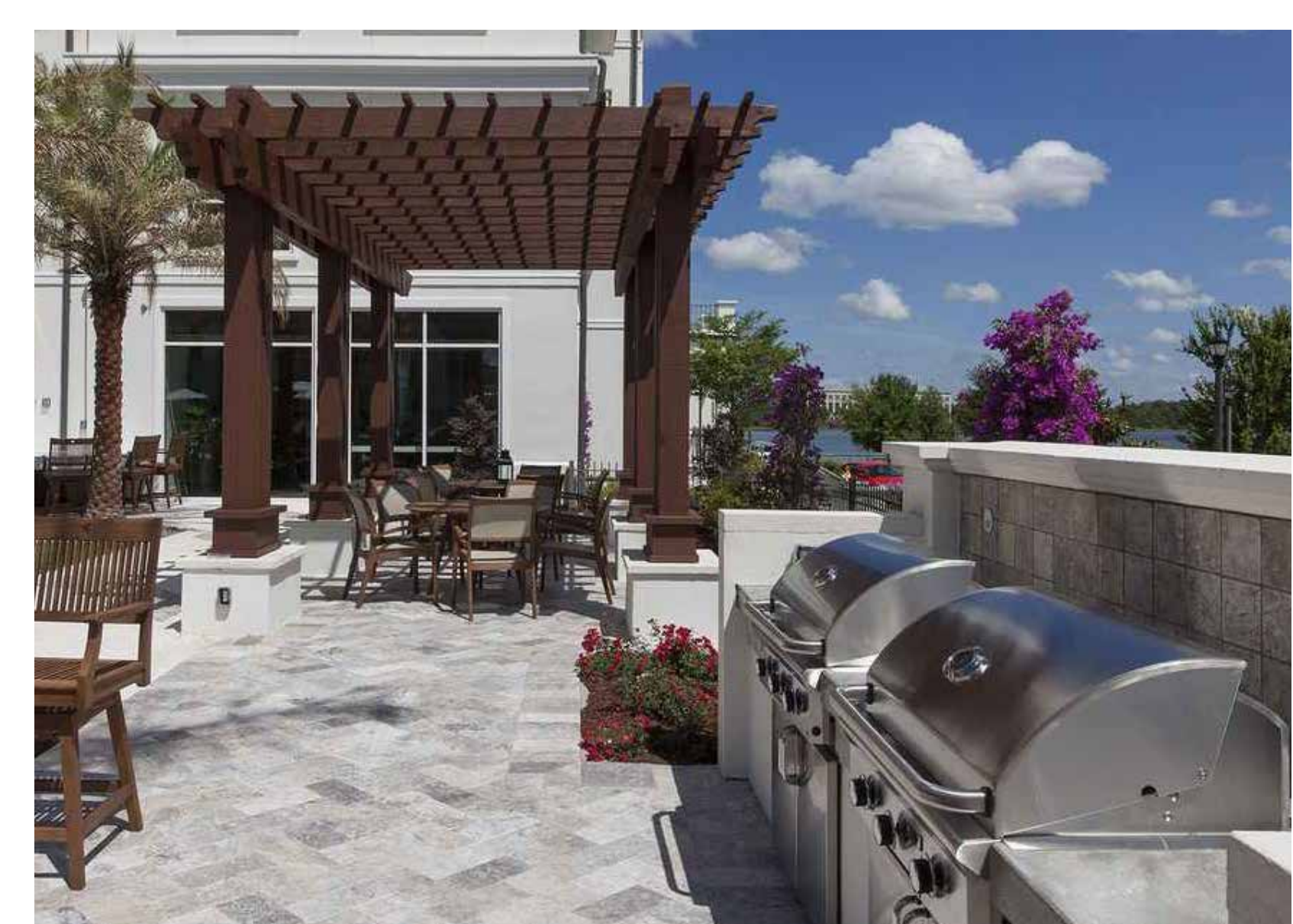


EXHIBIT 8



LEGEND

- 1 MODULAR PLANTERS - TYPICAL
- 2 NEW STREET TREES TO MATCH ADJACENT TULIP TREES
- 3 ACTIVITY AREA
- 4 POTENTIAL PUBLIC ART LOCATION
- 5 PARKWAYS
- 6 CANOPY STREET TREES PER CITY GUIDELINES
- 7 PUBLIC PLAZA
- 8 LIGHT RAIL STOP
- 9 OUTDOOR BBQ DINING AREA
- 10 RAISED PLANTER WITH BUILT IN SEATING
- 11 SEATING AREAS
- 12 OLDER CHILDREN 5-12 PLAY AREA
- 13 SMALL CHILDREN 2-5 PLAY AREA
- 14 SHADED SEATED AREA
- 15 QUEEN PALM STREET TREES INFILL WITH NEW ADDITIONS
- 16 MULTI-PURPOSE GREEN COURT
- 17 COMMUNITY CENTER
- 18 N.A.P.
- 19 DINING TABLE
- 20 PROPOSED TREES
- 21 PLANTING AREA



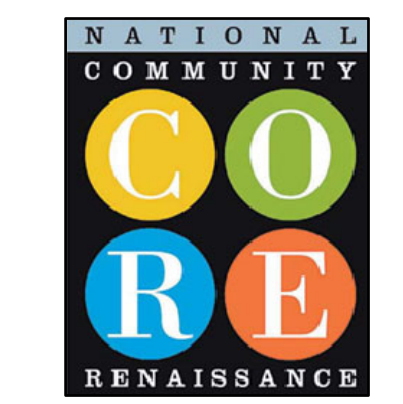
EXISTING TREES TO REMAIN		EXISTING TREES TO BE EVALUATED*		EXISTING TREES TO REMOVE	
COMMON NAME	QUANTITY	COMMON NAME	QUANTITY	COMMON NAME	QUANTITY
E1 QUEEN PALM	12	E4 CAMPHOR	2	E7 OAK	1
E2 TULIP TREE	1	E5 MAGNOLIA	3	E8 SYCAMORE	1
E3 OAK TREE	5	E6 FICUS	1		

* TREES TO BE EVALUATED BY ARBORIST FOR POTENTIAL RELOCATION TO NORTH CAMPUS CHURCH OR TO BE USED ON SITE

THINK CONTEXT

LEGACY SQUARE
609 N. Spurgeon Street, Santa Ana, CA

EXHIBIT 8
CONCEPTUAL LANDSCAPE PLAN



DATE ISSUED 12-20-2018
PROJECT NO: 2018-40109
SCALE: 1:20

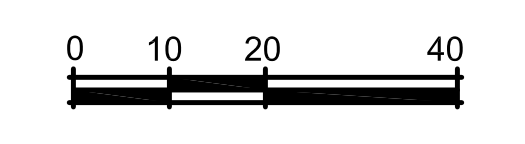


EXHIBIT 9

MEETING MINUTES
LEGACY SQUARE – 609 N. SPURGEON STREET
SUNSHINE ORDINANCE COMMUNITY MEETING
NOVEMBER 27, 2018, 6:30 P.M.

A Sunshine Ordinance Meeting was held on November 27th, 2018 from 6:30 p.m. to 8:00 p.m. at the Santa Ana United Methodist Church located 609 N. Spurgeon Street, to discuss the development of a mixed-use, transit-oriented affordable development project. The project application was submitted to the City of Santa Ana on November 6th, 2018.

The meeting was conducted primarily in English with Spanish translation. While the sign-in sheets show 34 attendees, total attendance over the course of the evening was closer to 45 people or more.

These minutes are a summary and reflect major comments only. They do not provide a complete transcript of the meeting.

Presenting or in attendance on behalf of applicant:

Doug Gillen, United Methodist Church (land owner)
Pastor DePano, United Methodist Church (land owner)
Alexa Washburn, National Community Renaissance (development partner)
Chris Killian, National Community Renaissance (development partner)
Angela Lindsey, National Community Renaissance (development partner)
Sarah Walker, National Community Renaissance (development partner)
Sandra Espadas, National Community Renaissance (development partner)
Linda Wilson, Mercy House (development partner)
Ernie Vasquez, SVA Architects (architect)
Christine Su, SVA Architects (architect)

In attendance from the City of Santa Ana:

Candida Neal, Planning Manager
Pedro Gomez, Assistant Planner I
Scott Kutner, Senior Community Planner

Remarks by Doug Gillen with the United Methodist Church

The Santa Ana United Methodist Church initiated a search almost a year ago to identify a development partner to implement their vision to redevelop the 609 N Spurgeon site into a new use that would continue to give back to the community. The Church selected National Community Renaissance (CORE) and Mercy House (Mercy) based on their ties to the community and experience building high quality, service rich housing communities. The Church will be consolidating most of its activities to its north campus located at 2121 N Grand Avenue. The Church has been in the neighborhood since 1900 and will continue to own the property and will remain a community partner for the foreseeable future.

EXHIBIT 9



Remarks by Alexa Washburn with National Community Renaissance

Alexa Washburn, with Linda Wilson from Mercy House, gave a PowerPoint presentation on the proposed project.

National CORE is a 501(c) (3) non-profit public benefit corporation that was established in 1992 based out of Rancho Cucamonga, CA. For more than 25 years, National CORE has been a leader in constructing sustainable developments that leverage community resources to combine quality housing with life-enhancing social services. National CORE will be the development entity and property manager once the project is complete.

Mercy House Living Centers was founded in 1988 by Father Jerome T. Karcher with a vision to serve those in need in the Santa Ana community. Though the shape of Mercy House has changed over the years, from a single transitional shelter serving 10 men at a time, to an organization that spans counties and serves thousands of people each year, Mercy House's vision remains the same: to end the homelessness of those who enter its system of care.

Located at 609 N. Spurgeon Street, at the northwest corner of the intersection of French Street and E. Santa Ana Boulevard, the 1.74-acre Project site is currently home to Santa Ana United Methodist Church, a well-established anchor in the community. The Proposed Project includes the development of a single residential building with 93 units surrounding an interior, landscaped courtyard. In total, the Project proposes 81,883 square feet of habitable residential building area and 21,200 of public open space. Developed at an overall density of 53.4 units per acre, there will be an estimated 30 1-bedroom units, 41 2-bedroom units, and 22 3-bedroom units. Seven of the 2-bedroom units and seven of the 3-bedroom units will be two story townhomes accessible from the street. The remaining 79 units will be flats/typical apartment units located on the 2nd, 3rd and 4th floors over ground level parking.

Questions and Answers

After the Applicant introduced the project, speakers asked the following questions and provided the following comments. Speakers are shown below numerically; applicant responses are indicated by "RESPONSE".

1. How is affordable defined? How will much will the rents be? In other recent projects, residents don't qualify because rents went up compared to what was originally proposed.

RESPONSE: The affordability levels will be based on the income limits set annually by the US Department of Housing and Urban Development. Rents will be based on 30 percent of an eligible tenant's income for each income bracket. A slide on Income Limits and Expected Rent Limits was provided as part of the presentation. As this is a rent-restricted development that will have a density bonus agreement in place that ensures the project is affordable for no less than 55 years, the rents will change annually, based on the federal and State income limits but will not increase substantially. The eligibility to become a tenant is determined by the funding sources.

2. In other recent projects in the City, residents didn't qualify because rents went up compared to what was originally proposed.

RESPONSE: National CORE will enter into a density bonus agreement with the City that will rent restrict the units for a period of no less than 55 years. The affordability levels will be based on the income limits set annually by the US Department of Housing and Urban



Development and are calculated based on 30 percent of an eligible tenant's income for each income bracket. A tenant's eligibility is determined by their income and other regulations required by the specific funding sources.

3. What size and how many units will be provided by income category?

RESPONSE: A slide with a table showing the number of units by affordability and unit sizes was presented by Ms. Washburn. The project will have 31 one-bedroom and 5 three-bedroom extremely low income (ELI) units, 9 two-bedroom very low income (40% AMI) units, 20 units 2-bedroom and 11 three-bedroom low income (50% AMI) units, 5 two-bedroom and 2 three-bedroom low income (60% AMI) units and 7 two-bedroom and 3 three-bedroom workforce market-rate housing units.

4. Was a survey on income conducted for the project? How was the area median income established?

RESPONSE: The AMI is established by the State and is based on Orange County. The rents shown in the presentation are the maximum rents that can be charged and typically tenants would be paying less. Typically to qualify a tenant would need to make at least double the rent and would need to make less than the maximum income shown.

5. Several surveys completed in the community show that many families are earning below of the expected incomes being proposed for the project. These are the people that really need it the most. Many of the families are extremely low income and could not afford the very low and low-income units based on the income limits and rents proposed.

RESPONSE: The incomes shown in the presentation are the maximum a household can earn to qualify. If tenants are earning less they can apply to see if they qualify. The units will be rent-restricted for a minimum of 55-years – this will not be a bait and switch, where we say its affordable and then do all market rate units. CORE and Mercy House are non-profit housing developers that specialize in affordable housing for individuals and families that have significant need.

6. People living in the City should be priority for the units.

RESPONSE: We will work with the City and Church to take this into consideration while still complying with fair housing laws.

7. Santa Ana is unlike the rest of Orange County and income limits should reflect the community since other areas of the County are much wealthier.

RESPONSE: We recognize that Santa Ana is unique and that we can't solve the City's housing problems with this one project. CORE and the Church are doing our best to provide new affordable units and see this as a step toward providing more affordable units that have long-term restrictions in a neighborhood where there is significant need. The project will have 35 units for extremely low-income households, 40 units for very low income and 7 units for low income households. We provide a range of housing types and hopefully CORE can do another project. Our development model is to complete multiple phases of residential homes, near one



another, where we can help transform and positively influence a neighborhood. For example, in Yorba Linda, we just completed our second phase in Savi Ranch, and fourth project in the City. Our goal is to have subsequent projects and hope we can do that here.

8. There are many families that fall into the extremely low-income range and the Project doesn't include any two bedrooms that are available for this income group.

RESPONSE: Designing and financing a project requires striking a balance to meet housing needs while ensuring the project is feasible and competitive for funding. Currently, there are not two-bedroom units that are available for extremely low-income households. CORE has asked for vouchers from the City which would likely be for homeless and/or Veterans and would be for one-bedroom units. The project does provide 5 three-bedroom units for ELI, 9 two-bedroom very low income (40% AMI) units, 20 units 2-bedroom and 11 three-bedroom low income (50% AMI) units, and 5 two-bedroom and 2 three-bedroom low income (60% AMI) units. The project would add 52 units that are two and three bedrooms for families that are rent-restricted for households that are very low and low income earning below \$45,000 annually.

9. Latino Health Access Representative: We are excited to see that property owners are bringing affordable housing to this neighborhood. Thank you to those involved in this project. What we see is a need for housing that is affordable for extremely low-income households and bigger units with more bedrooms for families. Can the project be 100% affordable, and not include any market rate units? Our folks living here cannot afford market rate and we see a number of market rate developments and highly encourage the project to be 100 percent affordable.

RESPONSE: We will discuss with the partners and look at the financing to determine if the project is still feasible if it is 100% affordable. There are only 10 market rate units and the revenue from those units is intended to provide funds to Church, Mercy House and Hope through Housing Foundation to provide services to residents and the larger neighborhood.

10. As single mom with two kids, it's sad to see when you are advocating, that you don't qualify because you make too much money, so I have to pay 80% of my income for market rate rent. I'm thankful that you are here but I believe it's because of the sunshine ordinance. I think that you are here, because you have to be here, not because you are truly thinking about the community. Sadly, we don't have the income of other areas in OC. This is our reality. But we want to stay here and if we can have an 100% affordable project it will make a difference. I would like to see the project be 100% affordable.

RESPONSE: CORE and the Church have held a number of community meetings, at the Church with the congregation, with neighborhood groups, the City, and even one-on-one meetings with specific community groups like VELA, the Ebell Club, and the Kennedy Commission, over the past year. We are happy to reach out to other groups – please let us know if you know other organizations that should be at the table. CORE will look again at the financing to determine if the project is still feasible if it is 100% affordable.

11. Doing a Google search, there is a review from Dec 23, 2017 about a property owned and managed by CORE, where a resident got into the home because her husband was military

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Veteran, but when his work ended, they were told they couldn't stay and that CORE couldn't help. They received documents stating that they were going to be evicted.

RESPONSE: Eviction is a very rare and difficult process that CORE does not like to see happen to any of our residents. We encourage you to go any communities and speak with our residents directly as many have lived there for years and have had positive experiences. Recently, in San Bernardino, we have had some great success stories, as three families living in public housing were able to purchase properties and become homeowners. For Mercy House, as a homeless service provider, the last thing we want to do is to evict someone. In more than 30 years of providing homes to residents, we have had only 10 evictions. Eviction is really rare, and it is always a last resort. We are here to help families and individuals.

12. Looking at the Expected Rents slide, how many units will be restricted to homeless or Veterans? If 30 units are one-bedroom units for extremely low-income Veterans or homeless, then there are only 5 units available to the general population?

RESPONSE: CORE will need significant public subsidy to finance the project and has applied for applied for funds and VASH Vouchers from the City that are specifically for Veterans and their families; however, we are still waiting to hear what our project will receive. Should we receive vouchers, those units would be set aside for that specific group. We will discuss with the partners and look at the pro forma to determine if there is any flexibility within the financing structure. It is a tricky balancing act to figure out how benefit the most people possible utilizing the limited funding sources that are available for affordable housing. We are trying to ensure that this community receives a well-designed project that is affordable for years to come.

13. To get land use approvals do the affordability levels, the number of units, and unit sizes have to remain, or can they change? What could change between now and February when the AHSC application is submitted?

RESPONSE: To apply for Affordable Housing Sustainable Communities (AHSC) program funding we have to have project approvals from the City which are based upon the current affordability levels, the number of units and unit sizes shown. Once we have the project approval and submit for AHSC funding those numbers cannot change. If we do not have project approvals, then we cannot apply for funding and the project will not move forward.

If we want to change the specifications of the project, then we need to find additional funding sources. A lot of the affordable housing industry is driven by funding and right now there is a focus on homeless and Veterans. We can look to see if there are other funding sources to help subsidize addition EXTREMELY LOW-INCOME units, however it is unlikely as we have explored the options that are available to us. Again, given the funding sources we structure a project to ensure that it is competitive and so that can get financed. When we start making modifications, the project becomes less feasible. We will take this back and look at the funding available work with our financing team.

On the design side, when we start changing the unit sizes, there are other factors to consider like parking. Larger units, with two and three bedrooms, will impact parking. The fact that this

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project already has 62 units with two and three-bedroom units is very high and very unusual for an affordable project.

14. I lived here for 40 years, and being honest with you, you have got to look at the family culture of Santa Ana. The community wants to see a development that reflects the needs of the existing residents and that helps the neighborhood. Incomes in the City are low and this project will not be affordable to many families. In other projects that have been developed, residents could not qualify. We feel that there will be a lot of restrictions that you aren't telling us. I think that the community wants to see something built that helps the community. Not pushes them out.

RESPONSE: CORE, Mercy and the Church have held numerous meetings to collect input on the project and have attempted to put together a financing plan that attempts to balance the needs of the residents with the available funding sources to provide 93 new affordable homes within the community. The requirements for eligibility are standard for federal and State funding sources and compliant with Fair Housing laws. The goal of the Church is to transform the site into a new use that still serves the neighborhood, providing a roof for families and individuals that are struggling.

15. The Hispanic Ministry has been operating as a tenant in this facility for 7 years and has grown over the years because of the Church's location. The Church leadership is changing that. We took responsibility as Hispanics to teach our community. Our people are going away, I see more high-income people that are not our people. We are concerned because we are tenants and as a Church we will be homeless. We have 74 members. We are renters and they are owners. We want to buy this Church and build a school that will benefit the community. This building was built for a purpose. We just saw a poster about this meeting a week ago and did not know that this project was happening.

RESPONSE: The Church will still have a presence here with office space, flexible space along Santa Ana Boulevard and the community center will be available to rent and possibly use for religious activities. We understand the importance of the Church to the community and have been working closely with the Church Leadership to honor its mission by developing a project that is in line with the Church's mission to serve those that are less fortunate. The Pastor can also add to this.

Pastor DePano: I've been listening very intently throughout the evening and my heart bleeds for people that call Santa Ana home that are being driven out because rents are unaffordable. I'm a strong supporter of rent control. You need to keep people where they live and if rents keep going up, that drives families away. The church really connected with the goal to build housing in this community. If we sell it would be a one-time benefit to us. You can spend money so quickly. We then got in touch with the idea of a ground lease to build affordable housing so that we as a church will continue to have a presence here and what is built here has a direct link to who we are as a Church. We want to be of service to community. If we sell we lose this possibility forever. For the life of the ground lease we are a part of a community partnership that is known to help people that really need it. I know this project is small compared to the scale of the need. I hope GOD will use this project to help the people that are

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really in need. We are not into this for the money. We did not go into this project for the money. We don't have illusion of helping everyone, but at least can help some people that need it.

16. Just by looking at the number of units in the project and the affordability levels, it is sad because we have more than 5,000 students that are homeless in the Santa Ana Unified School District. This is a beautiful project and it's not going to benefit those kids. I do believe every human being deserves a roof, including homeless individuals, but when it comes to kids it's hard to see them struggling for a roof.

RESPONSE: Within the project 90% of the units are affordable to households that are low, very low and extremely low income and 52 units have two and three bedrooms. These are households that are earning less than \$45,000 annually.

Pastor DePano: The Church wanted the project to be 100% affordable but was asked by the City to incorporate market-rate units. We would like to explore the possibility of making the project 100% affordable.

17. Thank you for advocating for the community. What can we do, as a community, so we can have a 100% affordable project? For the City and Church leaders....do we wait and see what happens? How do we get the project changed?

RESPONSE: Based on the comments provided in the meeting, CORE will provide written comments and City Staff is here listening to the comments. We are meeting with them Thursday morning. We were asked by City to explore small portion of market rate - to use this project as a model for truly integrated community. We can share with City Staff, the community's comments and request for the project to be 100% affordable. If we do try for a project that is 100% affordable, we will likely need additional public subsidies/funds to construct the units – it is a balance.



EXHIBIT 10

RECORDING REQUESTED BY:
AND WHEN RECORDED MAIL TO:

City of Santa Ana
Clerk of the Council
20 Civic Center Plaza (M-30)
P.O. Box 1988
Santa Ana, California 92702
Attention: Clerk of the Council

*Free Recording pursuant to
Government Code 27383*

DENSITY BONUS HOUSING AGREEMENT

This DENSITY BONUS HOUSING AGREEMENT (“Agreement”), made and entered into this 5th day of February, 2019 (“Effective Date”), by and between the City of Santa Ana, a charter city and municipal corporation of the State of California (“City”), and National Community Renaissance of California, a California nonprofit public benefit corporation, or its assignee, (“Developer”). City and Developer are sometimes referred to collectively as the “Parties” and individually as a “Party.”

RECITALS

A. Santa Ana United Methodist Church is the owner of certain property located within the City of Santa Ana, County of Orange, State of California, commonly known as 609 North Spurgeon Street, Santa Ana, California, and legally described as set forth in Exhibit A attached hereto and incorporated herein by this reference as if set forth in full (“Property”).

B. Developer has entered into an agreement for a long-term ground lease with property owner.

C. Developer is proposing to develop a ninety-three (93) unit affordable apartment complex on the Property as more particularly set forth in Density Bonus Application No. 2018-01 (“Project”). Without the density bonuses, Developer would only be permitted to build fifty-one (51) units on the Property.

D. Santa Ana Municipal Code sections 41-1600, *et seq.* (“City Density Bonus for Affordable Housing”), and California Government Code sections 65915, *et seq.* (“State Density Bonus Law”), set forth a process to provide increased residential densities to property owners who guarantee that a portion of their residential development will be available to low income, very low-income, or senior (also known as "qualified") households. These regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for very low-income, low income and senior households throughout the city.

E. Additionally, the City’s Housing Opportunity Ordinance provides inclusionary

housing development incentives for production of affordable units on-site. Specifically, Santa Ana Municipal Code section 41-1904.1 includes a density bonus concession up to a maximum of thirty-five percent (35%) to provide affordable housing options for residents of the City of Santa Ana.

F. For the purpose of implementing State Density Bonus Law, City Density Bonus for Affordable Housing, and City Housing Opportunity Ordinance concessions in response to Developer's request for two (2) density bonuses, as well as additional concessions and incentives, Developer has agreed to restrict ninety-two (92) Units in the Project, except for one (1) manager's unit, to Eligible Households, which includes Very Low Income and Low Income Tenants.

G. The Project complies with the affordable housing requirements set forth in the State Density Bonus Law, City Density Bonus for Affordable Housing, and City Housing Opportunity Ordinance. For purposes of this Agreement, the Project shall be the "housing development" as defined in the State Density Bonus Law.

H. In light of the purpose of the State Density Bonus Law, City Density Bonus for Affordable Housing, and City Housing Opportunity Ordinance, and the express provisions of Government Code section 65915(n), as well as Santa Ana Municipal Code section 41-1904.1, the City has determined to grant Developer's application for density bonuses and related concessions and incentives.

I. This Agreement, and the exhibits attached hereto and incorporated herein by reference, is intended to set forth the terms and conditions for the implementation of the Project's requirement to provide affordable housing units in exchange for receiving the Density Bonus Units and additional concessions and incentives set forth herein.

J. The Developer has paid the City's Density Bonus Setup fee in the amount of \$46,705.86.

NOW, THEREFORE, in consideration of the above recitals, which are incorporated herein by this reference, and of the mutual covenants contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS

1.1 Definitions. In addition to the terms that may be defined elsewhere in this Agreement, the following terms when used in this Agreement shall be defined as follows:

1.1.1 "**Adjusted for family size appropriate to the unit**" shall have the meaning set forth in Section 42(g)(2)(C)(i) and (ii) of the Internal Revenue Code of 1986, as amended from time to time, in administering the low income housing tax credit program.

1.1.2 "**Affordable Rent**" means the maximum Monthly Rent that may be charged to and paid by an Eligible Household for the Affordable Units, as required by the terms of this Agreement.

1.1.3 **"Affordable Rent Schedule"** means a rent schedule established as of the date of issuance of an occupancy permit (exclusive of tenant utility payments or security deposits) for the required number/percentage of the total number of units in the Project which are to be rented or available for rent to very low or low income tenants. Said Affordable Rent Schedule shall be established at the time of the issuance of the occupancy permit ("Initial Rent Schedule") and shall be created in accordance with the Orange County, California Primary Metropolitan Statistical Area ("PMSA") as published by the United States Department of Housing and Urban Development ("HUD"), adjusted for family size appropriate to the unit.

1.1.4 **"Affordable Units"** means ninety-two (92) units which shall be comprised of thirty (30) one (1) bedroom Units, forty-one (41) two (2) bedroom Units, and twenty-two (22) three (3) bedroom Units of which one (1) will be an Unrestricted Unit (i.e. one (1) manager's unit).

1.1.5 **"Agreement"** means this Density Bonus Housing Agreement.

1.1.6 **"Base Units"** means the fifty-one (51) Units that Developer would be authorized to develop on the Property without application of the State Density Bonus Law and City Housing Opportunity Ordinance density bonus.

1.1.7 **"City"** means the City of Santa Ana, California

1.1.8 **"City Council"** means the City Council of the City of Santa Ana.

1.1.9 **"City Attorney"** means the City Attorney for the City of Santa Ana.

1.1.10 **"City Manager"** means the City Manager for the City of Santa Ana.

1.1.11 **"City's Planning Commission"** means the Planning Commission for the City of Santa Ana.

1.1.12 **"Density Bonus Housing Agreement Term"** means the period during which this Agreement shall be in full force and effect, as provided for in Section 6.1 below.

1.1.13 **"Density Bonus Units"** means the forty-two (42) Units in addition to the Base Units that Developer shall develop pursuant to the density allowance in the State Density Bonus Law, the City Housing Opportunity Ordinance density bonus, and the terms and conditions of this Agreement, of which Developer would not be entitled to develop without providing the Affordable Units.

1.1.14 **"Developer"** means National Community Renaissance of California, and its permitted successors and assigns to all or any part of the Property.

1.1.15 **"Effective Date"** means the date the City Council of City approves this Agreement and from then on this Agreement shall be in full force and effect.

1.1.16 "**Eligible Household**" means a Household whose income does not exceed the qualifying limit for a "very low income tenant" or "lower income tenant" as defined herein, which means persons and families whose income does not exceed the qualifying limit for very low income or lower income households.

1.1.17 "**Household**" means all persons residing in a Unit.

1.1.18 "**Low Income Tenant**" means persons and families whose income does not exceed eighty percent (80%) area median income for the Orange County, California PMSA, adjusted for household size appropriate to the unit, as published by the California Tax Credit Allocation Committee.

1.1.19 "**Median Income**" means the Orange County, California area median income, adjusted for family size appropriate to the unit, as periodically published by the California Tax Credit Allocation Committee.

1.1.20 "**Monthly Rent**" means the total of monthly payments for (a) use and occupancy of each Affordable Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Developer which are required of all tenants, other than security deposits, application fees or credit check fees (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone or cable service, and (d) possessory interest taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Developer. In the event that certain utility charges are paid by the landlord rather than the tenant, no utility allowance shall be deducted from the rent for that type of utility charge.

1.1.21 "**Project**" means that certain residential development as more particularly described in Recital C and Section 2 of this Agreement.

1.1.22 "**Property**" means that certain real property more particularly described in the legal description in Exhibit A and improvements thereon.

1.1.23 "**State Density Bonus Law**" means Government Code sections 65915, et seq., as they exist on the Effective Date.

1.1.24 "**Unit**" means a residential dwelling unit within the Project to be constructed by Developer pursuant to this Agreement.

1.1.25 "**Unrestricted Units**" means the Units within the Project to be constructed by Developer to a Household without restriction (i.e. –one (1) manager's unit).

1.1.26 "**Very Low Income Tenant**" means persons and families whose income does not exceed fifty (50%) of the area median income for the Orange County, California PMSA, adjusted for household size, as published by the California Tax Credit Allocation Committee.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

1.2.1 **Exhibit A** – Legal Description of the Property

1.2.2 **Exhibit B** – Tenant Verification

1.2.3 **Exhibit C** – Resolution No. 2019-XX

2. DEVELOPMENT OF THE PROPERTY

2.1 Project. Developer shall develop, operate, and maintain the Property as a ninety-three (93) Unit affordable residential rental community, with ninety-two (92) Affordable Units and one (1) Unrestricted Unit.

2.2 Density Bonus. The Project shall have ninety-three (93) Units, to be rented, occupied, operated, and maintained pursuant to the terms and conditions of this Agreement. Developer understands and agrees that Developer is utilizing a thirty-five percent (35%) density bonus increase provided by the State Density Bonus Law (51 Base Units x 35% = 18 State Density Bonus Units) for a total of 69 units, as well as a thirty-five percent (35%) density bonus provided by the City's Housing Opportunity Ordinance (69 Units x 35% = 24 City Density Bonus Units). Developer shall not construct or develop, or otherwise claim a right to construct or develop, more than forty-two (42) State and/or City Density Bonus Units on the Property.

2.3 Development Concessions and Incentives. As set forth in the City entitlements, Developer petitioned for and was granted the following concessions and incentives as part of the approval of Density Bonus Agreement No. 2018-01 for the Project:

2.3.1 The parking requirements for the Project shall be reduced in accordance with Government Code Section 65915(p)(3)(A), such that the total of all parking spaces required for the Project shall not exceed 92 spaces.

2.3.2 The development standards for this Project shall be waived in accordance with Government Code Section 65915(e)(1), such that the Hybrid Courtyard Building Type shall be a permitted building type for the project.

2.3.3 The building setback requirements for the Project shall be reduced in accordance with Government Code Section 65915 (d)(1), such that the minimum required front yard setback shall be 0'-0" feet.

2.3.4 The maximum allowable encroachments into required setbacks for the Project shall be increased in accordance with Government Code Section 65915 (d)(1), such that the maximum allowable encroachment shall not exceed 6'-0" into required setbacks.

2.4 In exercising the rights granted to the developer under AB 744 the parking requirements for the Project shall be reduced in accordance with Government Code Section

65915(p)(3)(A), such that the total of all parking spaces required for the Project shall not exceed 92 spaces.

2.5 No Further Concessions or Incentives. Developer acknowledges and agrees that the waivers and incentives set forth in section 2.3 above fully satisfy any duty City may have under the Santa Ana Municipal Code, the Density Bonus Law, or any other law or regulation applicable to the Project, to provide any development incentive or to waive any building, zoning, or other requirement. By this Agreement, Developer releases any and all claims Developer may have against City in any way relating to or arising from City's obligation to waive requirements of or provide development incentives pursuant to any state, federal, or local law, rule, or regulation applicable to the Project.

2.6 Unrestricted Unit. The Project, for purposes of this Agreement, may have no more than one (1) Unrestricted Unit (i.e. –one (1) manager's unit) with unit sizes as may be determined by the Developer.

2.7 Affordable Units. The Project, for purposes of this Agreement, shall have no less than ninety-two (92) Units designated as Affordable Units pursuant to the terms and conditions of this Agreement. The Affordable Units shall be consistent with all City approvals, and shall be located throughout the Project.

2.8 Minimum Development Standards for Affordable Units. The Affordable Units shall be constructed with the same exterior appearance and interior features, fixtures, and amenities, and shall use the same type and quality of materials as provided for the Unrestricted Unit.

2.9 Permits and Processing; Compliance with Laws. Developer at its sole cost and expense shall secure or cause to be secured any and all permits that may be required by City or any other federal, state, or local governmental entity having or claiming jurisdiction over the Property or Project. Upon securing any and all permits, Developer shall carry out and perform the development, operation, and maintenance of the Project in conformity with all applicable federal, state, and local laws and regulations, and all conditions of approval issued by the City Council and City's Planning Commission for the Project. Any changes to the Project shall be reviewed by the City to determine compliance with this Agreement. If any changes to the Project shall materially alter the ability of Developer to comply with any terms of this Agreement in City's sole determination, then City shall have the option to declare this Agreement null and void in its sole discretion.

2.10 Relocation Prior to Development of Project. If relocation is required prior to the completion of development of the Project, Developer shall have the sole and exclusive responsibility for providing relocation assistance and paying all relocation costs as may be required to comply with applicable federal and state laws and regulations. In addition to any other indemnity provided by Developer under this Agreement, Developer shall indemnify, defend (with counsel of City's choosing and the consent of Developer, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Developer's consent), and hold harmless City and all of its officials, officers, employees, representatives, volunteers and agents from any and all

alleged or actual claims, causes of action, liabilities, and damages from any third party for relocation assistance, benefits and costs prior to the completion of the development of the Project.

2.11 Local Sourcing Plan. Developer agrees to make a good faith effort to encourage contractors and suppliers to hire and procure locally, to the extent that it is cost effective and does not delay the overall project development schedule. Prior to issuance of building permit, Developer shall develop and submit to the Community Development Agency (the "CDA") a local sourcing plan for the Project targeting, to the extent feasible, the hiring of qualified workers, construction contractors, or the purchasing of goods locally within the City of Santa Ana. The plan must be reviewed and approved by the CDA which if not granted or denied within five (5) Business Days, shall be deemed approved (with such approval not to be unreasonably withheld) and be implemented for the construction of the project prior to issuance of Building Permit.

2.12 Mechanic's Liens; Indemnification. Developer shall take all actions reasonably necessary to remove any future mechanic's liens or other similar liens (including design professional liens) against the Property or Project, or any part thereof, by reason of work, labor, services, or materials supplied or claimed to have been supplied to Developer or anyone holding the Property or Project, or any part thereof, through or under Developer. Prior to the recording of this Agreement (or memorandum thereof) pursuant to Section 4.1 below, Developer shall provide evidence from the Title Company of any new recordings against the Property or Project. City hereby reserves all rights to post notices of non-responsibility and any other notices as may be appropriate upon a filing of a mechanic's lien. In addition to any other indemnity provided by Developer under this Agreement, Developer shall indemnify, defend (with counsel of City's choosing and the consent of Developer, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Developer's consent), and hold harmless City and all of its officials, officers, employees, representatives, volunteers and agents from any and all alleged or actual claims, causes of action, liabilities, and damages from any third party by reason of a mechanic's lien or work, labor, services, or materials supplied or claimed to have been supplied to Developer or anyone holding the Property or Project, or any part thereof, through or under Developer.

3. AFFORDABILITY

3.1 Total Affordability Term. Each Affordable Unit shall be restricted to use and occupancy by an Eligible Household for a total period of no less than fifty-five (55) years ("Total Affordability Term"). The Total Affordability Term for an Affordable Unit shall commence on the date that the Affordable Unit receives all required occupancy permits from the City. By way of explanation of the foregoing two sentences, it is possible that the Total Affordability Period for one Affordable Unit will neither commence on the same date nor terminate on the same date as another Affordable Unit, and it is possible that the Total Affordability Terms for all Affordable Units will commence on different days and terminate on different days.

3.2 Memorializing Commencement of Total Affordability Term. Developer shall keep detailed records of the commencement date of the Total Affordability Term for each Affordable Unit. City shall have the right to review and verify said records to ensure that the commencement date specified by Developer for an Affordable Unit coincides with the date that the initial

Affordable Unit received all permits from City required for occupancy of the Unit. In the event that a conflict exists between the date specified by Developer for the commencement of the Total Affordability Term for an Affordable Unit and the date specified by City's issuance of all required permits for occupancy of the Unit, the date specified by City's issuance of all required permits for occupancy of the Unit shall control.

3.3 Levels of Affordability.

3.3.1 Very Low Income Tenants. Developer covenants that no less than seventy-five (75) Affordable Units in the Project shall at all times during the Density Bonus Housing Agreement Term be rented to, or held vacant and available for immediate occupancy by Very Low Income Tenants, at a rent that does not exceed thirty percent (30%) of fifty percent (50%) of the area median income, as adjusted for household size appropriate to the unit, including an allowance for utilities.

3.3.2 Low Income Tenants. Developer covenants that no less than seventeen (17) Affordable Units in the Project shall at all times during the Density Bonus Housing Agreement Term be rented to, or held vacant and available for immediate occupancy by Lower Income Tenants, at a rent that does not exceed thirty percent (30%) of sixty percent (60%) of the area median income, as adjusted for household size appropriate to the unit, including an allowance for utilities.

3.4 Affordable Rental Schedule. The Affordable Rental Schedule shall be determined by the regulatory agreements entered into between the Developer and the California Tax Credit Allocation Committee (CTCAC) and the California Debt Limit Allocation Committee (CDLAC) governing the project.

4. OWNERSHIP AND OPERATION OF THE PROJECT BY OWNER

4.1 Recording of Documents. No later than issuance of building permits for the Project, Developer and the City shall record or cause to be recorded in the Official Records for Orange County, California, an executed original of this Agreement. City shall cooperate with Developer in promptly executing in recordable form this Agreement. Upon the date of recording, the terms and conditions of this Agreement shall be binding upon and run with the Property and the Project. It is the express intent and agreement between the Parties that this Agreement shall remain binding and enforceable against the Property, the Project, and the Units to ensure compliance with the State Density Bonus Law, City Density Bonus Law, and the City Housing Opportunity Ordinance, and to ensure the continued supply of Affordable Units in the Project.

4.2 Rental of Units. Upon the completion of construction of the Project and receipt by Developer of all required permits for the occupancy of the Units, Developer shall rent or cause to be rented each Affordable Unit for the Total Affordability Term for such Affordable Unit in accordance with the terms and conditions set forth in this Agreement, which provide among other terms and conditions for the rental of each Affordable Unit at an Affordable Rent to an Eligible Household for the Total Affordability Term.

4.3 Location of Affordable Units. During the Density Bonus Housing Agreement Term, the Affordable Units shall be disbursed throughout the Project in accordance with the terms and conditions set forth in this Agreement.

4.4 Occupancy Levels. The number of persons permitted to occupy each Affordable Unit shall not exceed the occupancy permitted pursuant to the requirements of the United States Department of Housing and Urban Development. In the event that a household residing in an Affordable Unit exceeds the permitted number of persons, then that household shall be placed on the waiting list for the appropriate-sized unit and be eligible for transfer when that unit becomes available. If the household refuses to transfer to the appropriate-sized unit then the Owner will have grounds to terminate that household's lease.

4.5 Use of the Property. All uses conducted on the Property, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to all applicable provisions of the Santa Ana Municipal Code and other applicable federal, state, and local laws, rules, and regulations. The Project shall at all times during the term of this Agreement be used as an apartment complex and none of the Affordable Units in the Project shall at any time be utilized on a transient basis, nor shall the Property or any portion thereof ever be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium or rest home, or be converted to condominium ownership. All of the community facilities and any social programs provided to the Project's residents shall be available on an equal, nondiscriminatory basis to residents of all Affordable Units at the Project.

4.6 Maintenance. Owner shall, at all times during the term of this Agreement, cause the Property and the Project to be maintained in a decent, safe and sanitary manner, regardless of cause of the disrepair. Owner shall be fully and solely responsible for costs of maintenance, repair, addition and improvements. City, and any of its employees, agents, contractors or designees shall have the right to enter upon the Property at reasonable times and in a reasonable manner to inspect the Project. If at any time Developer fails to maintain the Project or the Property in accordance with this Agreement and such condition is not corrected within five (5) days after written notice from City with respect to debris and waste material, or thirty (30) days after written notice from City with respect to general maintenance, landscaping and building improvements, then City, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable portion of the Project or the Property and perform all acts and work necessary to protect, maintain, and preserve the Project and the Property, and to attach a lien upon the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by City and/or costs of such cure, including a reasonable administrative charge, which amount shall be promptly paid by Developer to City upon demand.

4.6.1 Property Maintenance Agreement. Subject to review and applicability by the Planning and Building Agency (the "PBA"), the CDA, the Public Works Agency (the "PWA"), and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained, Developer (and the leasehold interest owner of the property upon which the authorized use and/or authorized improvements are located if different from the applicant) shall execute a maintenance agreement with the City of Santa Ana prior to occupancy which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City

Attorney. The maintenance agreement shall contain covenants, conditions and restrictions relating to the following:

(a) Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation measure; adherence to approved project phasing etc.);

(b) Compliance with ongoing operational conditions, requirement and restrictions as applicable, the proper storage and disposal of trash and debris, and/or restrictions on certain uses;

(c) Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;

(d) Ongoing maintenance, repair and upkeep of the Property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris about the Property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);

(e) If Developer and the leasehold interest owner of the property are different (e.g., if the applicant is a tenant or licensee of the property or any portion thereof), both the applicant and the leasehold interest owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its terms;

(f) The maintenance agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties and obligations and responsibilities set forth under the maintenance agreement;

(g) The maintenance agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The maintenance agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City; and,

(h) The execution and recordation of the maintenance agreement shall be a condition precedent to the issuance of the Certification of Occupancy.

4.7 Marketing Program. Each Affordable Unit shall be leased to Eligible Households selected by Developer who meet all of the requirements provided herein. Prior to Certificate of Occupancy, Developer shall prepare and obtain City's approval, which approval shall not be unreasonably withheld, of a marketing program for the leasing of the Affordable Units at the Project ("Marketing Program"). The leasing of the Housing Units shall thereafter be marketed in accordance with the Marketing Program as the same may be amended from time to time with City's prior written approval, which approval shall not unreasonably be withheld. Upon request, Developer shall provide City with periodic reports with respect to the leasing of the Affordable Units.

4.8 Management Plan. Prior to Certificate of Occupancy, Developer shall submit for the reasonable approval of City a "Management Plan" which sets forth in detail Developer's property management duties, a tenant selection process in accordance with this Agreement, a security system and crime prevention program, the procedures for the collection of rent, the procedures for eviction of tenants, the rules and regulations for the Property and manner of enforcement, a standard lease form, an operating budget, the identity and emergency contact information of the professional property management company to be contracted with to provide onsite property management services at the Property ("Property Manager"), and other matters relevant to the management of the Property. The Management Plan shall require Developer to adhere to a fair lease and grievance procedure. The management of the Property shall be in compliance with the Management Plan as approved by City.

If City determines that the performance of the Property Manager is deficient based upon the standards set forth in the approved Management Plan and in this Agreement, City shall provide written notice to Developer of such deficiencies and Developer shall use its best efforts to correct such deficiencies. In the event that such deficiencies have not been cured within thirty (30) days, or, if cure is not reasonably possible within 30 days, then unless actions to commence a cure are taken within 30 days and continued thereafter with diligence, City shall have the right to require Developer to immediately remove and replace the Property Manager with another property manager or property management company which is reasonably acceptable to the City Manager, which is not related to or affiliated with Developer, and which has not less than five (5) years experience in property management, including significant experience managing housing facilities of the size, quality and scope of the Project.

4.9 Selection of Tenants.

4.9.1 Developer shall be responsible for the selection of tenants for the Affordable Units in compliance with lawful and reasonable criteria and the requirements of this Agreement. Developer agrees that all of Affordable Units will be available to qualifying residents.

4.9.2 Local preference for Santa Ana residents and workers in tenant selection shall be a requirement of the Project. Subject to applicable laws and regulations governing nondiscrimination and preferences in housing occupancy required by the State of California, the

Developer shall give preference in leasing units to households that live and/or work in the City of Santa Ana or who have an active Housing Choice Voucher issued by the Housing Authority of the City of Santa Ana or any other Public Housing Authority.

4.9.3 Prior to the rental or lease of an Affordable Unit to a tenant(s), Developer shall require the tenant(s) to execute a written lease and to complete a Tenant Income Verification Form (in substantially the form attached hereto as Exhibit B) certifying that the tenant(s) occupying the Affordable Unit is/are an Eligible Household and otherwise meet(s) the eligibility requirements established for the Affordable Unit. Developer shall verify the income of the tenant(s) as set forth herein.

4.10 Income Verification and Certification. Owner covenants to City that it will at all times abide by all specific compliance standards set forth in the regulatory agreements entered into between the Owner and the California Tax Credit Allocation Committee (CTCAC) and the California Debt Limit Allocation Committee (CDLAC), including but not limited to such standards as relate to the number of very-low and low income affordable units by number of bedrooms, standards for qualifying household incomes and other qualifying criteria. Owner shall provide City with a certified copy of each of the recorded Regulatory Agreements applicable to the Project. The compliance standards set forth in said Regulatory Agreements are hereby incorporated by reference as fully set forth herein. In the event of a conflict between this Agreement and the Regulatory Agreements: (1) the more stringent requirement shall prevail if such interpretation eliminates the relevant conflict; or (2) the Regulatory Agreements, or any of them, shall prevail.

Developer agrees to make a good faith effort to verify that the income and asset statement provided by an applicant in an income certification is accurate by taking at least one of the following steps as a part of the verification process: (1) obtain three months consecutive pay stubs for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain an income verification form from the applicant's current employer, (4) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (5) if the applicant is unemployed and has no such tax return, obtain another form of independent verification.

4.11 Monitoring and Recordkeeping. Throughout the Term of this Agreement, Developer shall annually complete and submit to City a Certification of Continuing Program Compliance in the form provided by City. Owner agrees to pay a reasonable fee, as set by City resolution, for the purpose of paying the actual costs associated with the City's obligation to monitor Owner's compliance with the affordability restrictions contained in this Agreement related to the Density Bonus units, not to exceed monitoring costs for up to 82 units. The City shall first start with the review of all reports and monitoring prepared by Owner for the California Tax Credit Allocation Committee (CTCAC) and the California Debt Limit Allocation Committee (CDLAC) each year. Representatives of City shall be entitled to enter the Property if necessary after review of above documentation, upon at least forty-eight (48) hour notice, to monitor compliance with this Agreement, and shall be entitled to inspect the records of the Project and to conduct an independent audit or inspection of such records at the Property, or, if unavailable at the Property, at a location within the City that is reasonably acceptable to the City. Developer agrees to

cooperate with City in making the Property and the records of the Project available for such inspection or audit. Developer agrees to maintain each record of the Project for no less than five (5) years after creation of each such record.

Developer shall allow the City to conduct annual inspections of each of the Affordable Units on the Property after the date of construction completion, with reasonable notice. Developer shall cure any defects or deficiencies found by the City while conducting such inspections within ten (10) Business Days of written notice thereof, or such longer period as is reasonable within the sole discretion of the City.

4.12 Application and Financial Preparedness. Developer shall submit for review and approval by the CDA and the PBA, a booklet completed by the Developer at least 12 months prior to the initial leasing of the units. This booklet can be made available at the Property Manager's office or at another location agreed upon by the Owner, the CDA, and the PBA. The purpose of this booklet is to inform interested persons regarding minimum application and eligibility requirements and to assist interested persons with application and financial preparedness and eligibility for residency at the Project at the initial leasing of the units. Developer shall also work with CDA to hold a minimum of two workshops to be coordinated by the Developer at least 12 months prior to the initial leasing of the units.

4.13 Onsite Supportive Services, Programs and Amenities. Throughout the Term of this Agreement, and to the extent such can be coordinated with and largely supplied by philanthropic and other social welfare providers, Developer shall provide residents of the Project access to discounted or no-cost onsite supportive services, programming, and amenities that promote child development, youth development, senior independent living, and economic mobility and include but are not limited to: health and wellness services, transportation services, social activities, and physical or recreational amenities.

4.14 Alternative Transportation and Energy Source, Resource Conservation, and LEED Certification. While not a condition of the project's Density Bonus, in recognition of the City's desire to optimize the energy efficiency of the project, Developer agrees to consult with the project design team, a CABEC certified 2016 Certified Energy Analyst, a LEED AP Homes (low-rise and mid-rise), LEED AP BD+C (high rise), National Green Building Standard (NGBS) Green Verifier, or GreenPoint Rater (*one person may meet both of these latter qualifications*) early in the project design process to evaluate a building energy model analysis and identify and consider energy efficiency or generation measures beyond those required by the TCAC minimum construction standards. Prior to the meeting, the energy analyst shall complete an initial energy model based on either current T24 standards or, if the project is eligible, the California Utility Allowance Calculator using best available information on the project. To the extent financially feasible for the project, Developer agrees to incorporate and optimize energy efficient building materials, methods, and amenities.

4.15 Reserved.

4.16 Onsite Property Manager. The Project shall to have 24-hour on-site Property Management services and personnel. Up-to-date 24-hour contact information for the on-site personnel shall be provided to the following City agencies on an ongoing basis:

- (a) Police Department
- (b) Fire Department
- (c) Planning and Building Agency
- (d) Community Development Agency

4.17 Emergency Evacuation Plan. Developer shall submit and obtain approval of an Emergency Evacuation Plan (the EEP) from City Police and Fire Protection agencies prior to issuance of a Certificate of Occupancy. Up-to-date 24-hour emergency contact information for the on-site personnel shall be provided to the City on an ongoing basis and the approved EEP shall be kept onsite and also be submitted to the following City Agencies:

- (a) Police Department
- (b) Fire Department
- (c) Planning and Building Agency
- (d) Community Development Agency

4.18 Crime Free Housing. Developer shall work with City Staff to develop a crime free housing policy, procedure, and design plan (the "CFH Plan"). Developer shall submit and obtain approval from the PBA the CFH Plan meeting the requirements of this Subsection 4.18 prior to issuance of the Certificate of Occupancy. The approved CFH Plan shall be implemented and administered by Property Management.

4.19 Onsite Parking Management Plan. Developer shall provide onsite parking for residents and visitors of the Project and actively monitor the parking demand of the Project site. Developer shall continually monitor and take appropriate measures to manage the parking demand of the Project site to mitigate the use of offsite parking spaces on private or public properties and/or right-of-way. Prior to issuance of the Certificate of Occupancy, Developer shall submit and obtain approval from the PBA a Parking Management Plan (the "PMP") meeting the requirements of this Subsection 4.21. The approved PMP shall be adhered to and be enforced by the Project at all times.

5. [INTENTIONALLY RESERVED]

6. TERM OF THIS AGREEMENT

6.1 Term. The term of this Agreement ("Density Bonus Housing Agreement Term") shall commence on the Effective Date and shall continue until the date that is fifty-five (55) years after the City issues the last certificate of occupancy for the Project.

7. DEFAULT AND TERMINATION; INDEMNIFICATION

7.1 Default. Subject to the Force Majeure provisions of Section 9.14 of this Agreement, failure or delay by any Party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other Party

specifying the default (or such other period specifically provided herein), constitutes a default under this Agreement; provided, however, if such default is of the nature requiring more than thirty (30) days to cure, the defaulting Party shall avoid default hereunder by commencing to cure within such thirty (30) day period, and thereafter diligently pursuing such cure to completion within an additional sixty (60) days following the conclusion of such thirty (30) day period (for a total of ninety (90) days). Except as required to protect against further damages, the injured Party may not institute proceedings against the Party in default until the time for cure has expired. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

7.2 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.3 Indemnification. In addition to any other indemnity specifically provided in this Agreement, Developer agrees to defend (with counsel of City's choosing and the consent of Developer, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Developer's consent) indemnify and hold harmless City and its respective officers, officials, agents, employees, representatives, and volunteers (collectively, "Indemnitees") from and against any loss, liability, claim, or judgment arising from any act or omission of Developer in connection with its obligations under this Agreement, except to the extent caused by the active negligence or willful misconduct of Indemnitees.

8. ASSIGNMENT; COVENANTS RUN WITH THE LAND

8.1 Assignment by Developer.

8.1.1 Prohibited Transfers or Assignments. Except as authorized in Section 8.1.2 below, Developer shall not sell, transfer, or assign the Property or Project in whole or in part, or transfer or assign Developer's rights and obligations in this Agreement, without City's prior written approval, which shall not be unreasonably withheld. Except for Permitted Transfers set forth in Section 8.1.2 below, Developer shall: (i) notify City in writing of the sale, transfer, or assignment of all or any portion of the Property, and (ii) deliver to City an assignment and assumption agreement (or other agreement) in a form approved by City and executed by Developer and its transferee/assignee pursuant to which Developer's transferee/assignee assumes all of Developer's covenants and obligations set forth herein with respect to the Property or the portion thereof so transferred. Any request for transfer or assignment of the Agreement by Developer shall require the payment of fees or a deposit to compensate the City for approximate expenses incurred by Developer to City, as applicable, for the City's review of the request.

8.1.2 Permitted Transfer. Notwithstanding the provisions of Section 8.1.1 above, the following actions shall constitute permitted transfers of Developer's interest in the Property or Project or Developer's rights and obligations under this Agreement, in whole or in part, without City's prior written approval (each a "**Permitted Transfer**" and collectively, the "**Permitted Transfers**"; "**Transfer**" shall include sale, transfer,

assignment or, as indicated, grant of any lesser interest or grant of an encumbrance): (a) transfer of all or any portion of Developer's ground leasehold interest in the Property, or Developer's interest hereunder, to a limited partnership the general partner of which is Developer, a nonprofit entity affiliated with Developer, or a limited liability company of which Developer or a nonprofit entity affiliated with Developer is the manager, and such limited partnership has been formed to be an entity to receive capital contributions resulting from the syndication of federal low-income tax credits which may be awarded to Developer, the Project or to such limited partnership (such limited partnership is referred to herein as a **"Tax Credit Limited Partnership"**); (b) the granting of any temporary or permanent easements, rights, licenses or rights-of-way which are necessary to facilitate construction of the improvements constituting the Project, providing only that the grant of such easements, rights, licenses or rights-of-way must be in furtherance of the development of the Project; (c) recordation of a memorandum of ground lease, and, as may be applicable, one or more reciprocal easement agreements between Developer and the owner of fee title to the Property relating to common use and maintenance of the Property or other similar matters; (d) the pledge of the ground leasehold interest of Developer or of a successor Tax Credit Limited Partnership as security for financing necessary to acquire and/or construct and/or operate the affordable housing project on the Property including necessary construction and/or permanent loans; (e) a Transfer only to a person or entity that as of the date of Transfer holds an equity interest in the entity whose equity interest is being transferred; (f) a collateral pledge of the equity interest of the Tax Credit Limited Partnership to a lender providing construction and/or permanent loans for the Project; (g) issuance of previously unissued or new equity interests in a Tax Credit Limited Partnership that increase the amount of outstanding equity interests therein by less than 10%; (h) a Transfer by the tax credit investor of its limited partnership interest in a Tax Credit Limited Partnership to a syndicated equity fund for the purposes of syndication of the tax credit equity; (i) removal of the general partner of the Tax Credit Limited Partnership by the tax credit investor in accordance with the Partnership Agreement of the Tax Credit Limited Partnership and replacement of such general partner with a general partner which is the tax credit investor or an affiliated entity or, if different, with a general partner reasonably approved by the City, approval of which shall not be unreasonably withheld; (j) the grant and exercise of an option and/or right of first refusal from the tax credit investor to the general partner of the Tax Credit Limited Partnership in accordance with the Partnership Agreement upon the anticipated exit of the tax credit investor from the Tax Credit Limited Partnership at or around the expiration of the tax credit compliance period; or (k) a Transfer or sale of the Property and Project at approximately the end of the tax credit compliance period established by virtue of the award of tax credits to the Tax Credit Limited Partnership, the Developer or for the Project, or at the end of a later tax credit compliance period arising from subsequent issuance of tax credits, in which or which is: (i) not a sale to an unrelated or unaffiliated third party, but is a Transfer or sale to a new limited partnership satisfying the requirements of subparagraph (a) above or is Developer or a nonprofit entity affiliated with Developer, (ii) the purchase or Transfer as funded in part by an award of new tax credits or tax exempt bonds or other similar financing source, (iii) the Transfer or purchase occurs in order to buy out the equity interest of the tax credit investor or its successor in interest in the Tax Credit Limited Partnership as well as to generate funding

to renovate, repair and/or reposition the Property and the Project, (iv) all affordability restrictions in favor of the City which are contained in this Agreement remain in senior position to such new financing and remain unchanged, (v) such Transfer/sale will reasonably yield to the seller at closing only enough cash proceeds to pay off senior obligations to institutional lenders and to pay the exit cost of the tax credit investor and any additional sale proceeds to the seller thereunder from such Transfer/sale would be evidenced by a residual receipts promissory note in such principle amount, bearing interest at a rate not-to-exceed 3% simple interest per annum, held by the selling entity or general partner of the selling entity which residual receipts promissory note is secured by a deed of trust on the leasehold interest in the Property (which deed of trust will also be treated as a permitted encumbrance under this Agreement) but which would be junior to the deeds of trust securing a new loan from an institutional lender as well as to the deeds of trust securing loan obligations assumed by such new owner.

8.1.3 Sale of Property/Change of Use: Developer agrees and declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, operated, sold, and approved subject to all obligations set forth or incorporated in this Agreement, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property and the Project. All of the obligations set forth or incorporated in this Agreement shall constitute covenants which run with the land and shall be binding on Developer and its successors and assigns, and all parties having or acquiring any right, title or interest in, or to any part of the Property or Project. Developer further understands and agrees that the Density Bonus permit approvals received for this Project have been made on the condition that Developer and all subsequent owners, or other successors and assigns of the Property and/or Project lease and rent the Units in accordance with the terms and conditions stipulated in Sections 4, 5 and 6 of this Agreement for a term of 55 consecutive years commencing upon the date that the Project is first occupied.

8.1.4 Subsequent Assignment. As used in this Agreement, the term "Developer" shall be deemed to include any such transferee or assignee after the date such sale, transfer, or assignment occurs in compliance with this Agreement.

8.1.5 Unpermitted Assignments Void. Any sale, transfer, or assignment made in violation of this Agreement shall be null and void, and City shall have the right to pursue any right or remedy at law or in equity to enforce the provisions of the restriction against unpermitted sales, transfers, or assignments.

8.2 Covenants Run with the Land. The Property shall be held, sold, conveyed, hypothecated, encumbered, used, occupied and improved subject to the covenants, conditions, and restrictions set forth herein. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth in this Agreement shall run with the Property and shall be binding upon Developer and all persons having any right, title or interest in the Property, or any part thereof, their heirs, and successive owners and assigns, shall inure to the benefit of City and its successors and assigns, and may be enforced by City and its successors and assigns. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and its successors and assigns, and the

parties hereto expressly agree that this Agreement and the covenants herein shall run in favor of City, without regard to whether City is or remains an owner of any land or interest therein to which such covenants relate. However, all such covenants and restrictions shall be deemed to run in favor of all real property owned by City which real property shall be deemed the benefited property of such covenants and this Agreement shall create equitable servitudes and covenants appurtenant to all real property owned by City and running with the Property in accordance with the provisions of Civil Code Section 1468. City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. Developer hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the land and that the Developer's interest in the Property is rendered less valuable thereby. Developer hereby further declares its understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Property by the citizens of City and by furthering the health, safety, and welfare of the residents of City.

9. MISCELLANEOUS

9.1 Entire Agreement. This Agreement and all of its exhibits and attachments set forth and contain the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.2 Amendment. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance approved by the City Council and signed on behalf of each Party. Any requested alteration, change or modification of the Agreement by Developer shall require the payment of fees or deposit by Developer to City, as applicable, for the City's review of the request. Each alteration, change, or modification to this Agreement shall be recorded against the Property in the Official Records of Orange County, California.

9.3 Notices.

9.3.1 Delivery. As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder. All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) two (2) days after deposit in the United States mail in a sealed envelope, first class mail and postage prepaid, and addressed to the recipient named below; or (iv) one (1) day after deposit with a known and reliable next-day document delivery service (such as Federal Express), charges

prepaid and delivery scheduled next-day to the recipient named below, provided that the sending party receives a confirmation of delivery from the delivery service provider; or (v) the first business day following the date of transmittal of any facsimile and/or electronic transmission, provided confirmation of successful facsimile transmittal is retained by the sending Party or the sending Party does not receive notice that an electronic transmission could not be delivered. All notices shall be addressed as follows:

If to City: City of Santa Ana
 Community Development Agency
 20 Civic Center Plaza (M-26)
 P.O. Box 1988
 Santa Ana, California 92702
 Attention: Housing Manager

With a copy to: Office of the City Attorney
 City of Santa Ana
 20 Civic Center Plaza, 7th Floor (M-29)
 Santa Ana, California 92702

If to Developer: National Community Renaissance of California
 9421 Haven Avenue
 Rancho Cucamonga, California 91730

Upon request, a Party Will confirm data for facsimile and electronic transmission. Counsel for a Party can give notice with the same effect as if the notice was given by a Party.

9.3.2 Change of Address. Either Party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

9.4 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.

9.5 Interpretation and Governing Law. This Agreement and any dispute hereunder shall be governed and interpreted in accordance with the laws of the State of California without regard to conflict of law principles. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

9.6 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.7 Singular and Plural. As used herein, the singular of any word includes the plural, and vice versa, as context so dictates. Masculine, feminine, and neuter forms of any word include the other as context so dictates.

9.8 Joint and Several Obligations. If at any time during the term of this Agreement the Property and/or Project is owned, in whole or in part, by more than one Developer, all obligations of such Developer under this Agreement shall be joint and several, and the default of any such Developer shall be the default of all such Developers.

9.9 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.10 Computation of Days. Unless otherwise specified in this Agreement or any Exhibit attached hereto, use of the term "days" shall mean calendar days. For purposes of this Agreement and all Exhibits attached hereto, "business days" shall mean every day of the week except Saturdays, Sundays, official State holidays as recognized in Government Code Section 19853(a) or successor statute, and any days in which Santa Ana City Hall is closed for business.

9.11 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

9.12 Non-Discrimination. Except as necessary to comply with the provisions of this Agreement and of recorded regulatory agreements on the Project, in performing its obligations under this Agreement, Developer shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other related activities. Developer affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

9.13 Third Party Beneficiaries. No person or entity, other than City and Developer shall have any right of action based upon any provision of this Agreement.

9.14 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the Party's control (including the Party's employment force), court actions (such as restraining orders or injunctions), or other causes beyond the Party's control, including delays by any governmental entity (although the City may not benefit from this provision for a delay that results from City's failure to perform its obligations under this Agreement), or an insurance company of either party. If any such events shall occur, the term of this Agreement and the time for performance by either Party of any of its obligations hereunder may be extended by the written agreement of the Parties for the period of time that such events prevented such performance.

9.15 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefited thereby of the covenants to be performed hereunder by such benefited Party.

9.16 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all permitted successors in interest to the Parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and (c) is binding upon each Party and each successor in interest approved pursuant to this Agreement during ownership of the Property or any portion thereof.

9.17 Counterparts. This Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

9.18 Jurisdiction and Venue. Any action at law or in equity under this Agreement or brought by a Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

9.19 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property and the developer of such property.

9.20 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. City hereby authorizes City Manager to take such other actions and negotiate and execute any additional agreements as may be necessary or proper to fulfill the City's obligations under this Agreement. The City Manager may delegate her or his powers and duties under this Agreement to an authorized management level employee of the City.

9.21 Estoppel Certificate. Within ten (10) business days following a written request by any of the Parties, the other Party shall execute and deliver to the requesting Party a statement

certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding Party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification, except as may be represented by the requesting Party, and that there are no uncured defaults in the performance of the requesting Party, except as may be represented by the requesting Party.

9.22 No Subordination. City's approval of the necessary land use entitlements that authorize Developer to develop, operate, and maintain the Project was based upon Developer's obligation to provide the Affordable Units pursuant to the State Density Bonus Law, City Density Bonus Law, City Housing Opportunity Ordinance, and the terms and conditions of this Agreement. For the Term of the Density Bonus Housing Agreement, this Agreement shall have priority over any and all mortgages, deeds of trust, and other similar forms of secured financing recorded against the Property or any portion thereof. Developer expressly understands and acknowledges that state law requires preservation of affordability covenants in connection with the approval of this density bonus project.

9.23 Attorneys' Fees and Costs. If either Party to this Agreement commences an action against the other Party to this Agreement arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the losing Party.

9.24 Authority to Execute. The person or persons executing this Agreement on behalf of each Party warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind the Party to the performance of its obligations hereunder.

{Signatures on following page}

IN WITNESS WHEREOF, the parties hereto have caused this Density Bonus Housing Agreement to be executed on the date set forth at the beginning of this Agreement.

ATTEST:

CITY OF SANTA ANA

Maria D. Huizar
Clerk of the Council

Raul Godinez II
City Manager

APPROVED AS TO FORM

Sonia R. Carvalho
City Attorney

By: Ryan O. Hodge
Assistant City Attorney

RECOMMENDED FOR APPROVAL:

Steven A. Mendoza
Executive Director
Community Development Agency

**NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, A CALIFORNIA
NONPROFIT PUBLIC BENEFIT CORPORATION**

By: (name) (title)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SANTA ANA IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

ALL THOSE PORTIONS OF LOTS 4 AND 5 OF THE THOMAS ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER LINE INTERSECTION OF STAFFORD STREET AND FRENCH STREET AS SHOWN ON A MAP OF THE FRUIT ADDITION TO SANTA ANA EAST, IN THE CITY OF SANTA ANA, RECORDED IN BOOK 5, PAGE 186, MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA;

THENCE ALONG SAID CENTER LINE OF FRENCH STREET SOUTH $00^{\circ} 15' 06''$ WEST A DISTANCE OF 99.95 FEET;

THENCE NORTH $89^{\circ} 44' 54''$ WEST A DISTANCE OF 30.00 FEET TO THE INTERSECTION OF THE WEST LINE OF FRENCH STREET WITH A LINE PARALLEL WITH AND DISTANT 15.00 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID LOT 5, BEING THE TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH $89^{\circ} 44' 54''$ WEST A DISTANCE OF 91.29 FEET;

THENCE NORTH $63^{\circ} 48' 21''$ EAST A DISTANCE OF 61.60 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE $116^{\circ} 26' 45''$ AN ARC DISTANCE OF 50.81 FEET TO A TANGENT LINE, BEING SAID WEST LINE OF FRENCH STREET;

THENCE ALONG SAID WEST LINE, SOUTH $00^{\circ} 15' 06''$ WEST, A DISTANCE OF 5.05 FEET TO THE TO THETRUE POINT OF BEGINNING.

PARCEL B:

THE SOUTH 35 FEET OF LOT 5 AND THE NORTH 20 FEET OF LOT 8 OF THE THOMAS ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE,

STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF SAID LOT 5 DESCRIBED IN THE DEED TO THE CITY OF SANTA ANA, A MUNICIPAL CORPORATION, RECORDED FEBRUARY 25, 1974 IN BOOK 11081, PAGE 466 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL C:

THE SOUTH 30 FEET OF LOT 8 AND THE NORTH 20 FEET OF LOT 9 OF THOMAS' ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

PARCEL D:

THE NORTH 20 FEET OF LOT TWELVE AND THE SOUTH 30 FEET OF LOT 9 OF THE THOMAS ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

PARCEL E:

LOT ELEVEN AND THE SOUTH 14 FEET OF LOT TEN OF THE THOMAS ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

PARCEL F:

THOSE PORTIONS OF LOTS 12 AND 13 OF THOMAS' ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY LINE OF SAID LOT 13, DISTANT THEREON 15 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 13,

AND RUNNING THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID LOTS 13 AND 12, A DISTANCE OF 65 FEET;

THENCE WESTERLY, PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 12, 125 FEET TO THE WESTERLY LINE OF SAID LOT 12;

THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID LOTS 12 AND 13, 65 FEET;

THENCE EASTERLY 125 FEET TO THE POINT OF BEGINNING.

PARCEL G:

BEGINNING AT A POINT 85 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 19 OF THOMAS' ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA;

THENCE NORTH 55 FEET;

THENCE WEST 125 FEET;

THENCE SOUTH 55 FEET;

THENCE EAST 125 FEET TO THE POINT OF BEGINNING, BEING THE SOUTH 15 FEET OF LOT 13, THE NORTH 40 FEET OF LOTS 18 AND 19 AND THE NORTH 40 FEET OF THE EAST ONE-HALF OF LOT 17 OF SAID ADDITION.

PARCEL H:

LOTS 14, 15, 16 AND 17 AND THE SOUTH 85 FEET OF LOTS 18 AND 19 OF THOMAS' ADDITION TO SANTA ANA, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19, PAGE 17 OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THE NORTH 40 FEET OF THE EAST 25 FEET OF SAID LOT 17

APN(s): 398-236-03, 398-236-04

EXHIBIT B

TENANT VERIFICATION

EXHIBIT C

RESOLUTION NO. 2019-XX

EXHIBIT 11

EXHIBIT 11

The Legacy Square Project Initial Study and Mitigated Negative Declaration (IS/MND) and technical appendices may be accessed at:

Santa Ana City Hall Planning Counter, First Floor
20 Civic Center Plaza
Santa Ana, CA 92701

or

Santa Ana Main Library
26 Civic Center Plaza
Santa Ana, CA 92701

or

<https://www.santa-ana.org/pb/planning-division/major-planning-projects-and-documents/609-n-spurgeon-st-legacy-square>