



REGULAR MEETING AGENDA

Date: 8/8/2018
Time: 6:30 p.m.
City Hall – “Downtown” Conference Room, 1st Floor
701 Laurel St., Menlo Park, CA 94025

A. Call To Order

B. Roll Call

C. Public Comment

Under “Public Comment,” the public may address the Commission on any subject not listed on the agenda. Each speaker may address the Commission once under Public Comment for a limit of three minutes. The Commission cannot act on items not listed on the agenda and, therefore, the Commission cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

D. Regular Business

- D1. Approve minutes for the Housing Commission meeting of July 11, 2018 ([Attachment](#))
- D2. Consider recommending approval of the below market rate agreement term sheet with Florence Lane Ventures, LLC, for the property at 975 Florence Lane ([Staff Report #18-015-HC](#))
- D3. Review and consider recommending the City Council adopt an ordinance establishing tenant relocation assistance ([Staff Report #18-016-HC](#))
- D4. Update on the release of the 2018 Notice of Funding Availability
- D5. Discuss the Housing Commission quarterly update to the City Council
- D6. Discuss and recommend future agenda items

E. Reports and Announcements

- E1. Subcommittee reports (10 minutes):
 - Anti-Displacement Subcommittee (Grove/Horst/Merriman)
 - Below Market Rate Housing Guidelines Subcommittee (Dodick/Grove)
 - Housing Policy Subcommittee (McPherson/Merriman/Tate)
 - Marketing Subcommittee (McGraw-Scherer/Horst)
 - Notice of Funding Availability Subcommittee (McGraw-Scherer)
- E2. Commissioner reports
- E3. Staff updates and announcements

F. Adjournment

At every Regular Meeting of the Commission, in addition to the Public Comment period where the public shall have the right to address the Commission on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during the Commission's consideration of the item.

At every Special Meeting of the Commission, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during consideration of the item.

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REGULAR MEETING MINUTES - DRAFT

Date: 7/11/2018
Time: 6:30 p.m.
City Hall – “Downtown” Conference Room
701 Laurel St., Menlo Park, CA 94025

A. Vice Chair Merriman called the meeting to order at 6:30 p.m.

B. Roll Call

Present: Nevada Merriman, Julianna Dodick, Karen Grove, Rachel Horst, Wendy McPherson, Michele Tate
Absent: Meg McGraw-Scherer
Staff: Community Development Director Mark Muenzer, City Attorney Bill McClure, Senior Planner Corinna Sandmeier, Management Analyst II Mike Noce

C. Public Comment

No public comments were received.

D. Regular Business

D3. Review and recommend the City Council adopt an ordinance establishing tenant relocation assistance (Staff Report #18-014-HC)

Vice Chair Merriman moved Item D3 prior to D1 at the request of staff.

Staff Noce introduced the item and City Attorney McClure was present to answer questions.

- Courtney Pal spoke in support of tenant relocation assistance and other tenant protections.
- Evelyn Stivers, Housing Leadership Council of San Mateo County, spoke in support of tenant relocation assistance.

By general consensus, the Housing Commission requested staff make changes and return with the updated draft ordinance at the August 8, 2018, regular Housing Commission meeting. Requested updates included:

- a) Draft the ordinance as an urgency ordinance
- b) Modify household eligibility to be include those where more than 30 percent of the household income is required to pay either the market rate rent or the proposed new rent
- c) Define significant rent increase as any rent increase, or multiple rent increases that cumulatively raise the rent during a 12-month period, to more than the previous year's consumer price index plus five percent
- d) Define residential property to include any housing unit offered for rent or lease, including single-family residences
- e) Include one month additional assistance for special circumstance tenants
- f) Include a 60-day rental subscription service

- D2. Review and provide feedback on potential amendments to the El Camino Real/Downtown Specific Plan related to housing (Staff Report #18-013-HC)

Vice Chair Merriman moved Item D2 after Item D3 at the request of Commissioner Tate.

Staff Sandmeier introduced the item.

- Courtney Pal spoke about the need for increased density and additional housing in the El Camino Real/Downtown Specific Plan area.
- Evelyn Stivers spoke about increasing the use of public land for more affordable housing projects in particular family oriented housing development.

By general consensus, the Housing Commission collectively made several recommendations to staff, including:

- a) Increase the residential unit density, similar to that in General Plan Update for the M-2 area
- b) Reduce the parking requirements in proximity to public transit
- c) Increase building height limits
- d) Provide for additional affordable housing, especially on city-owned property
- e) Provide for designated workforce housing
- f) Expand the El Camino Real/Downtown Specific Plan area boundaries

Commissioner Tate left the meeting at 8:28 p.m.

- D1. Approve the minutes for the June 13, 2018, Housing Commission meeting (Attachment)

ACTION: Motion and second (Grove/Dodick) to approve the June 13, 2018, Housing Commission meeting minutes, passes (5-0-2; McGraw-Scherer and Tate absent).

- D4. Review and approve 2018-19 Housing Commission subcommittee list and subcommittee assignments (Attachment)

ACTION: Motion and second (Merriman/Grove) to approve the Housing Commission subcommittee list and subcommittee assignments with the addition of Merriman to the Anti-Displacement subcommittee, passes (5-0-2; McGraw-Scherer and Tate absent).

E. Reports and Announcements

- E1. Subcommittee reports (10 minutes):

No reports

- E2. Commissioner reports

Horst reported she has been in contact with a downtown Menlo Park business owner who shared their challenges in hiring and retaining employees due to the Bay Area housing crisis.

Vice Chair Merriman asked for an update on planning a joint Planning and Housing Commissions meeting.

Vice Chair Merriman asked staff to consider studying Menlo Park zoning requirements from the perspective of impacts to the city's housing stock.

E3. Staff updates and announcements

Staff Noce reported on the following items:

- The California Housing Partnership has promoted Senior Housing Finance Consultant Meg McGraw-Scherer to be their new Peninsula Region Director.
- Senior Planner Deanna Chow, who has led the Housing Element Update and ConnectMenlo General Plan update projects in recent years, has been selected as the next Assistant Community Development Director overseeing the Planning Division.
- The July 17, 2018, City Council meeting is canceled. The next meeting is a special meeting August 6, 2018, followed by a confirmed meeting August 28, 2018. A decision will be made next month on a potential August 21, 2018, meeting.
- The Annual Downtown Summer Block Party is August 16, 2018, from 5:30–8 p.m. on Santa Cruz Avenue.

F. Adjournment

Vice Chair Merriman adjourned the meeting at 8:54 p.m.



STAFF REPORT

Housing Commission

Meeting Date:

8/8/2018

Staff Report Number:

18-015-HC

Regular Business:

Consider recommending approval of the below market rate agreement term sheet with Florence Lane Ventures, LLC, for the property at 975 Florence Lane

Recommendation

Staff recommends that the Housing Commission recommend approval of the draft Below Market Rate (BMR) Term Sheet ("Term Sheet") to the Planning Commission and City Council for one on-site BMR for-sale unit as part of an eight-unit residential development at 975 Florence Lane, as described in the draft Term Sheet (Attachment A).

Policy Issues

Each BMR Agreement is considered individually. The Housing Commission should consider whether the proposal would be in compliance with the BMR Housing Program requirements and the BMR Housing Ordinance.

Background

Site location

Using Florence Lane in the east to west orientation, the subject property is located on the south side of Florence Lane, between University Drive and Fremont Street, at 975 Florence Lane, in the R-3 (Apartment District) zoning district. The subject property is currently developed with six apartment units in two buildings.

The properties surrounding the subject site are also located in the R-3 zoning district, and are developed with residential uses, primarily multifamily in nature. A location map is included as Attachment B.

Analysis

Project description

The subject property is currently developed with two buildings, each consisting of three apartments. The building in the front of the lot is three stories in height, with parking on the ground level, and three two-bedroom apartments on the second and third stories. The rear building is two stories in height, with two two-bedroom units and one three-bedroom unit. The applicant is proposing to convert the existing six apartments into condominiums and add one one-bedroom market rate condominium and one one-bedroom BMR for-sale unit to the rear building, for eight total condominiums. The existing pool and shed

in the rear of the property would be demolished. The applicant's BMR proposal letter and select sheets from the project plans are included as Attachments C and D, respectively.

The proposal is subject to additional review and refinement before Planning Commission and City Council action on the overall project, which requires architectural control and major subdivision actions, in addition to the BMR agreement.

BMR Housing Program requirement

The applicant is required to comply with Chapter 16.96 of City's Municipal Code ("BMR Ordinance"), and with the BMR Housing Program Guidelines adopted by the City Council to implement the BMR Ordinance ("BMR Guidelines") since the project includes more than four residential units. In accordance with the City's BMR guidelines, for residential developments of five to nine units it is preferred that the developer provide one unit at below market rate on-site. The BMR Ordinance requires the applicant to submit a Below Market Rate Housing proposal for review by the Housing Commission.

Residential use of the property is allowed by the applicable zoning regulations, and the proposed project currently includes six residential units. The applicant is proposing to satisfy the project's BMR obligation through the construction of one moderate-income level BMR for-sale unit on-site. Based on previous comments by the Housing Commission, staff believes that the creation of the new BMR on-site unit (as opposed to payment of an in-lieu fee) is a positive, and that provision of such units in and around the El Camino Real corridor is also generally desired.

The proposed BMR unit would be a new unit located on the second floor of the rear building. The second new unit would be located below the BMR unit. The total size of the BMR unit would be approximately 560 square feet. As shown on the proposed elevations the exterior of the BMR unit would be indistinguishable from those of the market-rate units. The parking would be unbundled for all units, including the BMR unit. Select plan sheets that include floor plans of the individual units are provided in Attachment D. Since the one-bedroom BMR unit would be equivalent in size as to the market-rate one-bedroom unit, staff believes that the BMR Guidelines requirements for BMR unit characteristics is met.

Density and FAR bonuses and incentives

The R-3 zoning district sets specific development standards for R-3 parcels with a lot area over 10,000 square foot in the area around the El Camino Real/Downtown Specific Plan. The subject property falls into this category, which allows seven residential units. The Zoning Ordinance allows a developer to build one additional market rate unit and, in the case of a subdivision, to create a legal lot or condominium unit for such additional unit, for each BMR unit provided. So with the addition of the BMR unit, the applicant is permitted to construct an additional market-rate unit as an eighth unit on the parcel. In addition, an increase in the floor area associated with the residential development project by an amount that corresponds to the increase in allowable density is permitted. To accommodate the increase in allowable density and floor area ratio, the developer may also request exceptions from development regulations of the applicable zoning district.

The maximum permitted gross square footage for the lot is 7,664.7 square feet. To calculate the permitted increase in floor area based on the provision of a BMR unit, the maximum permitted floor area of 7,664.7 square feet is divided by the maximum permitted units, which in this case is seven units, to determine the average per unit. For this parcel, the average per unit is 1,094.9 square feet, which is then multiplied by eight for a total permitted gross floor area of 8,759.2 square feet. The applicant's proposal, at 8,736.3 square feet, complies with this maximum.

The existing structures do not adhere to the required 10-foot side setback and also slightly intrude into the required 15-foot rear setback. The applicant is requesting an exception from the required setbacks, which is permitted with the addition of a BMR unit. The applicant is proposing a right-side setback of 5 feet for the two new units, to align with the existing portions of the building. The applicant is also proposing a rear setback of 9 feet at the balcony posts for the BMR unit and a 15-foot rear setback at the building wall. The balcony would enhance the BMR unit and staff believes these exceptions from the setback standards are reasonable given the constraints presented by the existing building footprints and other site features.

The zoning requires two parking spaces for units with two or more bedrooms and 1.5 parking spaces for units up to one bedroom. The current development provides 12 parking spaces although this number would be reduced to 11 spaces with the required addition of an accessible parking space, where 15 spaces would be required with the addition of the two units. The applicant is requesting an exception from the 15 parking space requirement, which staff believes is reasonable given the constraints on the site and the applicant's proposal to create a BMR unit. Staff believes that the site location, close to downtown and other shopping/services, would also support a reduced parking requirement.

Summary

At this time, the Housing Commission should review the draft Term Sheet and provide guidance to staff, the applicant, the Planning Commission and City Council. The draft Term Sheet would be used to inform the draft BMR Agreement, which would subsequently be reviewed by the Planning Commission and acted on by the City Council.

Correspondence

Staff has not received any correspondence regarding the BMR proposal.

Conclusion

Staff believes that the applicant's proposal of one on-site BMR unit would meet the BMR requirements. Further, the location of this BMR unit near the El Camino Real corridor would be generally considered a positive. Staff believes the setback and parking exceptions are warranted based on the existing site constraints. Staff recommends that the Housing Commission recommend to the Planning Commission and City Council approval of the on-site BMR unit under the terms stated in the draft BMR Agreement Term Sheet.

Impact on City Resources

The project sponsor is required to pay Planning, Building and Public Works permit fees, based on the City's Master Fee Schedule, to fully cover the cost of staff time spent on the review of the project.

Environmental Review

The proposed project will be evaluated with respect to compliance with the California Environmental Quality Act (CEQA) as part of the City Council action. BMR direction is not a project under CEQA, so environmental review is not required by the Housing Commission.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Public notification also consisted of courtesy notification by mail of owners and

occupants within a 300-foot radius of the subject property.

Attachments

- A. Draft below market rate agreement term sheet
- B. Location map
- C. 975 Florence Lane below market rate proposal
- D. Excerpts of project plans

Report prepared by:
Corinna Sandmeier, Senior Planner

Report reviewed by:
Thomas Rogers, Principal Planner

975 Florence Lane
Draft Below Market Rate Housing (BMR) Agreement Term Sheet

1. Applicant owns property known as Assessor's Parcel Number: 071-302-010 ("Property"), more commonly known as 975 Florence Lane, Menlo Park;
2. Applicant is requesting architectural control and major subdivision approval to create eight condominium units by converting six existing residential dwelling units and constructing two new units on one parcel located at 975 Florence Lane;
3. The project consists of more than four residential units; therefore, Applicant is required to comply with Chapter 16.96 of City's Municipal Code ("BMR Ordinance") and with the Below Market Rate Housing Program Guidelines ("Guidelines") adopted by the City Council to implement the BMR Ordinance;
4. The subdivision of six existing residential rental units would result in a requirement of one BMR housing unit or in-lieu fee payment.
5. Applicant has elected to satisfy the BMR requirement for the proposed project by constructing one on-site "for sale" BMR unit, and would also provide a bonus market-rate unit, both with development exceptions that are based on the existing site constraints;
6. The characteristics of the BMR unit shall be in conformance with Section 5 of the BMR Guidelines;
7. The eligibility requirements for the BMR unit shall be established as set forth in Section 6 of the BMR Guidelines;
8. The BMR waiting list for the for-purchase unit shall be established as set forth in Section 7 of the BMR Guidelines;
9. The BMR unit purchase process shall be established as set forth in Section 8 of the BMR Guidelines;
10. The occupancy requirements shall be established as set forth in Section 9 of the BMR Guidelines;
11. The process for resale of the BMR unit shall be established as set forth in Section 10 of the BMR Guidelines; and
12. Applicant shall enter into a BMR Agreement memorializing these terms in a form acceptable to the City Attorney.



City of Menlo Park
Location Map
975 Florence Lane



975 Florence Lane

Below Market Rate Housing Plan

Description

The proposed project is an existing (6) unit apartment building that is requesting approval of a subdivision and conversion of the residential units into for-sale condominium units. There are (3) units located in the front building, and (3) units in the rear building.

Per section 3.4 of the Menlo Park BMR guidelines, it is preferred, but not required, to provide below market rate housing in projects with 5 to 9 units, and allows an in-lieu fee option for these smaller projects. Because the unit density for this project can go up to (7) total units, the project is proposing to add (2) new units, so that one may be designated as a BMR unit. Since the project is providing inclusionary housing, the state density bonus allows an additional unit above the density maximum, for a total of (8) units.

The proposed BMR unit will be a (1) bedroom unit that is 560.5 s.f. The unit will be new, as an addition to the project, and will be the same size as the other new unit being proposed in the addition.

The income level proposed for the new (1) Bedroom BMR unit is to be "moderate". Because of the smaller unit's affordability compared to larger units, this will provide a greater diversity of potential tenants/buyers that would have access to housing in the Menlo Park area.

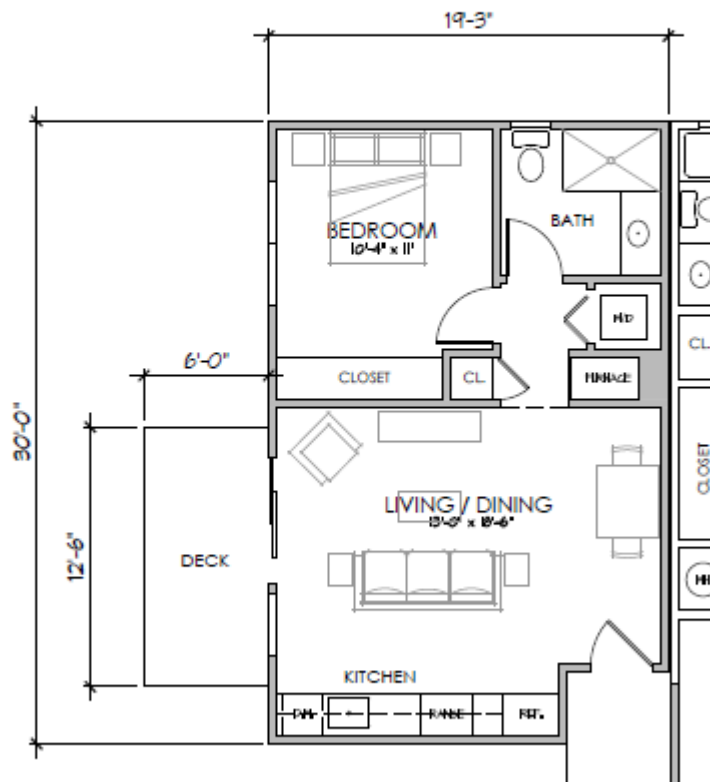
The BMR unit is proposed as a "for-sale" unit, and shall meet the city and county requirements for income levels outlined above, and associated sales prices.

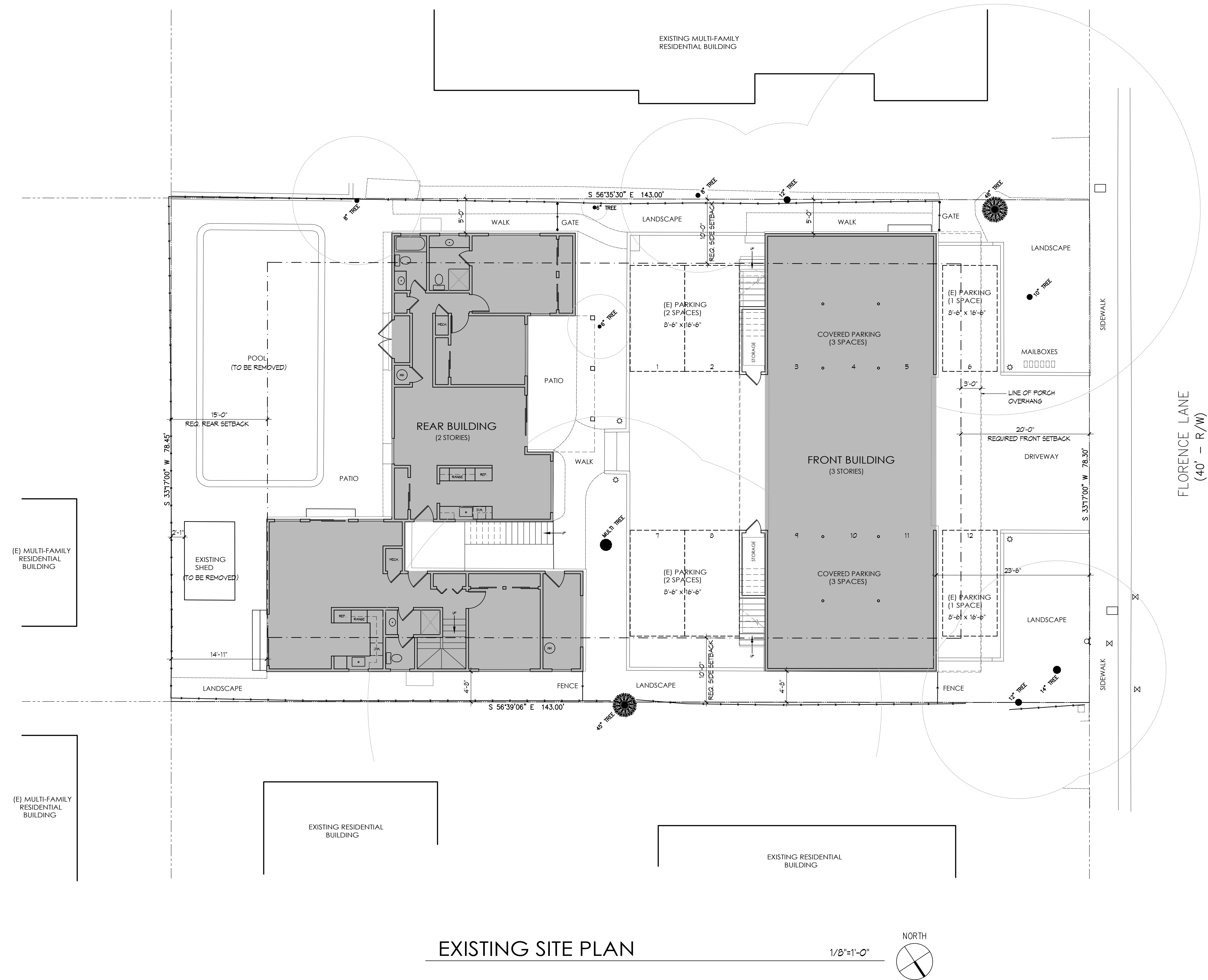
Design

The proposed (1) Bedroom BMR (New Unit #2) is located on the 2nd floor of the rear building, and is 560.5 s.f.

NEW UNIT #2

1 BDRM. - BMR
560.5 s.f.





Kellond Architects

14510 Big Basin Way, #205
Saratoga, California 95070

408.741.0600 ph.

www.kellondarchitects.com

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PROJECT

975 Florence Ln.
Menlo Park, CA 94025

SHEET TITLE

EXISTING SITE PLAN

REVISIONS

[illegible]

PROJECT #: 2017.10

DATE: 25 JUNE 2018

SHEET #: SD-1.1

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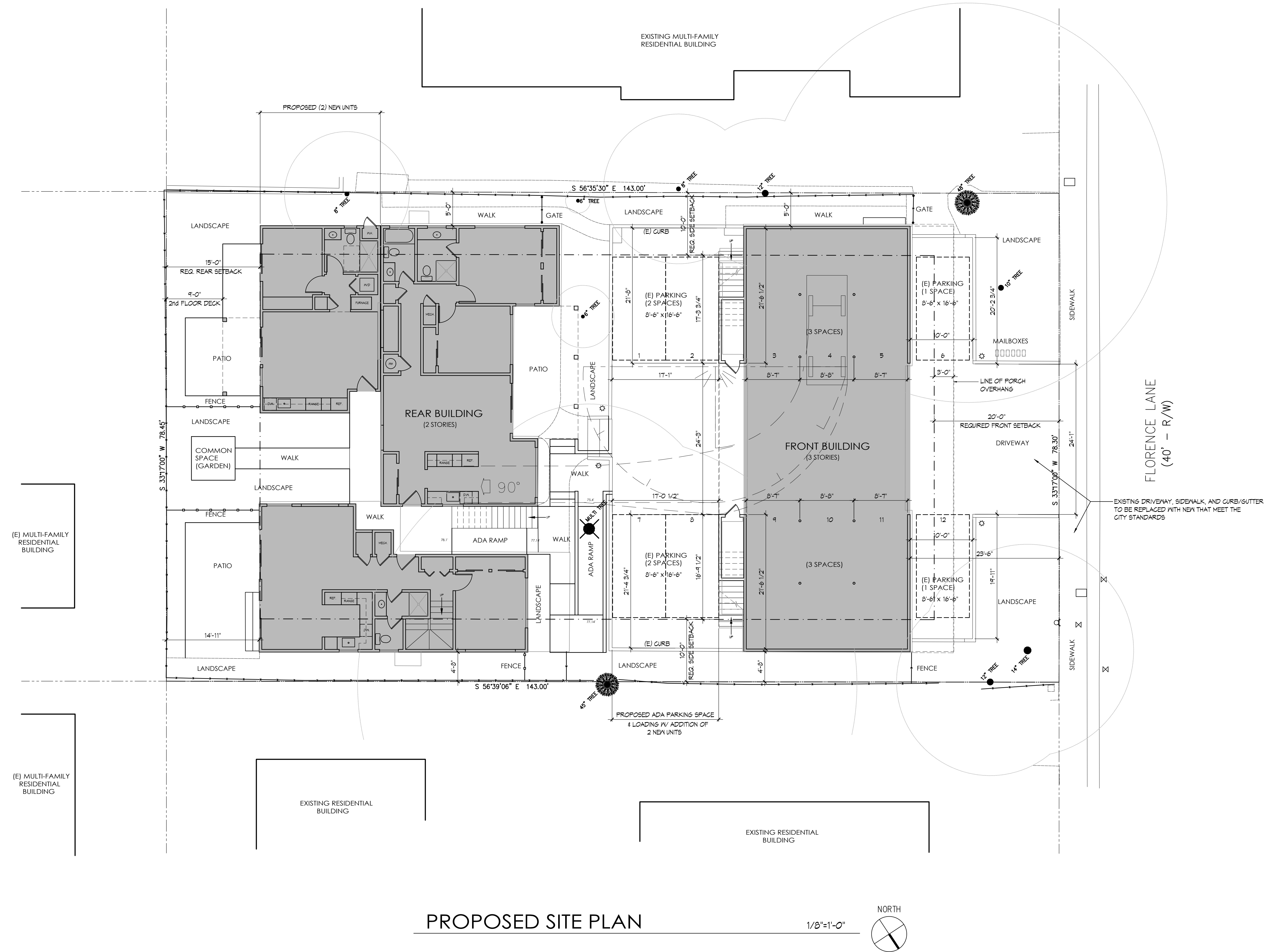
PROJECT

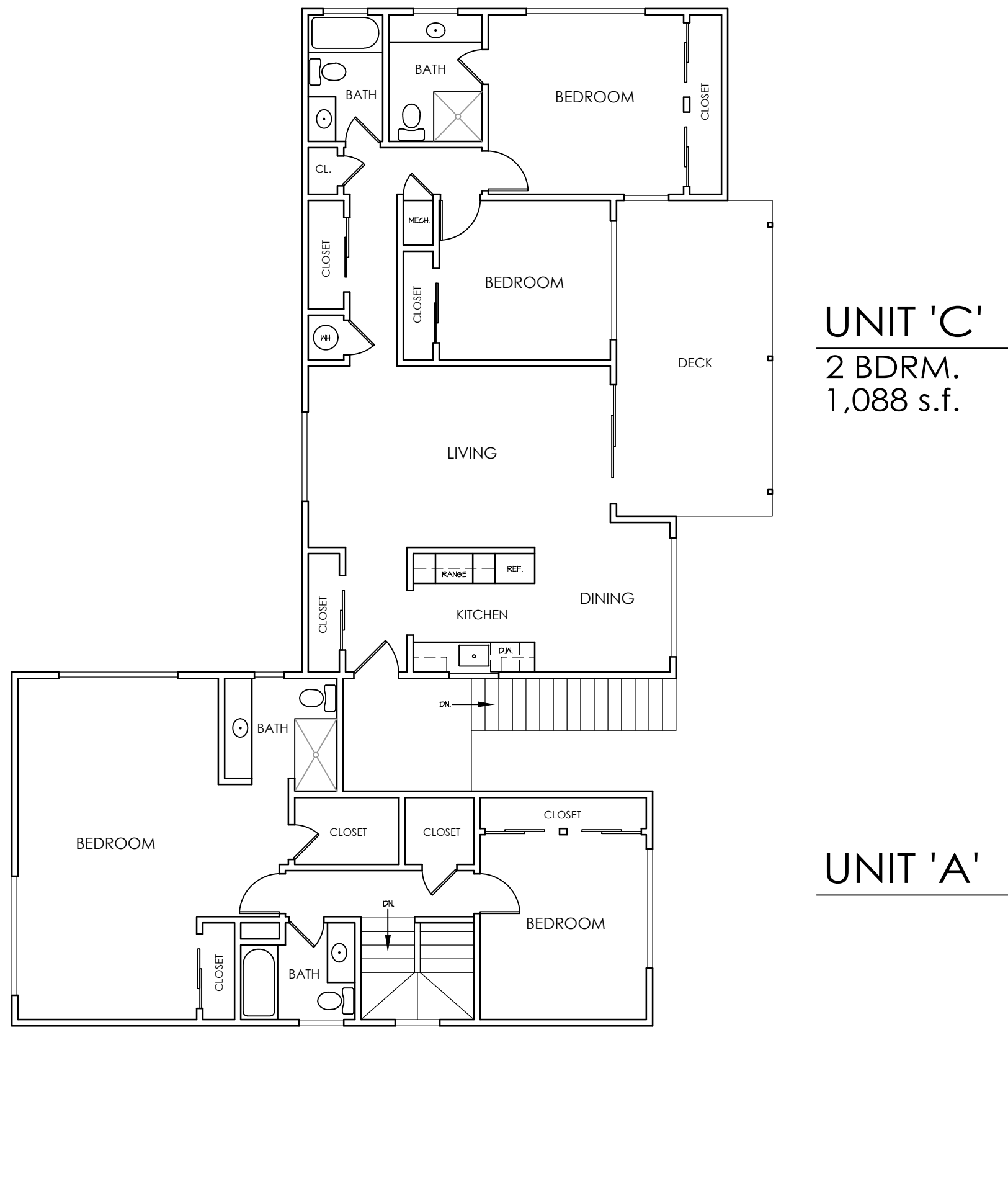
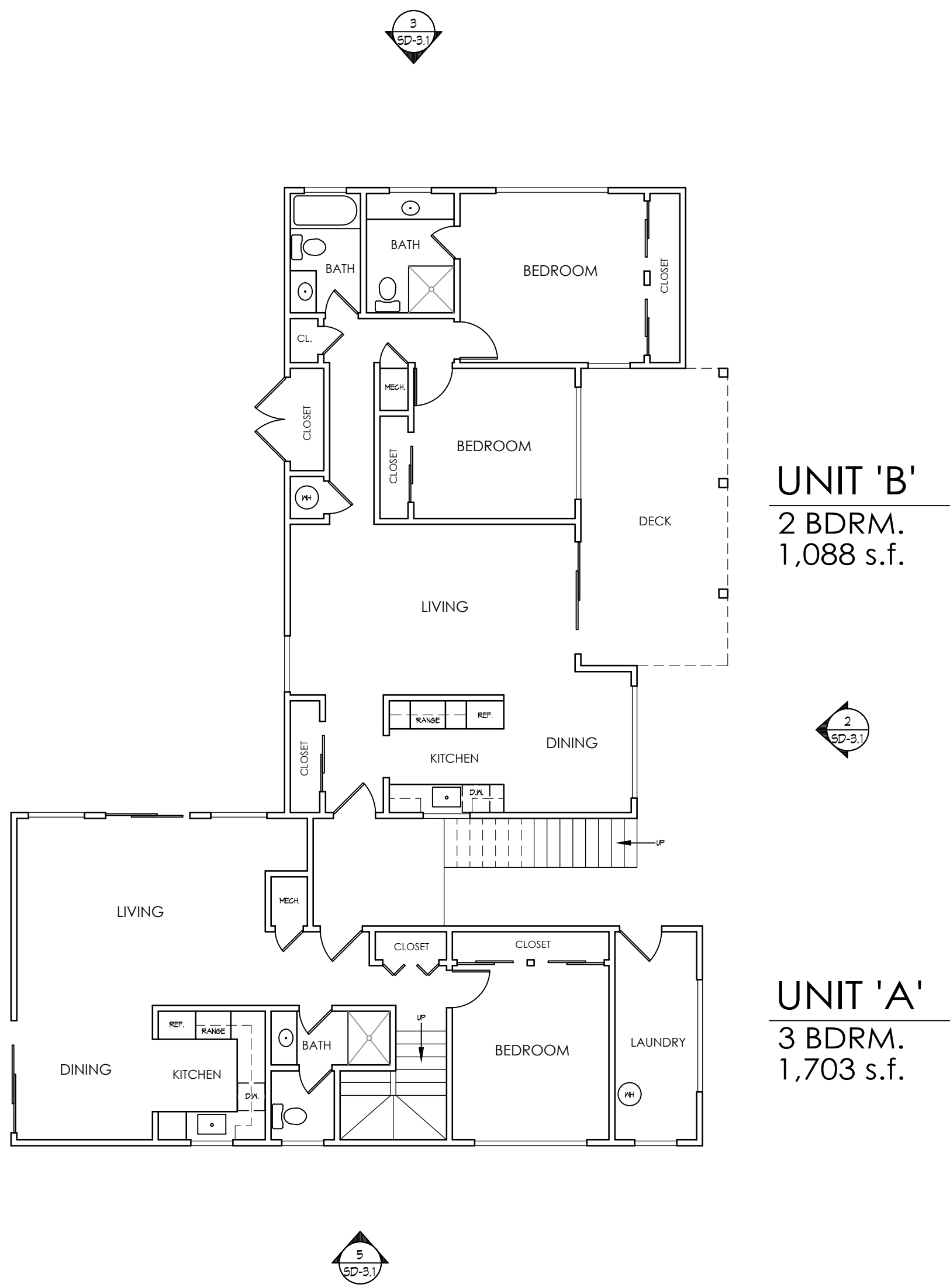
SHEET TITLE

REVISIONS

[illegible]

SHEET #: SD-1.2





Kellond Architects

14510 Big Basin Way, #205
Saratoga, California 95070

408.741.0600 ph.

www.kellondarchitects.com

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PROJECT

975 Florence Ln.
Menlo Park, CA 94025

SHEET TITLE

EXISTING FLOOR PLANS
REAR BUILDING

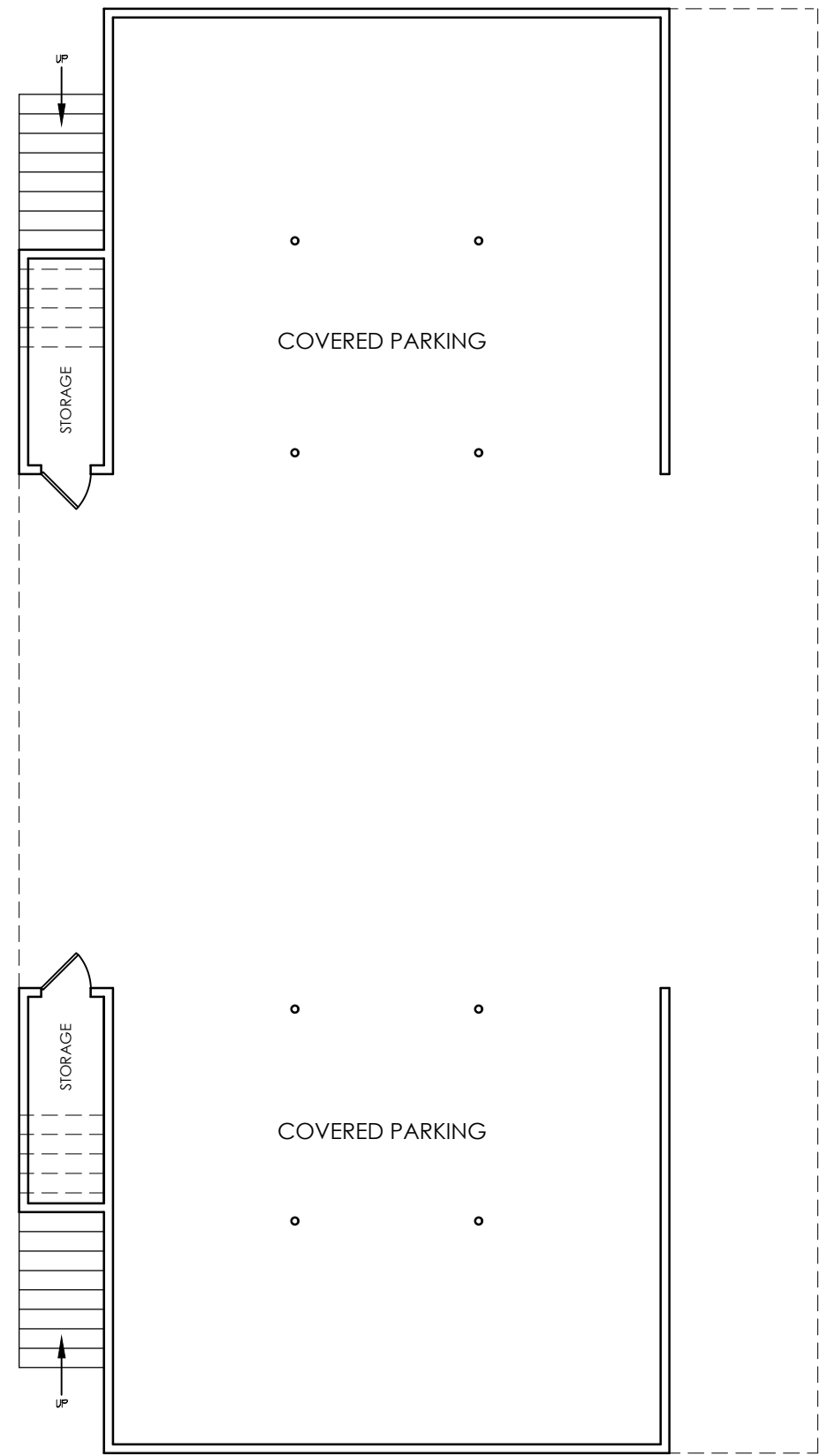
REVISIONS

No.	Date	Notes

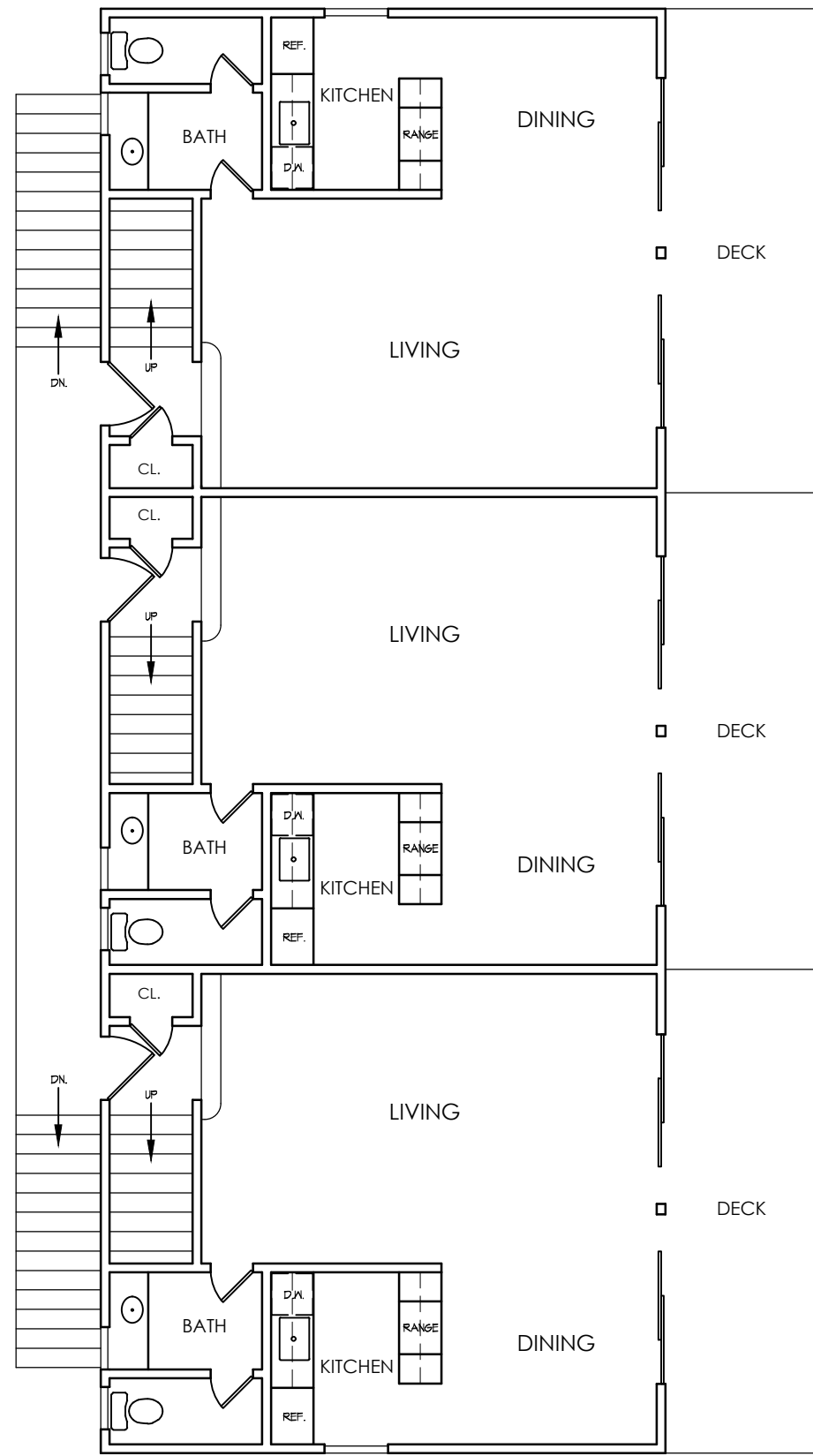
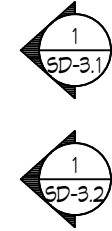
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DATE: 25 JUNE 2018

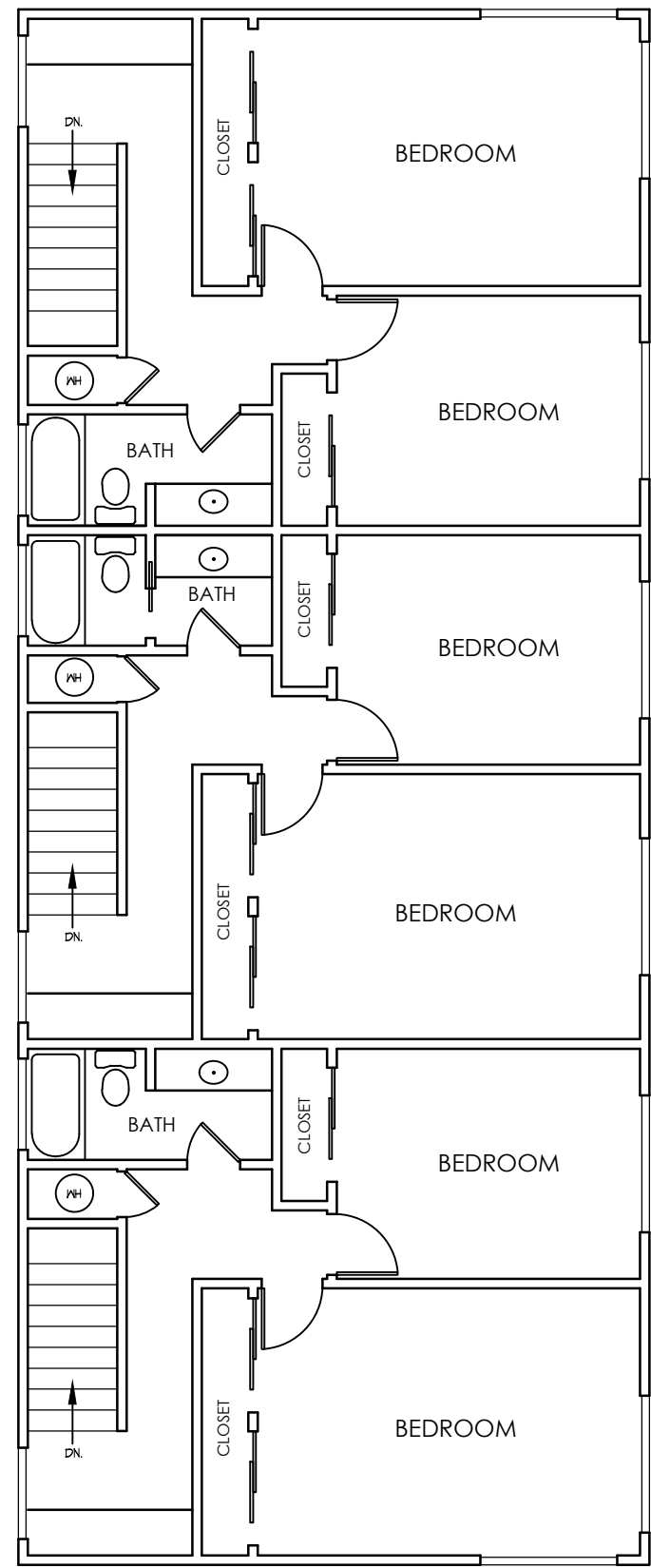
SHEET #: SD-2.1



FRONT BLDG. - 1st FLOOR
1/8"=1'-0"



FRONT BLDG. - 2nd FLOOR
1/8"=1'-0"



FRONT BLDG. - 3rd FLOOR
1/8"=1'-0"

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PROJECT

975 Florence Ln.
Menlo Park, CA 94025

SHEET TITLE

EXISTING FLOOR PLANS
FRONT BUILDING

REVISIONS

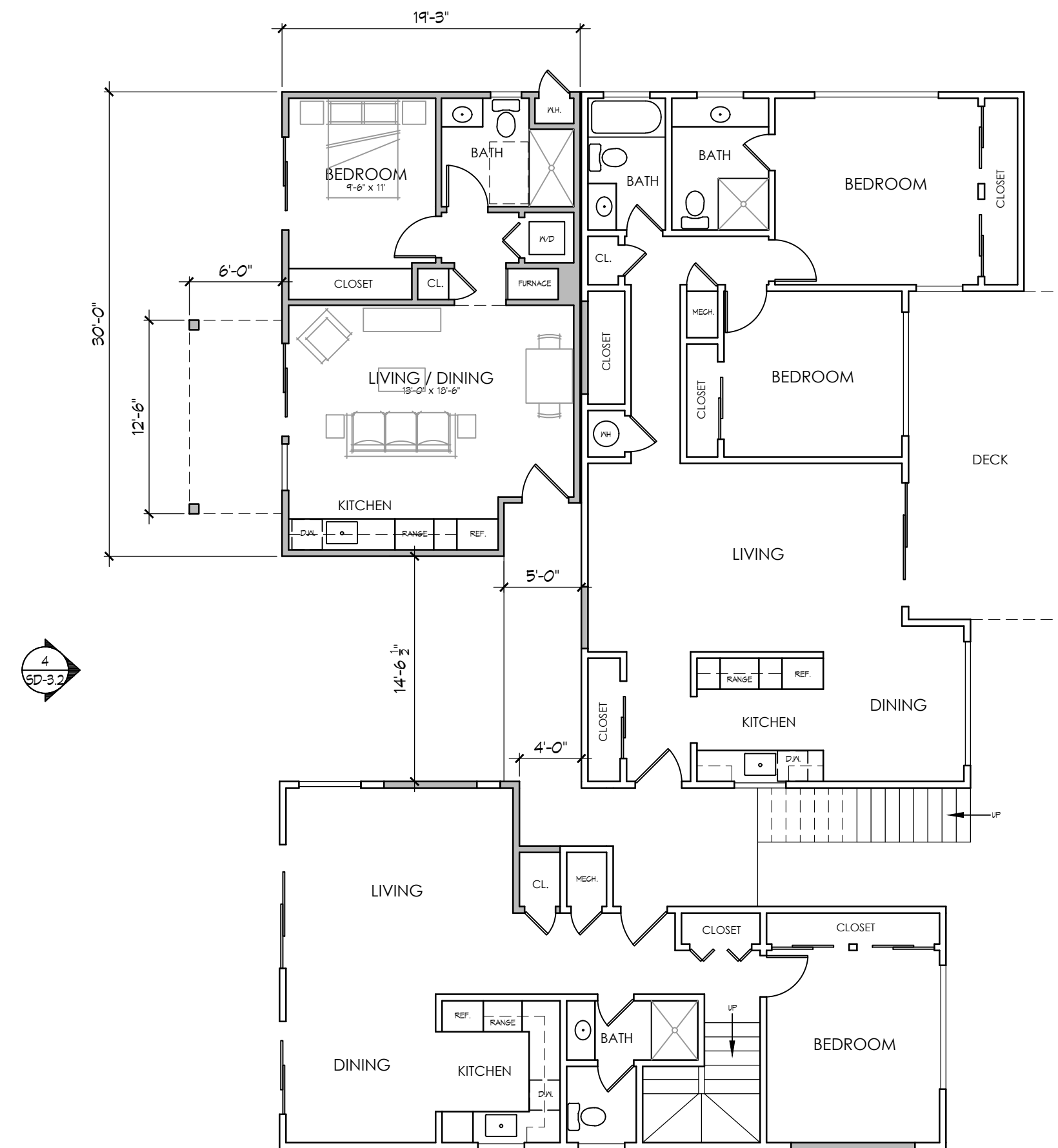
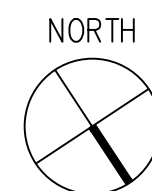
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PROJECT #: 2017.10

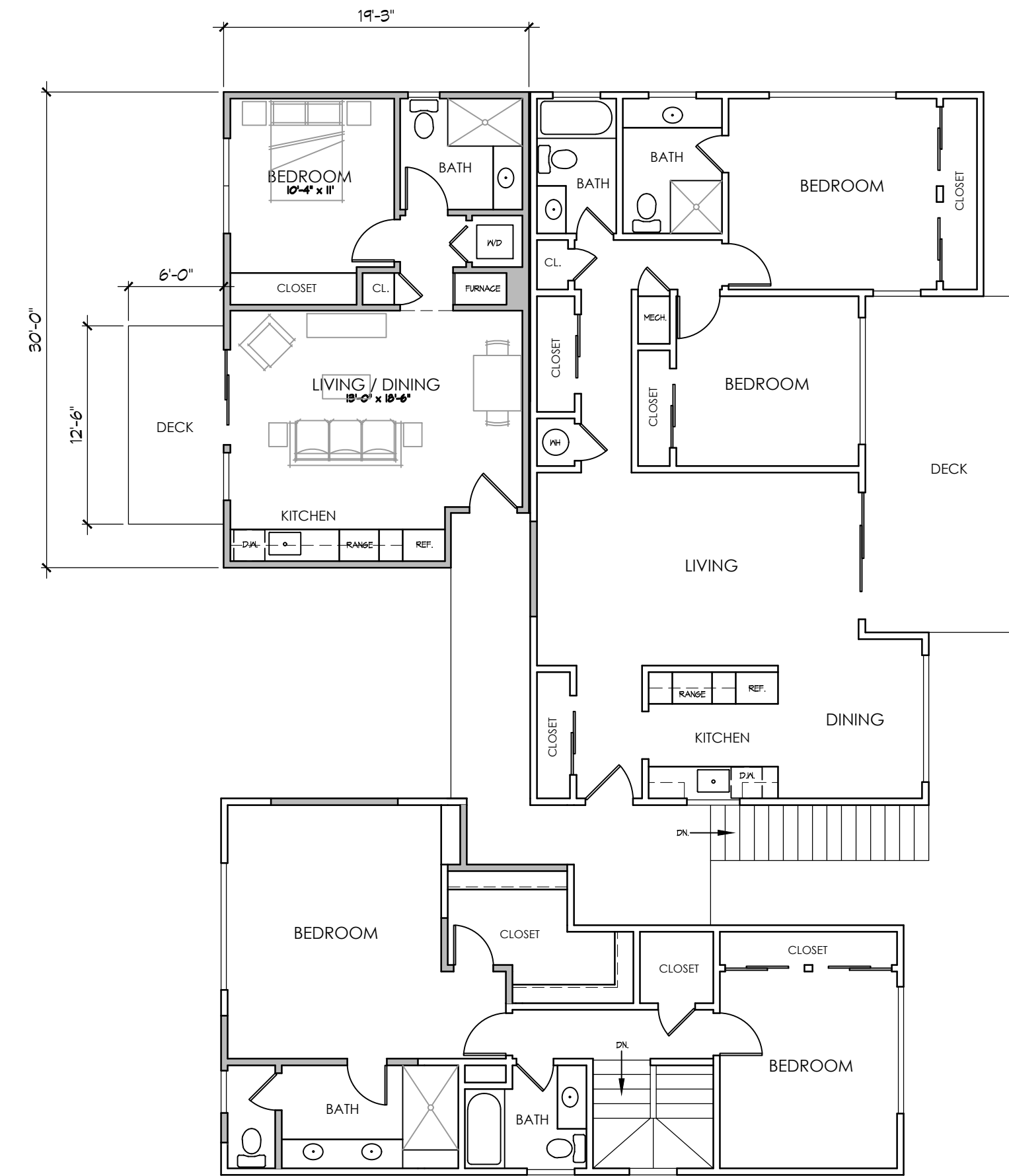
DATE: 25 JUNE 2018

SHEET #: SD-2.2

1 BDRM.
560.5 s.f.


$$1/8"=1'-0"$$


1 BDRM. - BMR
560.5 s.f.


$$1/8'' = 1' - 0''$$

SHEET #: SD-2.4



2 FRONT ELEVATION - RIGHT
Front Building



1 FRONT ELEVATION - Florence Lane
Front Building



3 REAR ELEVATION - LEFT
Front Building



5 FRONT ELEVATION - LEFT
Rear Building



6 FRONT ELEVATION - RIGHT
Rear Building



4 REAR ELEVATION - RIGHT
Front Building



7 REAR ELEVATION - LEFT
Rear Building



8 REAR ELEVATION - RIGHT
Rear Building

Kellond Architects

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Saratoga, California 95070

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PROJECT

975 Florence Ln.
Menlo Park, CA 94025

SHEET TITLE

EXTERIOR ELEVATION
PHOTOS

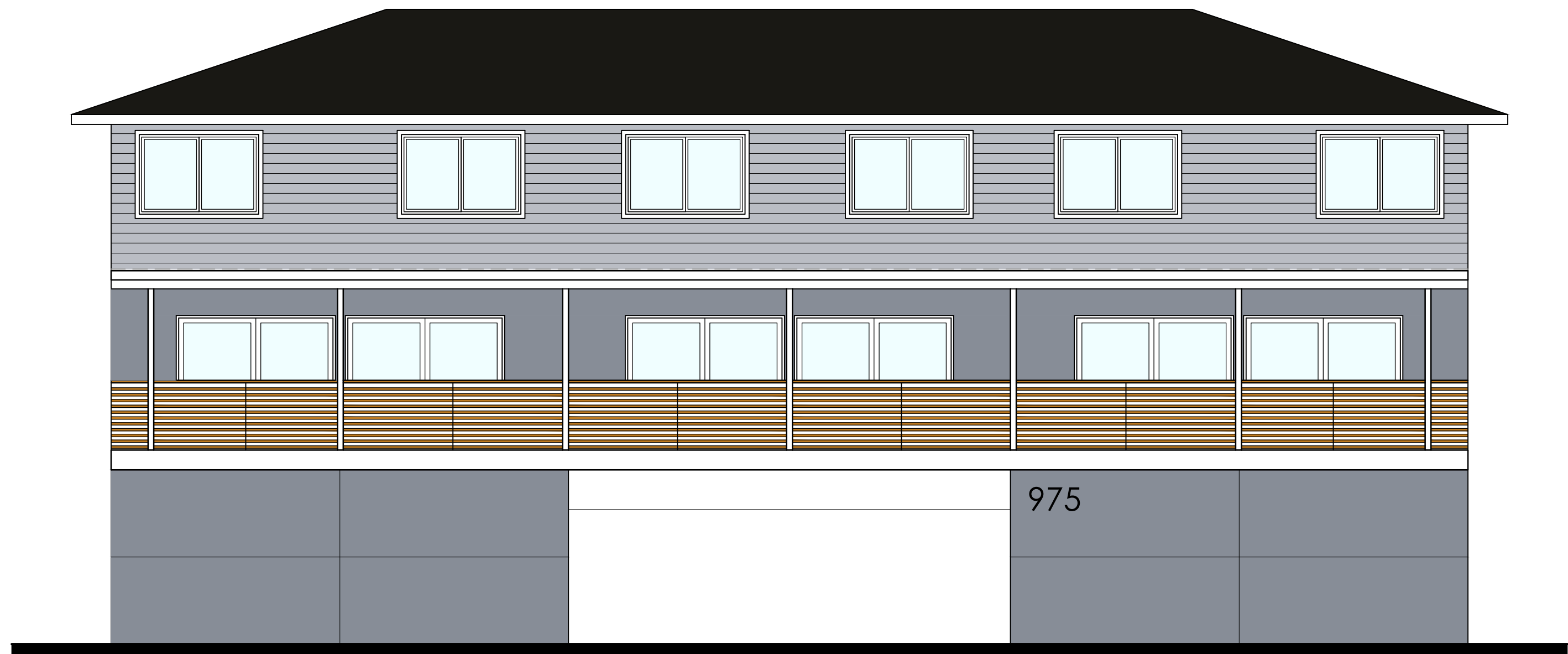
REVISIONS

No.	Date	Notes

PROJECT #: 2017.10

DATE: 25 JUNE 2018

SHEET #: SD-3.0



1 STREET ELEVATION - FRONT BUILDING
(NORTHWEST)

0 3' 6' 12'



2 FRONT ELEVATION - REAR BUILDING
(NORTHWEST)

1

2

5

Delray Gray
1614

3

Rock Gray
1615

4

6

1. Composition shingle roof, 'Charcoal'

2. Vinyl windows & 'White' trim

3. Benjamin Moore 'Delray Gray' (Siding)

4. Benjamin Moore 'Rock Gray' (Stucco)

5. Wood stained railings, Cabot, 'Natural'

6. Wood railing design concept

EXTERIOR COLORS & MATERIALS

Kellond Architects

14510 Big Basin Way, #205
Saratoga, California 95070

408.741.0600 ph.

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PROJECT

975 Florence Ln.
Menlo Park, CA 94025

SHEET TITLE

PROPOSED
COLOR ELEVATIONS

REVISIONS

No.	Date	Notes

PROJECT #: 2017.10

DATE: 25 JUNE 2018

SHEET #: SD-3.3



STAFF REPORT

Housing Commission

Meeting Date:

8/8/2018

Staff Report Number:

18-016-HC

Regular Business:

Review and consider recommending the City Council adopt an ordinance establishing tenant relocation assistance

Recommendation

Staff recommends the Housing Commission review and consider making a recommendation to the City Council regarding an ordinance establishing tenant relocation assistance and provide feedback to the staff on a public outreach strategy to gather public input.

Policy Issues

At its August 22, 2017, meeting, the City Council identified tenant relocation assistance as a priority one recommended policy, from among several enhanced housing policy considerations.

Background

On January 10, 2017, the City Council held a study session on addressing the concerns regarding residential displacement in Menlo Park. The study session included Housing Commissioners Tate and Dodick as well as a panel of four housing experts. Staff presented 10 policies that have been commonly used or considered in other cities. The City Council referred eight of the recommended policies, along with seven others introduced by the expert panel, to the Housing Commission for prioritization.

The Housing Commission reviewed the policy table over the course of three consecutive monthly Housing Commission meetings, received input from stakeholders and experts and developed a recommended prioritization list.

Staff presented this recommended prioritization list at the August 22, 2017, City Council meeting where the City Council approved the Commission's recommendations without changes.

At its July 11, 2018, regular meeting, the Housing Commission reviewed a draft of the proposed tenant relocation assistance ordinance and recommended changes in regards to the urgency of the ordinance, the household eligibility criteria, the indexing of rent increases to the consumer price index plus 5 percent, the definition of applicable residential units, inclusion of special circumstance provisions and a rental subscription service. Each of these provisions are addressed further in the analysis section of this report.

Analysis

The purpose of tenant relocation assistance is to reduce the burden and disruption to tenants and their families caused by the unplanned need to relocate. Relocation assistance helps address the financial challenge of suddenly needing to secure alternate housing (first and last month's rent, security deposit, etc.) and pay related expenses (moving costs, utility deposits, etc.). While this is a traumatic and daunting

experience for any tenant, it is especially difficult for low-income households. By reducing the financial impacts, this ordinance can help keep more of these tenants in Menlo Park, reduce displacement and preserve our community continuity.

Based on the Housing Commission meeting of July 11, 2018, the City Attorney's Office has drafted an updated proposed tenant relocation assistance ordinance (Attachment A). Staff continues to evaluate the feasibility of managing and administering several provisions of the ordinance in light of the limited staff resources presently available and the ongoing demand, even with full staffing in the Housing and Economic Development division in the future. Below is staff's initial analysis of the newly proposed provisions.

Urgency ordinance vs non-urgency ordinance

Under California Government Code §36937, urgency ordinances that take effect immediately for the preservation of the public peace, health, or safety, must contain a declaration of the facts constituting the urgency, and be passed by a four-fifths vote of the City Council. While there have been a few press reports of families in Menlo Park facing significant rent increases or being displaced, staff believes the City does not possess data at this time that illustrates the scope of the problem being described. Staff received less than half a dozen complaints or inquiries regarding displacement due to rent increases in the previous 12 months. It is possible that such data exist and could become available.

Accordingly, the attached draft ordinance does not include an urgency clause at this time. If data becomes available before the City Council considers this item, staff can add clause at that time.

Eligible tenant

The definition of eligible tenant was modified per the Commission's request to include those where more than 30 percent of the eligible household income is required to pay either the most current market applicable Menlo Park market rate rent, as published by the city, or the proposed new rent, whichever is greater.

This replaced the previous language that identified eligible tenants as those lower income tenants earning 80 percent or less of the area median income (AMI). The proposed language is onerous because it requires staff to determine and publish the citywide market rate rent, and would require staff to verify the income of all household members and calculate this against the rent amount to determine eligibility. The Commission should consider modifying this provision to be an income threshold that is line with an existing government-published income chart, such as that published by the State of California Department of Housing and Community Development.

Another concern identified previously was that the ordinance could potentially apply to short-term or temporary rentals. To address this, staff recommends and has included a length of tenancy requirement of 36 months. This is meant to limit relocation assistance to those who are invested in the community, due to employment and/or children in the local school systems, who would be most impacted by sudden, unforeseen displacement. In lieu of a length of tenancy requirement, the Commission could also consider a sliding scale of rental assistance based on length of tenancy.

Rental unit

The definition of rental unit was modified at the Commission's request to include any housing unit offered for rent or lease in Menlo Park. This includes single-family homes and differs from the 12-month lease ordinance, which only applies to properties with four or more units.

Staff recommends keeping the ordinances aligned and applicable to four or more units. The reduces

confusion and is in line with the City Council's direction during the 12-month lease ordinance discussions to avoid impacts to "small property" or "mom and pop" landlords. If the Commission moves forward with the recommendation of applying this to single-family properties, the staff recommends and has included in the proposed ordinance, three specific exclusions to the rental unit definition: 1) affordable housing properties that are already restricted to renting to income-qualified tenants by a signed regulatory agreement, 2) secondary dwelling-units, and 3) single-family residences where a room is rented to a third-party tenant. The second and third exclusions are meant to provide additional leeway for property owners who are living in close proximity to their third-party tenant and would not want to be forced to keep a problematic tenant because of the burden to pay relocation assistance.

Relocation assistance

The definition of relocation assistance identifies three months of the most current applicable Menlo Park market rate rent, as published by the city, or three times the rent that tenant was paying at the time of landlord-caused termination notice. It now includes a 60-day subscription to a rental agency service and provides for one additional month's rent for special circumstance households (elderly, individual with a disability, or one or more minor children in the household).

As discussed previously, this proposed language is burdensome because it requires staff to determine and publish the citywide market rate rent. Staff recommends using a flat rate amount that could be adjusted on an annual basis by the consumer price index or an amount included in an existing government-published chart, such as the San Francisco Metro Fair Market Rate Rent published by the U.S. Department of Housing and Urban Development.

Public input and outreach

Once the Commission settles on the proposed draft ordinance language, there would need to be extensive public outreach and opportunities for public feedback on the proposed ordinance. Staff suggests, at a minimum, the City would place advertisements in local publications, send out a citywide mailing and consider holding at least one public meeting that would bring landlords, tenants and housing experts together to discuss the ordinance provisions.

Impact on City Resources

While any tenant relocation assistance payments would be made by the landlord to the tenant directly, management of the program could have large impacts on staff time and resources as the need to provide additional public education and clarification of a more complicated ordinance would be ongoing. The extent of this is still unknown but would be evaluated based on the final ordinance language and presented as part of the staff recommendation when this ordinance is brought before the City Council for its consideration.

Environmental Review

This action is not a project under the California Environmental Quality Act ("CEQA") and therefore not subject to the provisions of the CEQA Guidelines under Sections 15378 and 15061(b)(3).

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. Draft tenant relocation assistance ordinance

Report prepared by:

Clay J. Curtin, Interim Housing and Economic Development Manager

ORDINANCE NO. ____**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING TITLE 8 [PEACE, SAFETY AND MORALS] OF THE MENLO PARK MUNICIPAL CODE TO ADD A NEW CHAPTER 8.55 [TENANT RELOCATION ASSISTANCE]**

The City Council of the City of Menlo Park does hereby ordain as follows:

SECTION 1. FINDINGS AND DETERMINATIONS.

- A. The City of Menlo Park currently does not regulate rent increases or reasons for evictions from residential property and certain aspects of public peace, health, and safety are not adequately protected due to the lack of regulation.
- B. The increasing rents combined with a housing shortage places substantial pressure on the existing city residents who rent housing. In particular, rising rents can lead to tenant displacement of residents.
- C. On August 22, 2017, the City Council directed City Staff to prioritize housing policies, with tenant relocation assistance being part of the priority one recommended policies.
- D. On July 11, 2018, the Housing Commission discussed and considered for recommendation to City Council adoption of a draft relocation assistance ordinance.
- E. For the reasons set forth above, and to mitigate displacement issues, the City Council of the City of Menlo Park finds and declares the addition of Chapter 8.55 [Tenant Relocation Assistance] is necessary for preservation of the public peace, health, and safety.

SECTION 2. ADDITION OF CODE. Chapter 8.55 [Tenant Relocation Assistance] of Title 8 [Peace, Safety and Morals] is hereby added to the Menlo Park Municipal Code to read as follows:

Chapter 8.55
TENANT RELOCATION ASSISTANCE

Sections:

- 8.55.010 Purpose.
- 8.55.020 Definitions.
- 8.55.030 Requirement to provide relocation assistance.
- 8.55.040 Relocation assistance.
- 8.55.050 Procedures for relocation assistance payment.
- 8.55.060 Notice of termination and notice of entitlement to relocation assistance.
- 8.55.070 Text of notice.
- 8.55.080 Retaliation prohibited.
- 8.55.090 Failure to comply.

8.55.010 Purpose.

In enacting these regulations, the City Council recognizes the need to protect tenants and tenant households from the adverse health, safety and economic impacts of displacement. It is the purpose and intent of the City Council to mitigate such impacts on these residents with this Chapter.

8.55.020 Definitions.

For the purpose of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

- (a) **BASE RENT** means the rent for rental unit required to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase. Base rent shall not include ancillary services including, but not limited, to pet deposits, storage, additional parking or utility pass-throughs.
- (b) **ELIGIBLE TENANT** means any tenant residing in a rental unit in the City for more than thirty-six (36) months and having legal responsibility for the payment of rent of that rental unit as identified under a valid rental agreement and where more than thirty (30) percent of the annual household income is required to pay either, the most current applicable Menlo Park market rate rent, published by the director of community development and updated January 1 of each year or the proposed new rent, whichever is greater.
- (c) **LANDLORD** means any person, partnership, corporation, or other business entity offering for rent or lease any rental unit in the City. Landlord shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord's behalf.
- (d) **LANDLORD-CAUSED TERMINATION** means the circumstances where a landlord provides an eligible tenant with a proposed significant rent increase and the tenant elects to not remain in the rental unit. It also includes a landlord taking action to terminate the tenancy of an eligible tenant occupying a rental unit, except when at least one of the following conditions exists after the landlord has served the notice(s) required under California Code of Civil Procedure § 1161:
 - (1) *Failure to Pay Rent.* The tenant has failed, after three days' written notice as provided by law, to pay the amount stated in the notice, so long as the amount stated does not exceed the rent to which the landlord is legally entitled under the rental agreement, this Chapter, state law, or any other local law.
 - (2) *Breach of Rental Agreement.* The tenant has not cured a violation of a material term of the rental agreement.
 - (3) *Nuisance.* The tenant has continued, after the landlord served the tenant with a written notice to cease, to commit or expressly permit a nuisance in the rental unit.
 - (4) *Necessary and Substantial Repairs Requiring Temporary Vacancy.* The landlord, after having obtained all necessary permits from the City, and having provided written notice to the tenant pursuant to state law, seeks in good faith to undertake substantial repairs that are necessary to bring the rental unit into compliance with applicable codes and laws affecting the health and safety of the tenants of the building, provided that the repairs necessitate that the tenant vacate the rental unit because the work will render the rental unit uninhabitable for a period of not less than thirty (30) days.
- (e) **RENT** means the amount of fixed periodic compensation paid by a tenant to a landlord, as defined by the rental agreement between the tenant and landlord, for the possession and use of a rental unit. Rent shall not include ancillary services including, but not limited to, pet deposits, storage, additional parking or utility pass-throughs.
- (f) **RENTAL AGREEMENT** means the legal written or oral agreement, including all changes and addenda, governing occupancy of the rental unit between landlord and tenant.

- (g) **RENTAL UNIT** means any housing unit offered for rent or lease in the City of Menlo Park, except that for purposes of this Chapter Rental Unit shall exclude:
 - (1) Any housing unit that is subject to a recorded affordable housing regulatory agreement that requires that the housing unit be rented at restricted rents to income-qualified tenants as defined by the regulatory agreement;
 - (2) Secondary Dwelling Units as defined by Chapter 16.79; and
 - (3) Owner occupied Single Family Residences where a room is rented to a third party.
- (h) **RENT INCREASE** means any upward adjustment of the rent from the base rent amount.
- (i) **SIGNIFICANT RENT INCREASE** means a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent during any twelve (12) month period, to an amount more than the previous year's Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area, published by the U.S. Department of Labor, Bureaus of Labor Statistics (CPI) plus five (5) percent, above the base rent that was in place at the beginning of such twelve (12) month period.
- (j) **SPECIAL-CIRCUMSTANCES HOUSEHOLD** means an eligible tenant with any of the following characteristics at the time of notice of landlord-caused termination:
 - (4) At least one resident of the rental unit is sixty-two (62) years of age or older;
 - (5) At least one resident of the rental unit qualifies as disabled as defined by Title 42, United States Code Section 423 or has a handicap as defined by California Health and Safety Code Section 50072; or
 - (6) One or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes) reside in the rental unit.
- (k) **TENANT** shall have the same meaning as defined in Chapter 8.53.

8.55.030 Requirement to provide relocation assistance.

If any eligible tenant receives notice(s) of a landlord-caused termination, that eligible tenant is entitled to relocation assistance in accordance with this Chapter.

8.55.040 Relocation assistance.

The landlord shall provide relocation assistance where required by Section 8.55.030 to an eligible tenant as set forth below:

- (a) Three times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated on January 1 of each year, or three times the monthly rent that the tenant(s) is paying at the time the notice of landlord-caused termination is delivered, whichever amount is greater.
- (b) A sixty-day (60-day) subscription to a rental agency service.
- (c) Special circumstances households will also receive one times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated on January 1 of each year, or one times the monthly rent that the tenant(s) is paying at the time the notice of landlord-caused termination is delivered, whichever amount is greater.

8.55.050 Procedures for relocation assistance payment.

The landlord shall pay relocation assistance as follows:

- (a) The entire relocation assistance amount shall be paid to the eligible tenant(s). Landlord may deduct from the relocation assistance payable any and all past due rent owed by the tenant during the twelve months before termination of tenancy and may deduct from the relocation assistance any amounts paid by the landlord for any damage, cleaning, key replacement, or other purposes served by a security deposit as defined by the rental agreement, to the extent the security deposit is insufficient to provide the amounts due

for such costs.

- (b) The landlord shall pay one-half of the relocation assistance no later than five business days following receipt of written notice that the tenant intends to vacate the rental unit, or following service of the notice of landlord-caused termination; and the balance of the relocation assistance no later than five days after the tenant has vacated the rental unit. If the tenant ultimately fails to vacate the rental unit where a landlord provides a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively creates a significant rent increase at any time during a twelve (12) month period, the tenant shall reimburse relocation assistance to the landlord.
- (c) The landlord shall provide tenant with the sixty day subscription to a rental agency service no later than five business days following receipt of written notice that the tenant intends to vacate the rental unit, or notice of a landlord-caused termination.
- (d) Nothing provided herein prohibits a landlord and a tenant from agreeing to relocation assistance different from that provided in this section. A landlord shall not attempt to influence a tenant to agree to relocation assistance different from that provided in this Chapter in bad faith by means of fraud, intimidation or coercion (including, but not limited to, threats based on immigration status).

8.55.060 Notice of termination and notice of entitlement to relocation assistance.

Where a landlord provides a notice of a significant rent increase or landlord-caused termination to an eligible tenant the landlord shall provide a written notice of tenant's entitlement to relocation assistance at the same time. Such notice of entitlement to relocation assistance shall be posted on the door to the rental unit and sent certified mail or first class mail, or personally served upon tenant, and shall be provided in both English and Spanish language.

8.55.070 Text of notice.

The notice of entitlement to relocation assistance for a landlord-caused termination shall state:

NOTICE: Under Civil Code Section 827(b) a landlord must provide a tenant with thirty (30) days' notice before a rent increase of ten percent (10%) or less and sixty (60) days' notice of a rent increase of greater than ten percent (10%). Under Title 8, Chapter 8.55 of the Menlo Park Municipal Code, a landlord must at the same time as a notice under Civil Code Section 827(b), for any landlord-caused termination, provide this notice of the tenant's entitlement to relocation assistance. Eligible tenants are entitled to the following forms of relocation assistance: (a) A relocation fee which shall be the cash equivalent of three times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated January 1 of each year, or three times the monthly rent that the tenant(s) is paying at the time the notice of the landlord-caused termination is delivered, whichever amount is greater; (b) a sixty (60) day subscription to a rental agency service; and (c) for special circumstances households one times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated January 1 of each year, or one times the monthly rent that the tenant(s) is paying at the time the notice of landlord-caused termination is delivered, whichever amount is greater. Special-circumstances households include the following: (1) At least one resident of the rental unit is sixty-two (62) years of age or older; (2) At least one (1) resident of the rental unit qualifies as having a disability defined by Title 42, United States Code Section 423 or has a handicap as defined by California Health and Safety Code Section 50072; or (3) One or more minor children (under eighteen (18) years of age) who are

legally dependent (as determined for federal income tax purposes) reside in the rental unit. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

8.55.080 Retaliation prohibited.

Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

8.55.090 Failure to comply.

A landlord's failure to comply with any requirement of this Chapter may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the rental unit. Additionally, any attempt to recover possession of a rental unit in violation of this Chapter shall render the landlord liable to the tenant for damages permitted by law in a civil action for wrongful eviction. The tenant may also seek injunctive relief and money damages for wrongful eviction and/or failure to pay relocation assistance. A landlord may seek money damages for a tenant's failure to reimburse relocation assistance if the tenant ultimately fails to vacate the rental unit where a landlord provides a legal notice to terminate without cause or where the landlord provides a legal notice of a significant rent increase, or proposed multiple rent increases that cumulatively create a significant rent increase at any time during a twelve (12) month period. The prevailing party in an action for wrongful eviction and/or failure to pay relocation assistance or reimburse relocation assistance shall recover costs and reasonable attorneys' fees.

SECTION 3. SEVERABILITY. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) under Sections 15378 and 15061(b)(3) of the of the CEQA Guidelines.

SECTION 5. EFFECTIVE DATE AND PUBLISHING. This Ordinance shall take effect 30 days following its adoption. The City Clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posted in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the council members voting for and against the amendment.

INTRODUCED on the ___ day of _____, 2018.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the ___ day of _____, 2018, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

APPROVED:

Mayor

ATTEST:

Judi A. Herren, City Clerk