

CONGRESS FACADE

33 S. 5TH AVE
TUCSON, ARIZONA 85701

SPECIAL DISTRICT APPLICATION	1 - 3
PROJECT STATEMENT	4
DEVELOPMENT ZONE.....	5
SUN STUDY.....	6 - 8
EXTERIOR ELEVATIONS.....	9
RENDERINGS.....	10 - 12
MATERIAL SAMPLES.....	13
CITY OF TUCSON REVIEW COMMENTS.....	14
AERIAL PHOTOGRAPH.....	15
SITE CONTEXT PHOTOS.....	16 - 17
PRECEDENT EXAMPLES.....	18
ASSESSOR'S RECORD MAP.....	19
HISTORIC PROPERTY.....	20
HISTORIC PROPERTY INVENTORY FORM.....	21 - 23
PARCEL INFORMATION.....	24 - 26
TEMPORARY REVOCABLE EASEMENT AGREEMENT.....	27 - 39

EXA ARCHITECTS
4544 E. CAMP LOWELL DR., #146
TUCSON, ARIZONA
(520) 440-4941
www.exaarchitects.com



SPECIAL DISTRICTS APPLICATION

Application Stage: Pre-application Application Revised Application
 Permit Activity Number: T20CM08740 Case Number: T21SA00082 Date Accepted: 4/28/2021
 DRB-21-02
 HPZ-21-010

PROPERTY LOCATION AND PROPOSED DEVELOPMENT

Project / Development Name (if applicable): CONGRESS FACADE
 Property Address: 33 S. 5TH AVE, Tucson AZ. 85701
 Pima County Tax Parcel Number/s: 117-06-168A
 Current Zoning: OCR-2
 Applicable Overlay/ Infill Incentive District Rio Nuevo Area
 Special Districts: Main Gate Overlay District Grant Road Overlay District
 Neighborhood Preservation Zone Historic Preservation Zone

Neighborhood Association (if any):

PROJECT TYPE (check all that apply):
 Change of use to existing building Ground floor for restaurant with 318 ft² of outdoor serving area; second floor for office use.
 New building on vacant land New building on developed land
 New addition to existing building Other

Description of Proposed Use: New balcony and minor modification to congress facade, including outdoor seating area at TRE as shown on plans.

Number of Buildings and Stories/Height of Proposed Structure(s): existing building , two story/ 27'-0"

Site Area (sq ft): 420 s.f. Area of Proposed Building (sq ft): 267 s.f.

HISTORIC STATUS

Site is within a: Historic Preservation Zone Please List:
 National Register District Please List:
 Site is/includes: A contributing structure Non-contributing structure
 Is adjacent to a contributing structure Vacant

APPLICANT INFORMATION (The person processing the application and designated to receive notices):

APPLICANT NAME: DON MARTIN
 ROLE: Property owner Architect Engineer Attorney Developer
 Other:
 EMAIL: 520-360-3457 PHONE: DONMARTIN@CEI GLOBAL.COM
 ADDRESS: 3210 W. SAN REMO, TUCSON 85715
 PROPERTY OWNER NAME(S) (If ownership in escrow, please note):
 PHONE:

I hereby certify that all information contained in this application is complete and true to the best of my knowledge.
 SIGNATURE OF OWNER/APPLICANT* *Don Martin*

*If an authorized representative is signing on behalf of the property owner, please provide a letter of authorization Date



4544 East Camp Lowell Suite #146
Tucson, Arizona 85712
520-877-3177 phone
520-457-5830 fax
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February 22, 2021

From Jose Ceja
Exa Architects Inc.
520.440.4941

RE: T20CM08740
Congress Street Facade
33 S. 5th Ave, Tucson AZ. 85701

Parcel: 117-06-168A

Project Statement:

Don Carne's Congress Façade – improvements requested are intended to support the continued evolution of this vibrant urban development. Opening this tiny fast food service to the street, similar to what has been done at Diablo Burger, two doors down and at Rialto Concepts on the opposite corner is an important feature that brings the inside out and the outside in, enhancing the overall experience and greatly increasing the size and feel of the space. The tilt up garage style doors will allow us to keep the current window frame size to honor the original design geometry. The new door on Herbert supports flow thru the space and provides direct access to the Herbert TRE which will be utilized for outside seating. The pickup window is for late night customers who, given our location in the center of the entertainment district can be challenging once the bars have closed and folks are looking for something to eat.

Herbert Balcony – this feature will primarily serve the second floor East Wing, providing outdoor seating for the office. The balcony will also enhance the overall Herbert experience complementing the existing bars in that area. Herbert Avenue has incredible potential to become a dynamic urban location. With the Alley type characteristics and proximity to Congress St, the Rialto Theater, Congress Hotel and the soon to be Don Carne's, the balcony will be a qualitative enhancement to the area.

The second floor use will be primarily for the office use seating area. The new wall addition to the existing north balcony is to separate the private office space from the existing lease office use. The seating area outside Don Carne's will be use for the Don Carne's space.

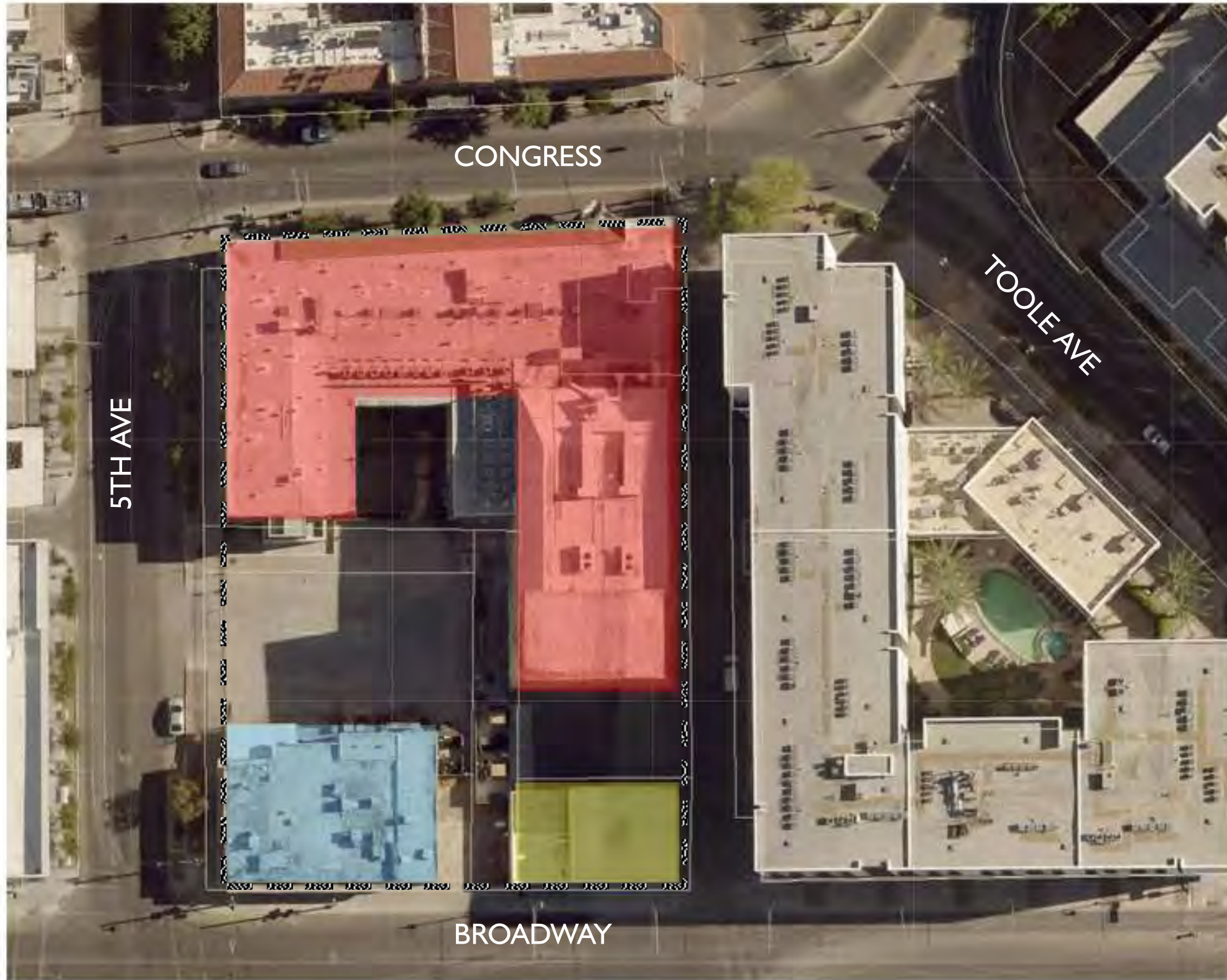
The screening on the two deck openings to match the existing screen second floor deck on the north east side of the congress street. The improvements are the keep the smog and soot out of the seating balconies and make them more enjoyable.

If you have any questions please contact me at Jose@exaarchitects.com or 520.440.4941.

Thank you,

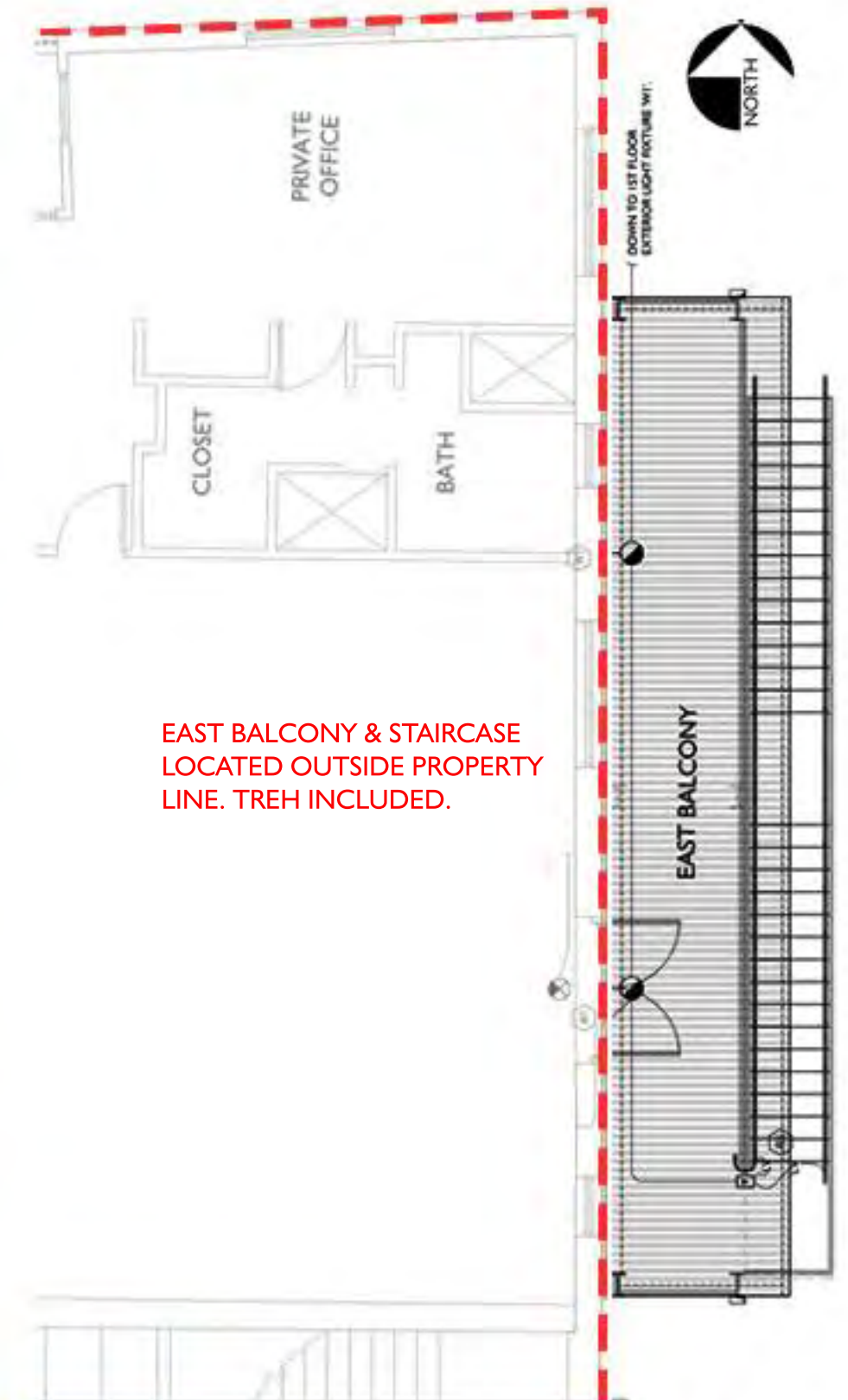
Jose Ceja

DEVELOPMENT ZONE



PROPOSED SITE PLAN

- DEVELOPMENT ZONE
- CONTRIBUTING STATUS
- INELIGIBLE
- ELIGIBLE

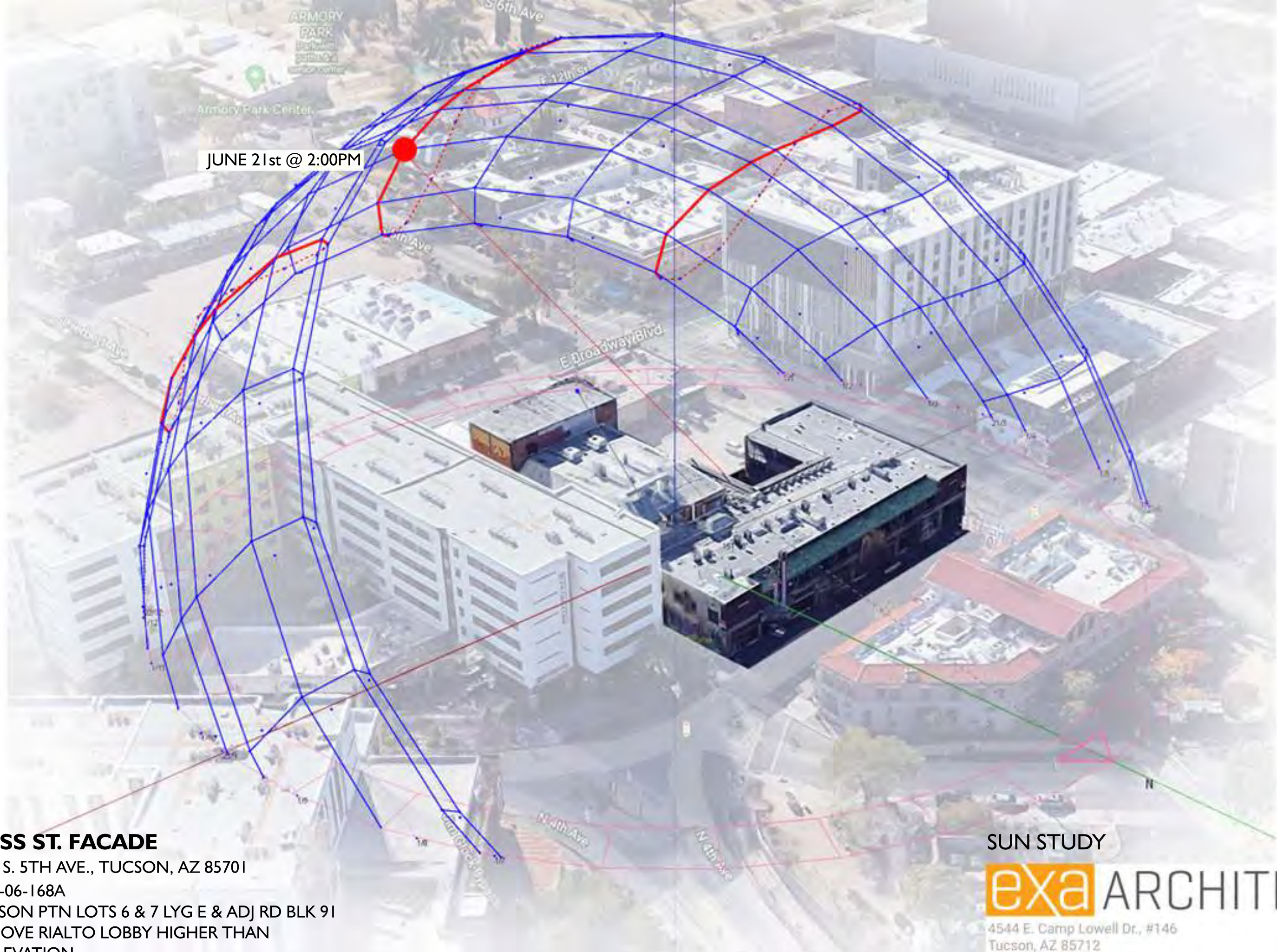


EAST BALCONY & STAIRCASE
LOCATED OUTSIDE PROPERTY
LINE. TREH INCLUDED.

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o: 520.877.3177
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f: 520.457.5830



JUNE 21st @ 2:00PM

CONGRESS ST. FACADE

ADDRESS 33 S. 5TH AVE., TUCSON, AZ 85701

PARCEL: 117-06-168A

LEGAL: TUCSON PTN LOTS 6 & 7 LYG E & ADJ RD BLK 91

PLUS ALL ABOVE RIALTO LOBBY HIGHER THAN

2405.70FT ELEVATION

SUN STUDY

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Computation path of the sun for:

JJMansfield, 33 S 5th Ave, Tucson, AZ, 8570

21 Jul 2021 14:00 UTC-7

Solar data for the selected location

Dawn:	05:04:29
Sunrise:	05:31:33
Culmination:	12:30:20
Sunset:	19:28:45
Dusk:	19:55:46
Daylight duration:	13h57m12s
Distance [km]:	151.996.114
Altitude:	66.71°
Azimuth:	244.72°
Shadow length [m]:	0.43
at an object level [m]:	1

Geodata for the selected location

Height:	730m	Set Lat/Lon
Lat:	N 32°13'18.92"	32.22192°
Lng:	W 110°57'59.9"	-110.96664°
UTM:	12S 503143 3565035	
TZ:	America/Phoenix MST	

More solar data

Print

Contact

Help & API

The same for the Moon

Donate

Legal Disclosure / Privacy Policy

Satellite Image of

Satellite Images of . Update Real Time.

satellite-maps.google.com

This website in German language: [sonnenerlauf.de](https://www.sonnenerlauf.de)

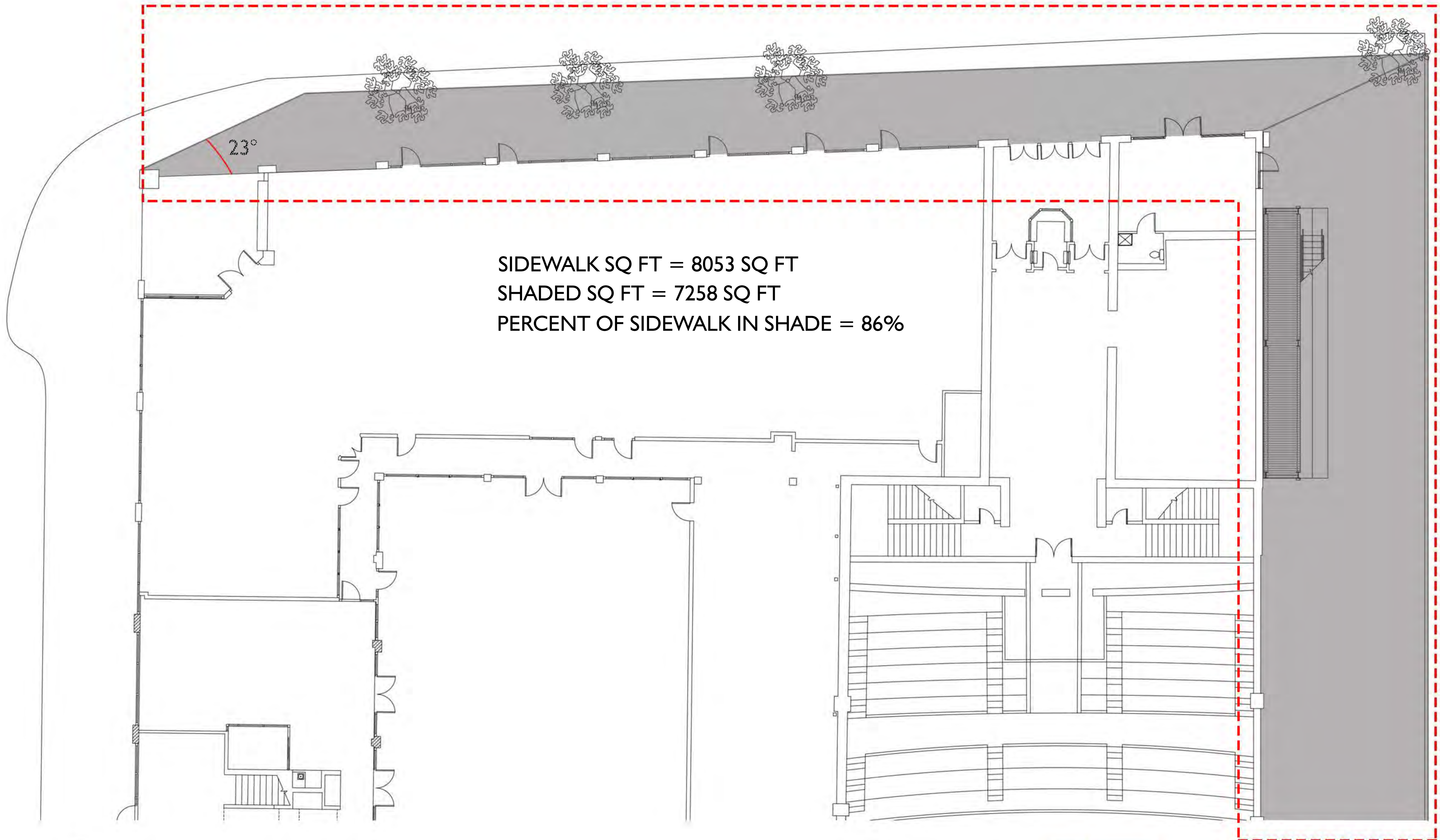


SUN CALCULATOR
<https://www.suncalc.org/>

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SQUARE FOOTAGE OF SHADE PROVIDED
 SUN STUDY @2:00PM JUNE 21st

exa ARCHITECTS

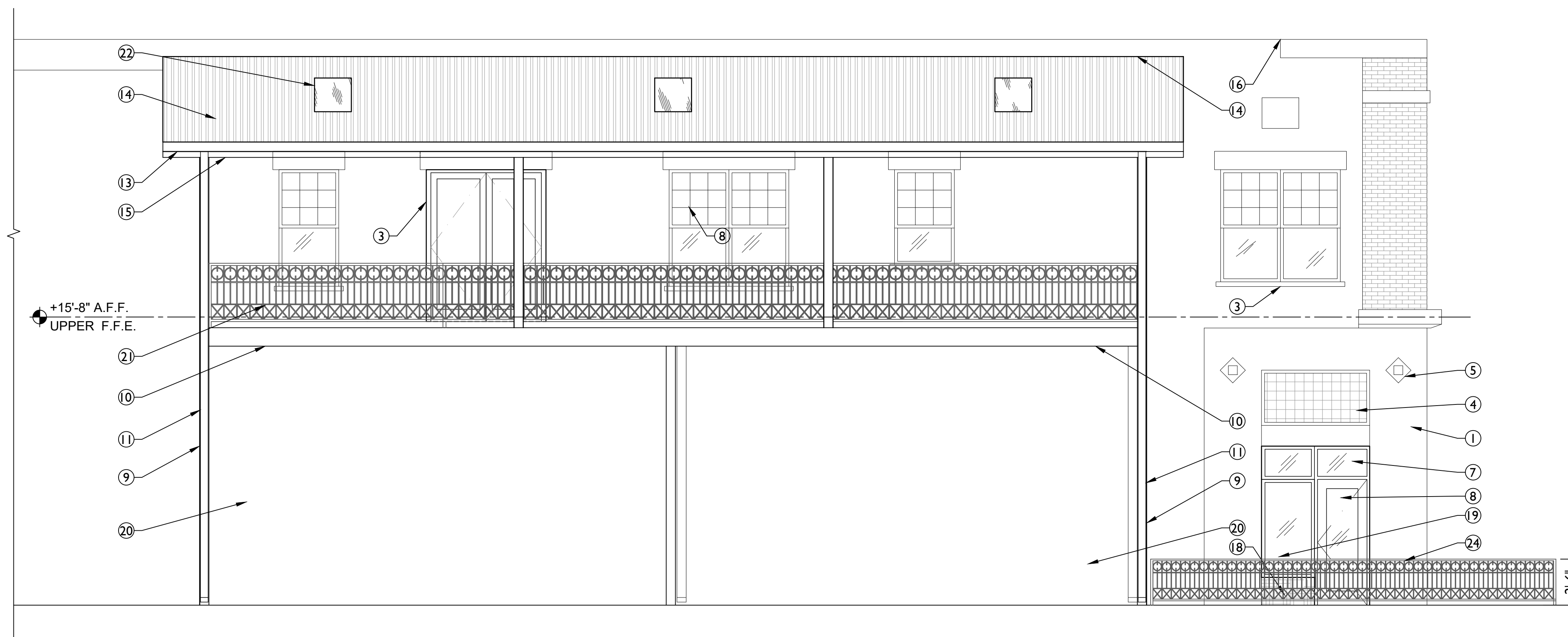
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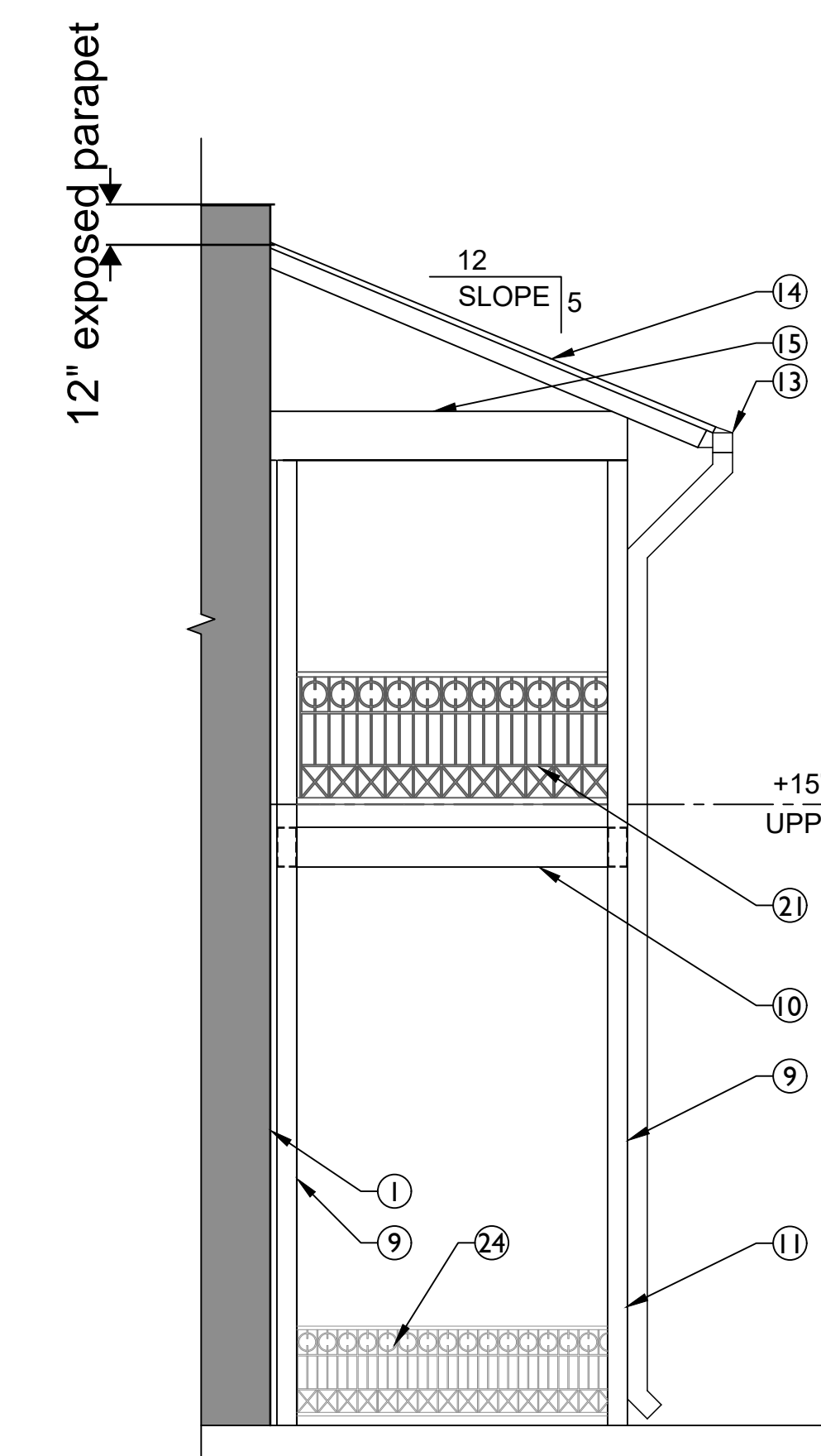
NOTE: THESE DOCUMENTS ESTABLISH THE GENERAL STANDARDS OF QUALITY AND DETAIL FOR DEVELOPING A NEGOTIATED CONSTRUCTION CONTRACT.



1 NORTH ELEVATION
SCALE 1/4" = 1'-0"



2 EAST ELEVATION
SCALE 1/4" = 1'-0"



3 SOUTH ELEVATION
SCALE 1/4" = 1'-0"

KEYNOTES: #

1. EXISTING EXTERIOR WALL.
2. EXISTING STOREFRONT.
3. EXISTING WINDOW.
4. EXISTING TRANSOM.
5. EXISTING TILE MEDALLION.
6. EXISTING ROLL-UP SCREEN.
7. NEW STOREFRONT TO MATCH EXISTING ADJACENT.
8. NEW DOOR, FRAME & ASSOCIATED HARDWARE TO MATCH EXISTING ADJACENT.
9. NEW TUBULAR STEEL COLUMN, SEE STRUCTURAL DRAWINGS.
10. NEW BALCONY STRUCTURE, SEE STRUCTURAL DRAWINGS.
11. NEW RAINWATER LEADER.
12. NEW ROLL-UP SCREEN TO MATCH EXISTING ADJACENT.
13. NEW GUTTER WITH DOWN SPOUTS.
14. NEW R-PANEL METAL ROOFING, SEE STRUCTURAL DRAWINGS.
15. NEW BALCONY ROOF STRUCTURE, SEE STRUCTURAL DRAWINGS.
16. EXISTING PARAPET LINE BEYOND.
17. EXISTING MARBLE FINISH.
18. MODIFIED MARBLE FINISH.
19. NEW OPERABLE WINDOW, TYP.
20. EXISTING MURAL.
21. NEW GUARD RAIL PAINTED TO MATCH BUILDING.
22. NEW SKYLIGHTS 2x4.
23. EXISTING RAIN GUTTER WITH DOWN SPOUT TO BE RE ROUTE AS NEEDED.
24. PROPOSED FUTURE GUARD RAIL.



Expires 03.31.22

REVISIONS:

EXTERIOR ELEVATIONS

CONGRESS ST. FACADE
33 SOUTH 5TH AVE.
TUCSON, AZ 85701

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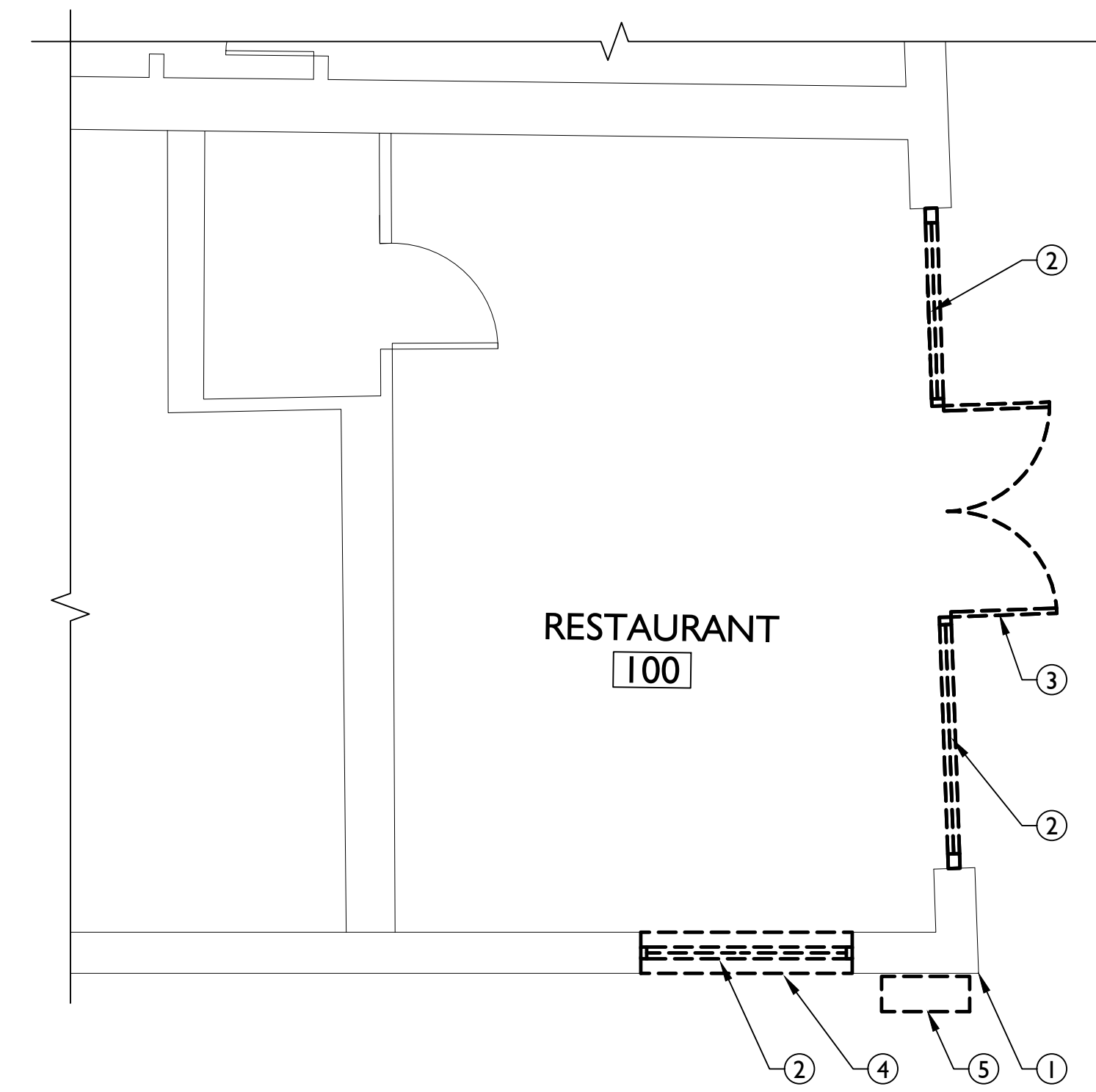
Project 20072
Date 04.27.2021
Scale Noted

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FLOOR PLAN GENERAL NOTES:

1. THE WORD 'ARCHITECT' AS USED IN THESE DOCUMENTS REFERS TO THE BUILDING ARCHITECT, EXA ARCHITECTS.
2. THE WORD 'ALIGN' AS USED IN THESE DOCUMENTS SUPERCEDES ANY DIMENSIONAL INFORMATION INDICATED. IF DISCREPANCIES OCCUR, NOTIFY ARCHITECT IMMEDIATELY.
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4. THE WORD 'CLEAR' AS USED IN THESE DOCUMENTS SHALL MEAN THAT THE CONDITION IS NOT ADJUSTABLE WITHOUT THE APPROVAL OF THE ARCHITECT. CLEAR DIMENSIONS ARE TYPICALLY TO FINISH FACE OF MAJOR SURFACE. COORDINATE REQUIREMENTS FOR BASE BOARD OR OTHER PROTRUSIONS WITH ARCHITECT.
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7. THE WORD 'TYPICAL' AS USED IN THESE DOCUMENTS SHALL MEAN THE CONDITION OR DIMENSION IS THE SAME OR REPRESENTATIVE FOR SIMILAR CONDITIONS THROUGHOUT.
8. THE SYMBOL '±' AS USED IN THESE DOCUMENTS SHALL MEAN THE DIMENSION OR QUANTITY IS ADJUSTABLE TO ACCOMMODATE ACTUAL CONDITIONS. IF ACTUAL DIMENSION VARIES BY MORE THAN 1" FROM DIMENSION NOTED AS '±', INFORM ARCHITECT BEFORE PROCEEDING.
9. G.C. TO VERIFY ALL DIMENSIONS AND CONDITIONS SHOWN ON THE DRAWINGS AT THE JOB SITE AND NOTIFY ARCHITECT OF ANY OMISSIONS, DISCREPANCIES, AND/OR CONFLICTS BEFORE PROCEEDING WITH THE WORK.
10. DO NOT SCALE DRAWINGS. DIMENSIONS GOVERN. LARGE SCALE DETAILS GOVERN OVER SMALL SCALE.
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12. U.N.O. G.C. TO VERIFY ALL EXISTING SHELL PARTITIONS AND INSTALL INSULATION AND 5/8" GYP. BD. WHERE NEEDED FOR FINISH OUT.
13. U.N.O. PARTITIONS ARE DIMENSIONED TO FACE OF FINISH.
14. REFER TO DOOR SCHEDULE FOR TYPES AND HARDWARE INFORMATION.
15. U.N.O. EDGE OF DOOR TO BE LOCATED 5" OFF PERPENDICULAR PTN. PROVIDE BACK TO BACK OR NESTED 20-GAUGE STUDS AT BOTH SIDES OF ALL NEW JAMB LOCATIONS.
16. ALL BLOCKING TO COMPLY WITH APPLICABLE BUILDING AND FIRE CODE REQUIREMENTS. PROVIDE BLOCKING IN PARTITIONS AS REQUIRED TO SECURE CABINETS, MARKER BOARDS, ETC. TO PARTITIONS.
17. ALL MATERIALS AND COMPONENTS OF FIRE-RATED ASSEMBLIES SHALL BE APPROVED BY U.L. OR OTHER RECOGNIZED STANDARD FOR USE IN SUCH ASSEMBLIES.
18. PATCH ALL WALLS, PARTITIONS, COLUMNS, CONCRETE FLOORS, ETC. AS REQUIRED TO RECEIVE NEW FINISH.
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20. U.N.O. INSTALL CEMENT BACKER BOARD AT ALL WET WALLS, INCLUDING BUT NOT LIMITED TO RESTROOM AND SINK LOCATIONS.
21. REFER TO ENGINEERING DOCUMENTS FOR ADDITIONAL INFORMATION.
22. INTERIOR WALLS ARE TO BE METAL STUDS WITH 5/8" THICK FIRE RATED GYPSUM BOARD. FOR WALL FINISH SEE INTERIOR FINISH SCHEDULE. (DIMENSIONS ON PLAN ARE NOMINAL.)
23. LAYOUT AS DIMENSIONED ONLY, DO NOT SCALE DRAWING.
24. THE WORD 'TENANT' AND 'OWNER' AS USED IN THESE DOCUMENTS REFERS TO THE OWNER.
25. SEE ACCESSIBILITY DETAILS SHEETS FOR ALL HANDICAPPED STANDARDS.

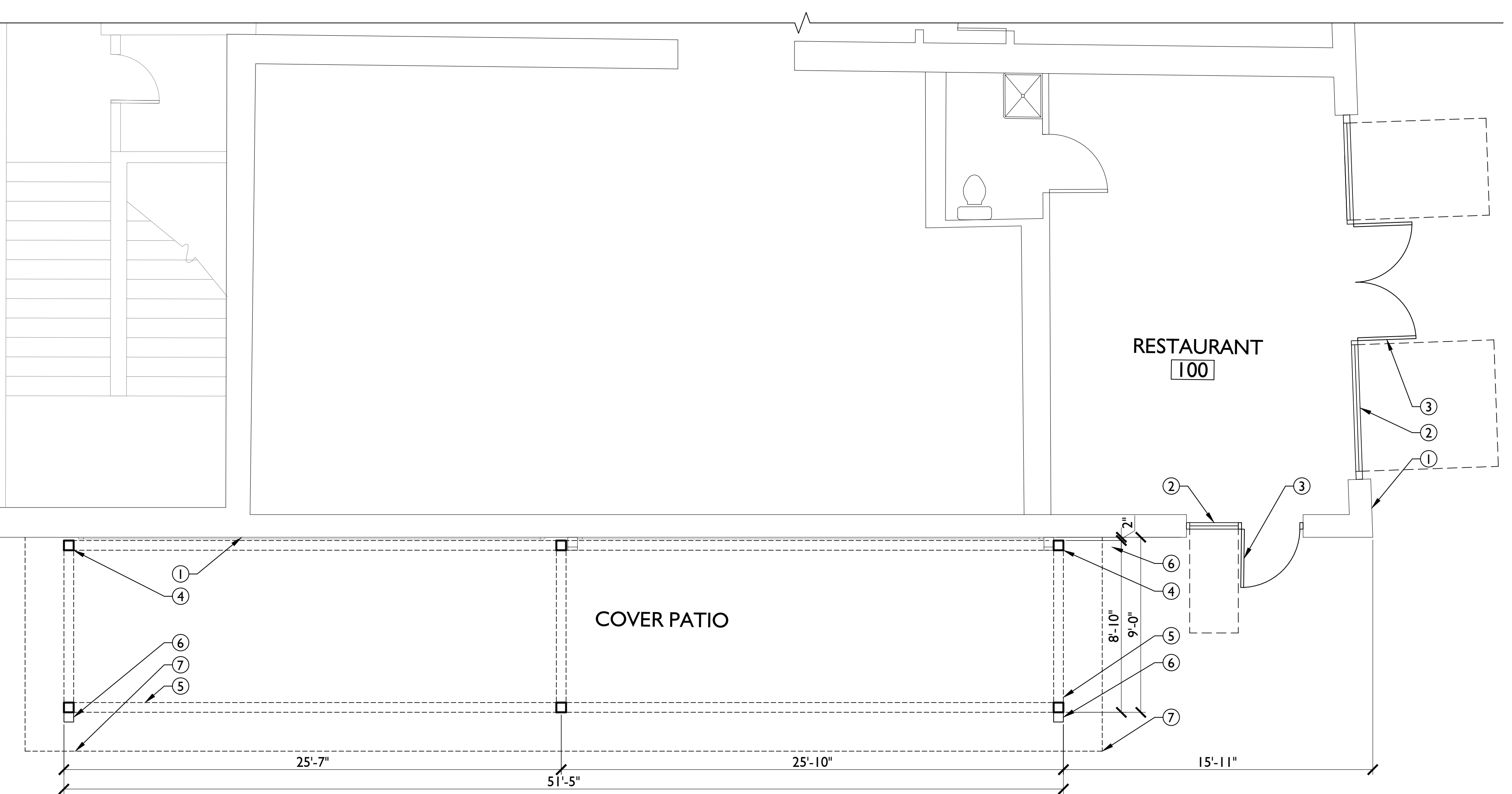


1st FLOOR DEMOLITION PLAN

SCALE: 1/4" = 1'-0"

DEMO PLAN KEYNOTES:

1. EXISTING EXTERIOR WALL.
2. REMOVE EXISTING GLAZING.
3. REMOVE EXTERIOR DOOR, FRAME & ASSOCIATED HARDWARE.
4. REMOVE PORTION OF EXISTING EXTERIOR WALL TO ACCOMMODATE NEW STOREFRONT. SEE PROPOSED PLAN.
5. COORDINATE RELOCATION WITH OWNER.

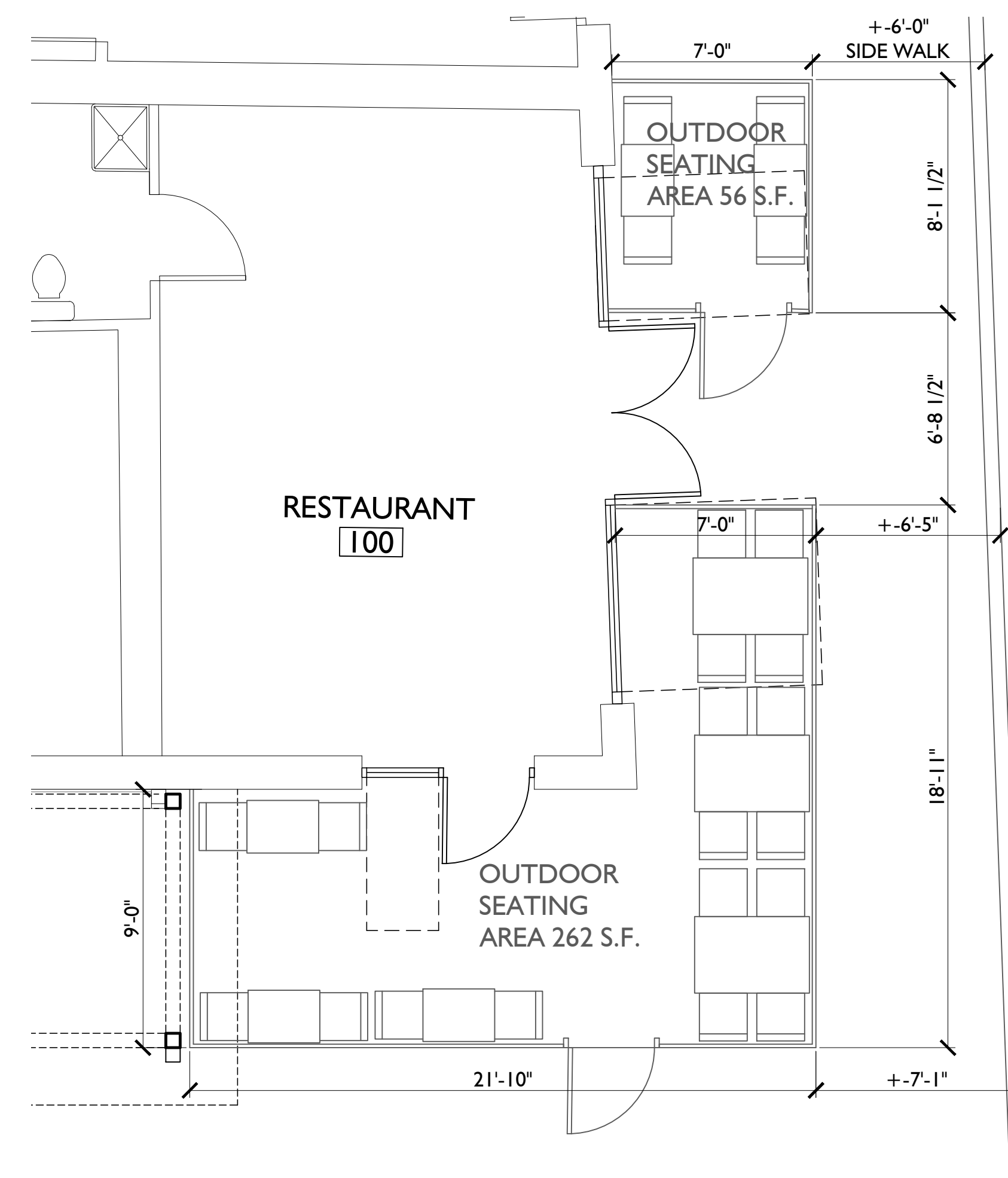


PROPOSED 1st FLOOR PLAN

SCALE: 1/4" = 1'-0"

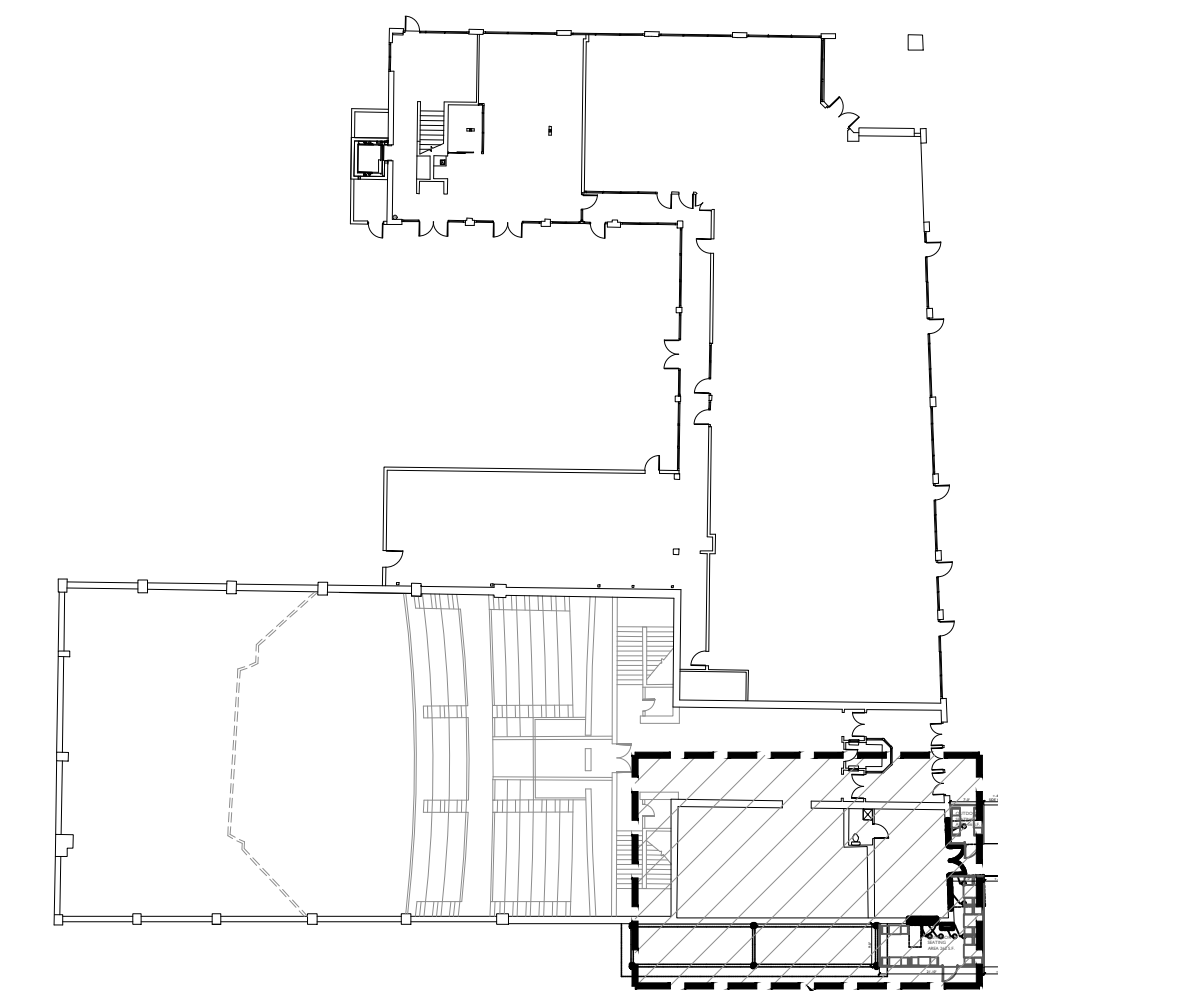
FLOOR PLAN KEYNOTES:

1. EXISTING EXTERIOR WALL.
2. NEW STOREFRONT.
3. NEW DOOR, FRAME & ASSOCIATED HARDWARE.
4. NEW TUBULAR STEEL COLUMN, SEE STRUCTURAL DRAWINGS.
5. NEW BALCONY STRUCTURE ABOVE.
6. NEW RAINWATER LEADER.
7. LINE OF ROOF ABOVE.



1st FLOOR POTENTIAL SEATING AREA

SCALE: 1/4" = 1'-0"



KEY PLAN

SCALE: 1" = 40'-0"



Expires 03.31.22

REVISIONS:

DEMO & PROPOSED
1st FLOOR PLANS

CONGRESS ST. FACADE
33 SOUTH 5TH AVE.
TUCSON, AZ 85701

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- REFER TO DOOR SCHEDULE FOR TYPES AND HARDWARE INFORMATION.
- U.N.O. EDGE OF DOOR TO BE LOCATED 5" OFF PERPENDICULAR PTN. PROVIDE BACK TO BACK OR NESTED 20-GAUGE STUDS AT BOTH SIDES OF ALL NEW JAMB LOCATIONS.
- ALL BLOCKING TO COMPLY WITH APPLICABLE BUILDING AND FIRE CODE REQUIREMENTS. PROVIDE BLOCKING IN PARTITIONS AS REQUIRED TO SECURE CABINETS, MARKER BOARDS, ETC. TO PARTITIONS.
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- THE WORD 'TENANT' AND 'OWNER' AS USED IN THESE DOCUMENTS REFERS TO THE OWNER.
- SEE ACCESSIBILITY DETAILS SHEETS FOR ALL HANDICAPPED STANDARDS.

WALL TYPES:

A. NEW EXTERIOR WALL 3 5/8" METAL STUDS 20 GAUGE @ 16" O.C. w/ 3/8" PLYWOOD SHEATHING BOTH SIDES TO BOTTOM OF BALCONY CEILING. 3 COAT STUCCO SYSTEM BOTH SIDES. MATCH EXISTING ADJACENT TEXTURE AND COLOR.

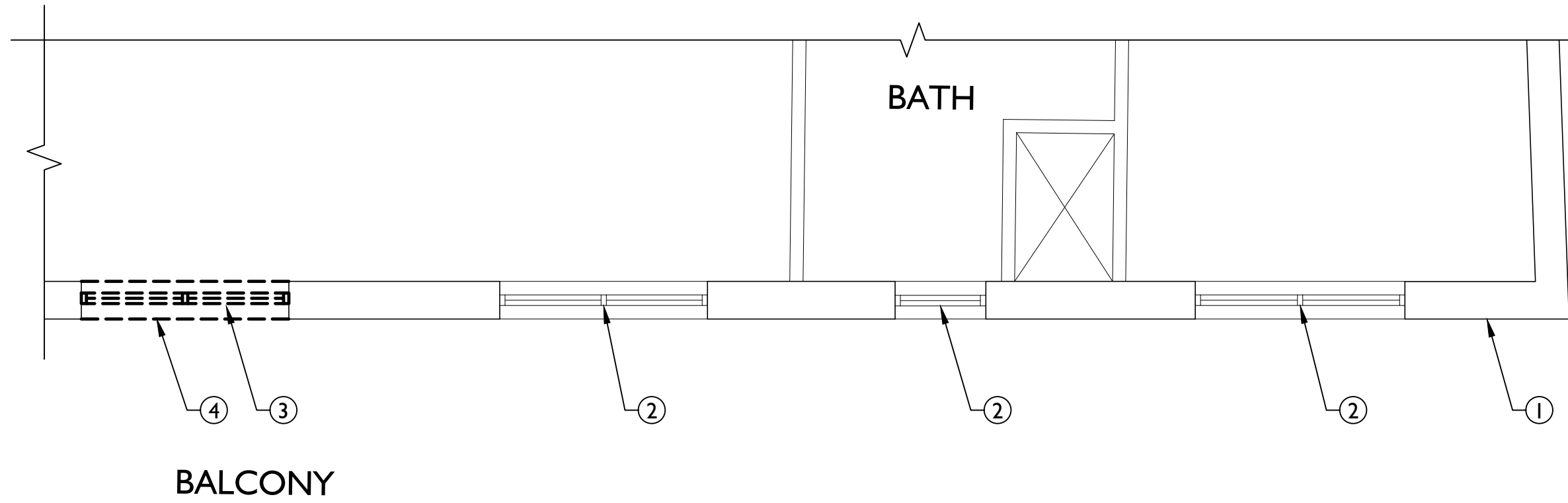
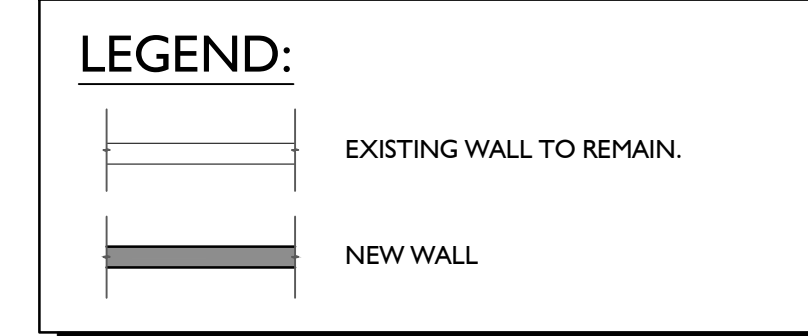
B. EXISTING EXTERIOR WALL TO REMAIN.

WALL TYPE NOTE:

- G.C. TO VERIFY ALL DIMENSIONS AND CONDITIONS SHOWN ON THE DRAWINGS @ THE JOB SITE & NOTIFY ARCHITECT OF ANY OMISSIONS, DISCREPANCIES AND / OR CONFLICTS BEFORE PROCEEDING w/ THE WORK.

METAL STUD TABLE				
STUD SIZE	GAUGE / MILS	LIMITING HEIGHT @ 16' O.C. (FEET)	LIMITING HEIGHT @ 24' O.C. (FEET)	PARTITION NUMBER
1 5/8"	25/18	8'-8"	7'-7"	
	20/30	10'-6"	9'-2"	
2 1/2"	25/18	12'-0"	10'-2"	
	20/30	14'-7"	12'-9"	
3 5/8"	25/18	15'-1"	12'-4"	
	20/30	18'-11"	16'-6"	
4"	25/18	16'-2"	13'-2"	
	20/30	21'-0"	18'-4"	
6"	25/18	*	*	
	20/30	29'-1"	24'-1"	

* NOT ALLOWED
NOTE: BASED ON WIND LOAD OF 5 LBS/SF/L/120 PER ICBO REPORT NO. ER-4943P

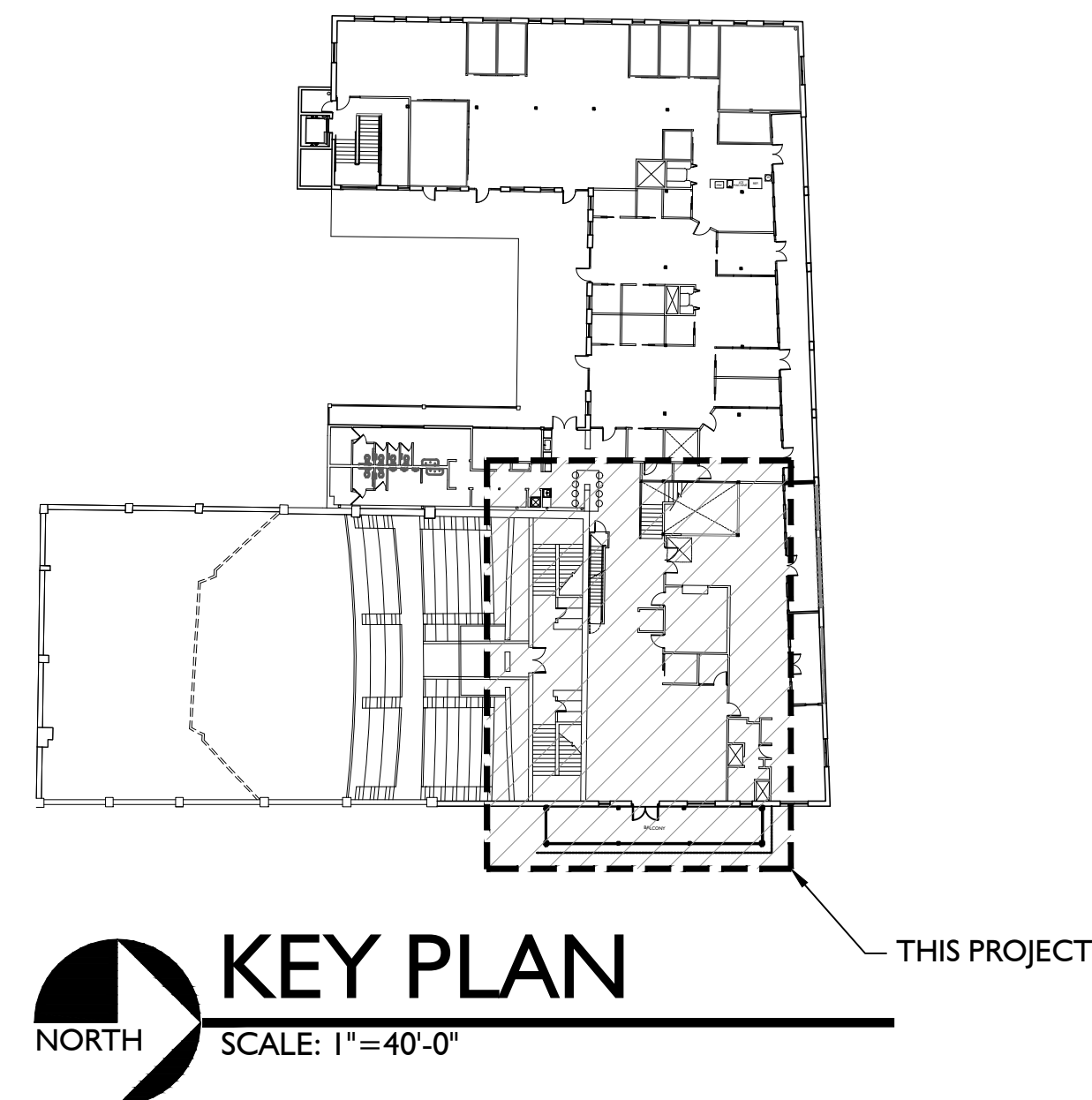


2nd FLOOR DEMOLITION PLAN

SCALE: 1/4" = 1'-0"

DEMO PLAN KEYNOTES:

- EXISTING EXTERIOR WALL
- EXISTING EXTERIOR WINDOW TO REMAIN.
- REMOVE EXISTING WINDOW.
- REMOVE PART OF EXISTING EXTERIOR WALL TO ACCOMMODATE NEW EXTERIOR DOOR. SEE FLOOR PLAN.



PROPOSED 2nd FLOOR PLAN

SCALE: 1/4" = 1'-0"

KEYNOTES:

- EXISTING EXTERIOR WALL.
- EXISTING EXTERIOR WINDOW
- NEW EXTERIOR WALL. SEE WALL TYPES THIS SHEET.
- NEW DOOR, FRAME & ASSOCIATED HARDWARE.
- EXISTING ROLLING SHADES.
- NEW TUBULAR STEEL COLUMN. SEE STRUCTURAL DRAWINGS.
- NEW BALCONY COVER STRUCTURE ABOVE
- LINE OF ROOF ABOVE - 2'-0" OVERHANG.
- NEW RAINWATER LEADER.
- NEW ROLLING SHADES TO MATCH EXISTING.
- NEW +42" GUARD RAIL PER EXTERIOR ELEVATIONS.



Expires 03.31.22
REVISIONS:

DEMO & PROPOSED
2nd FLOOR PLAN

CONGRESS ST. FACADE
33 SOUTH 5TH AVE.
TUCSON, AZ 85701

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Tucson, Arizona 85712
520.877.3177 phone
520.877.3177 fax
www.exaarchitects.com

EXA ARCHITECTS

Project 20072
Date 04.12.2021
Scale Noted

Sheet:

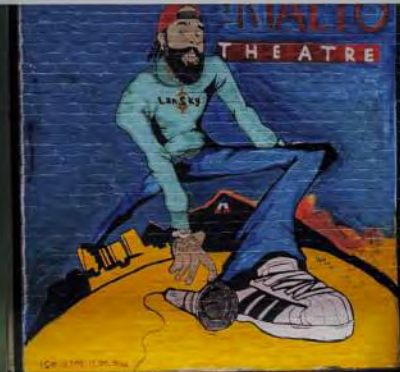
A2.1



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WINDOWS & DOORS WOOD TO
MATCH EXISTING PAINTED DOORS



SCREEN TO MATCH EXISTING



OPERABLE AWNING WINDOWS
OPERATIONAL SAMPLE



NEW GAURD RAIL PAINTED PER OWNER
COLOR BY DUNN EDWARDS
Formal Gray
DE6382 RL#594



MATCH EXISTING MARBLE
MARBLE WAINSCOTT
BELOW WINDOWS

MATERIAL SAMPLES

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Permit Review Details

Permit: T20CM08740
Parcel: 11706168A

Review Details

Addresses:
33 S 5TH AV

Review Status: **Active**

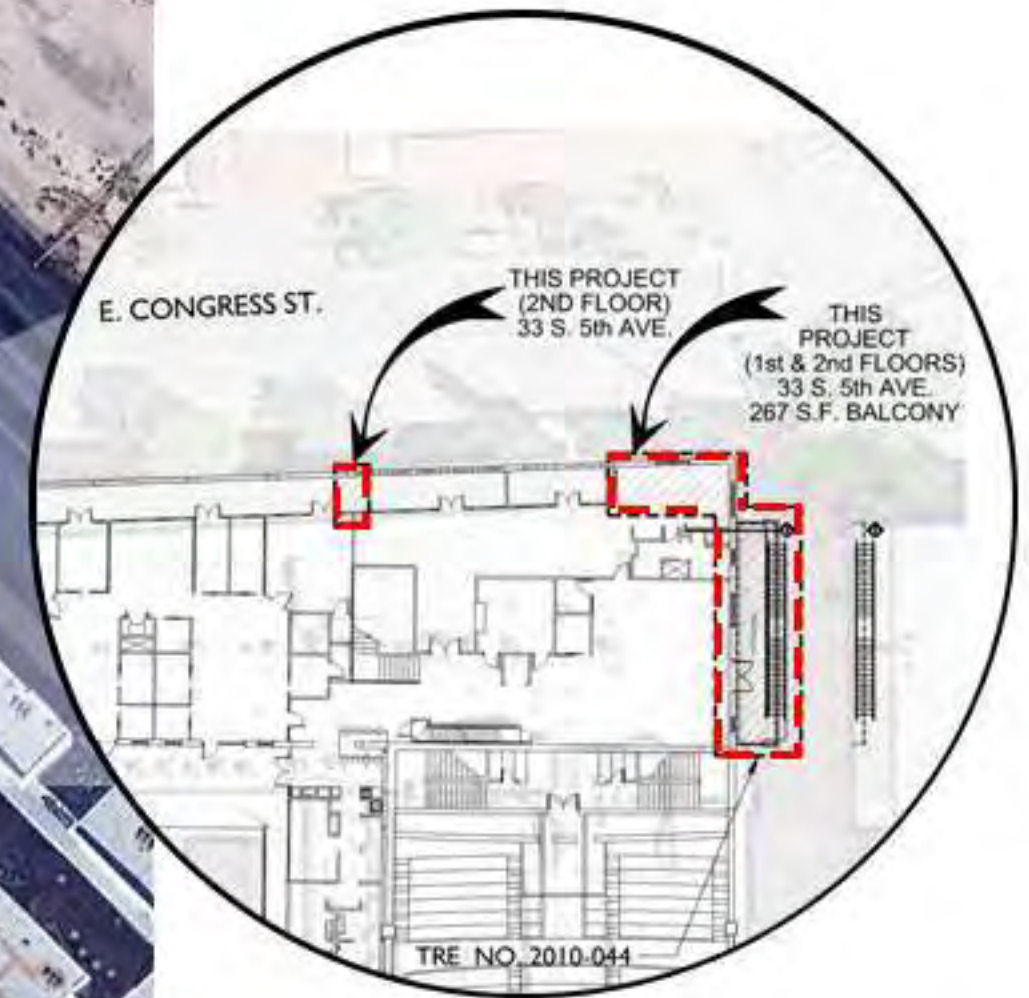
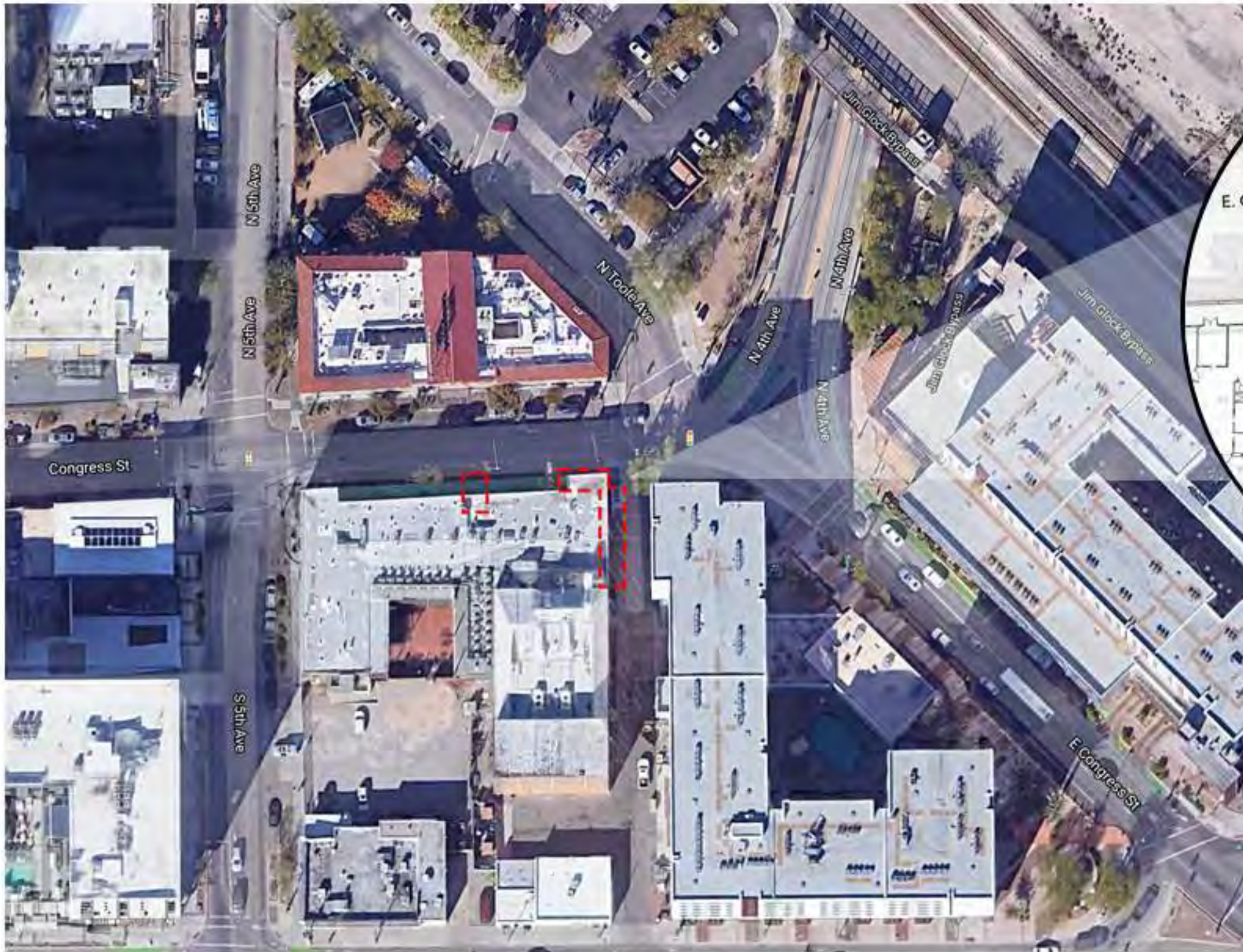
Show entries

Search:

Task End Date	Reviewer's Name	Type of Review	Description	Status	Comment
12/21/2020	ROBERT SHERRY	WATER	REVIEW	Completed	None
12/21/2020	ROBERT SHERRY	MECHANICAL-COMMERCIAL	REVIEW	Reqs Change	Demonstrate energy code compliance for the alterations to the building envelope using calculations based on the current code (e.g. COMcheck). Reference: Sections C103.2, C303, C503.1, and C503.3, International Energy Conservation Code 2018.
12/21/2020	ROBERT SHERRY	PLUMBING-COMMERCIAL	REVIEW	Reqs Change	Provide sizing information for gutters and downspouts. Reference: Sections 1106.1 and 1106.6, IPC 2018.
1/5/2021	JPEELDA1	FIRE	REVIEW	Reqs Change	You are adding 267 of new occupiable space but have not increased the occupant load. Please note the occupant load on your plans and if the building has a fire alarm please add that note as well.
1/13/2021	DAN SANTA CRUZ	ELECTRICAL-COMMERCIAL	REVIEW	Approved	None
1/14/2021	ERIC NEWCOMB	BUILDING-COMMERCIAL	REVIEW	Approved	None
1/14/2021	ERIC NEWCOMB	COMMERCIAL IMPACT FEE	COMMERCIAL IMPACT FEE PROCESSING	Passed	None
1/27/2021	PCAMARE1	ENGINEERING	REVIEW	Passed	None
1/27/2021	NICHOLAS ROSS	ZONING	REVIEW	Reqs Change	Exterior modifications to structures located within the Rio Nuevo Area are subject to Design Review Board review. Zoning cannot approve until this condition is met. An application for RNA review can be found here: https://www.tucsonaz.gov/files/pdsd/Special_Districts_Application_Revised_3-19-20_FILLABLE_PDF.pdf

Showing 1 to 9 of 9 entries

Previous Next



CONGRESS ST. FACADE

ADDRESS 33 S. 5TH AVE., TUCSON, AZ 85701

PARCEL: 117-06-168A

LEGAL: TUCSON PTN LOTS 6 & 7 LYG E & ADJ RD BLK 91

PLUS ALL ABOVE RIALTO LOBBY HIGHER THAN
2405.70FT ELEVATION

AERIAL PHOTOGRAPH

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ELEVATION LOOKING SOUTH



ELEVATION LOOKING EAST

SITE CONTEXT PHOTOS

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ELEVATION LOOKING EAST



SOUTHEAST CORNER AND ALLEY LOOKING NORTH



ELEVATION LOOKING NORTH AND SOUTHEAST CORNER

SITE CONTEXT PHOTOS

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HOTEL CONGRESS- RESTAURANT, ENTERTAINMENT VENUE AND BAR
311 E Congress St, Tucson, AZ 85701



PLAYGROUND- ENTERTAINMENT VENUE AND BAR
278 E Congress St, Tucson, AZ 85701



THE BUFFET- BAR
538 E 9th St, Tucson, AZ 85705

PRECEDENT EXAMPLES

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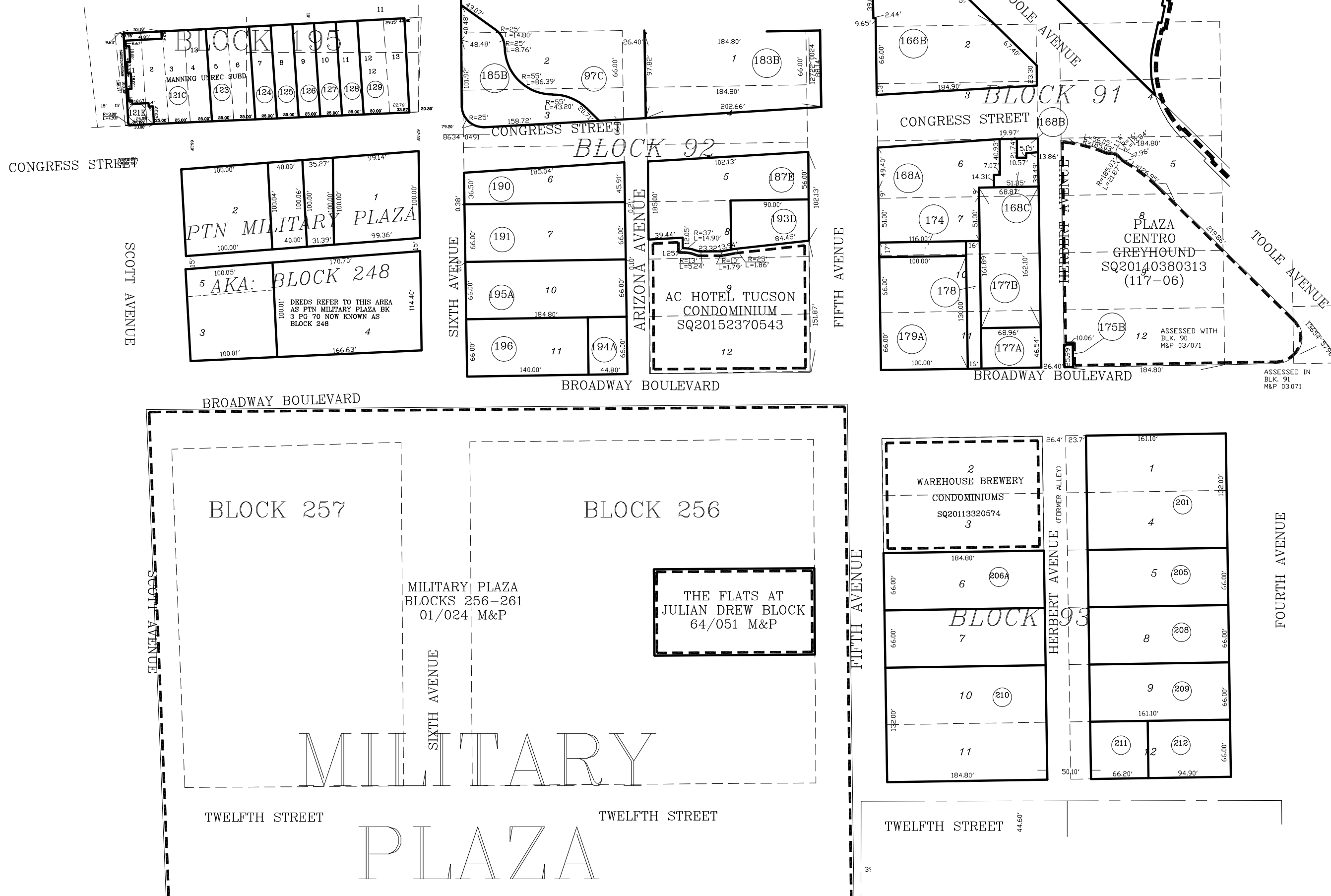
ASSESSOR'S RECORD MAP

(COTALL)

117-06
117-12

CITY OF TUCSON DETAIL 21

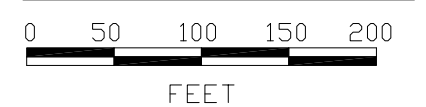
BLOCKS 91-93; 195; 248; MILITARY PLAZA



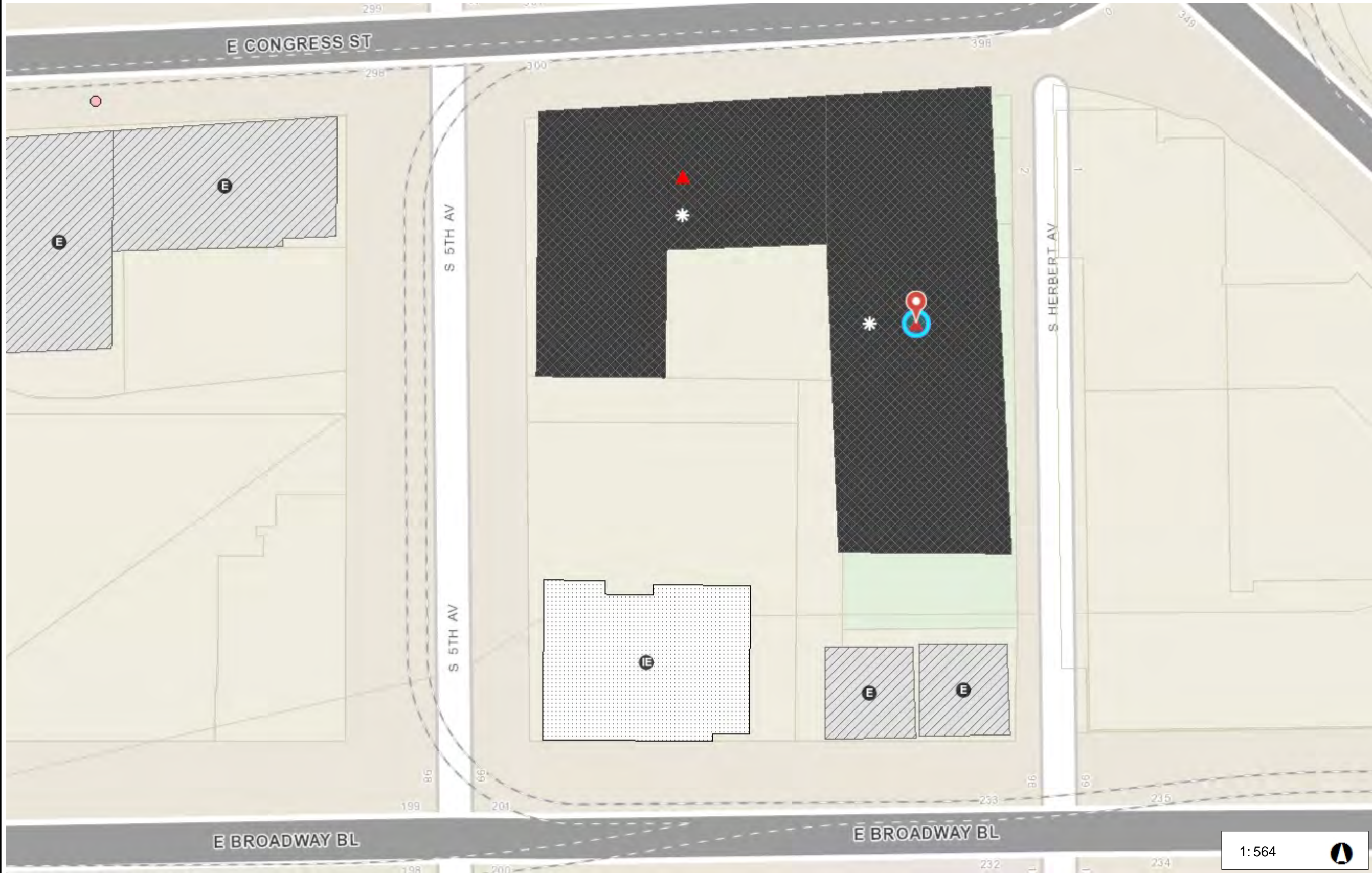
SEE BOOK 03 PAGE 070 M&P
SEE BOOK 03 PAGE 071 M&P
2020-1

S13,T14S,R13E

:\COT_ALL\COT_D021- 10/22/19



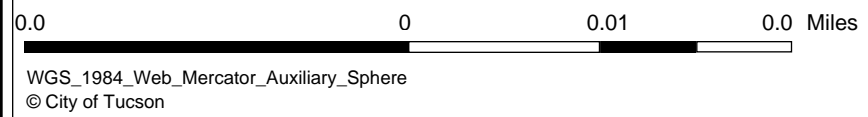
pima
county
assessor



- Legend**
- ▲ City Individual Designations
 - ▲ County Individual Designations
 - Historic Streetlights
 - Historic Wall Mount
 - Original
 - Reproduction
 - Historic Properties
 - Listed
 - Listed and Local
 - Contributor
 - Eligible
 - Ineligible
 - Non-Contributor
 - No Data
 - Demolished Contributor
 - Demolished Non-Contributor
 - Demolished
 - Vacant
 - Outside of HD
 - City of Tucson Historic Zoning
 - Parcels

Notes

Notes



1:564

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

STATE OF ARIZONA

HISTORIC PROPERTY INVENTORY FORM

Please type or print clearly. Fill out each applicable space accurately and with as much information as is known about the property. Use continuation sheets where necessary. Send completed form to: State Historic Preservation Office, 1100 W. Washington, Phoenix, AZ 85007

PROPERTY IDENTIFICATION

For properties identified through survey: Site No: IL_RialtoBldg Survey Area: _____

Historic Name(s): Rialto Building
(Enter the name(s), if any, that best reflects the property's historic importance.)

Address: 300-320 E. Congress St.

City or Town: Tucson vicinity County: Pima Tax Parcel No. 117-06-168A, B, C

Township: 14S Range: 13E Section: 12 Quarter Section: Acreage: 0.35

Plat (Addition): Block: Lot(s): Year of plat (addition):

Latitude: 32.2219 Longitude: -110.9668 Datum if other than WGS84:

USGS 7.5' quad map:

Architect: JOSE CEJA/ EXA ARCHITECTS not determined known (source:)

Builder: CAYLOR CONSTRUCTION not determined known (source:)

Construction Date: AS SOON AS POSSIBLE known estimated (source:)

STRUCTURAL CONDITION

Good (well maintained, no serious problems apparent)

Fair (some problems apparent) Describe:

Poor (major problems; imminent threat) Describe:

Ruin/Uninhabitable

USES/FUNCTIONS

Describe how the property has been used over time, beginning with the original use.

Sources:

PHOTO INFORMATION

Date of photo:
View Direction (looking towards)

Attach recent photograph of property to this space.
Additional photos may be appended on continuation sheets.

SIGNIFICANCE

To be eligible for the National Register of Historic Places, a property must represent an important part of the history or architecture of an area. Note: a property need only be significant under one of the areas below to be eligible for the National Register.

- A. HISTORIC EVENTS/TRENDS (On a continuation sheet describe how the property is associated either with a significant historic event, or with a trend or pattern of events important to the history of the nation, the state, or a local community.)
- B. PERSON (On a continuation sheet describe how the property is associated with the life of a person significant in the past.)
- C. ARCHITECTURE (On a continuation sheet describe how the property embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or possesses high artistic values.)

Outbuildings: (Describe any other buildings or structures on the property and whether they may be considered historic.)

INTEGRITY

To be eligible for the National Register, a property must have integrity, that is, it must be able to visually convey its importance. Provide detailed information below about the property's integrity. Use continuation sheets if necessary.

1. LOCATION Original Site Moved (date _____) Original Site: _____

2. DESIGN (Describe alterations from the original design, including dates—known or estimated—when alterations were made)
N/A

3. SETTING (Describe the natural and/or built environment around the property)
THE STREET HAS LOTS OF MOVEMENT WITH VEHICULAR TRAFFIC AND PEDESTRIAN USE.

Describe how the setting has changed since the property's period of significance: _____
BEFORE THE STREET WERER LONELY AND UN OCCUPIED.

4. MATERIALS (Describe the materials used in the following elements of the property)
Walls (structure): BRICK Foundation: CONCRETE Roof: FLAT ROOF / BUILT UP
Windows: WOOD WINDOWS
If the windows have been altered, what were they originally? _____
Wall Sheathing: _____
If the sheathing has been altered, what was it originally? _____

5. WORKMANSHIP (Describe the distinctive elements, if any, of craftsmanship or method of construction)
BRICK WORK

NATIONAL REGISTER STATUS (if listed, check the appropriate box)

Individually listed; Contributor Noncontributor to _____ Historic District
Date Listed: Sep 12, 2003 Determined eligible by Keeper of National Register (date: _____)

RECOMMENDATIONS OF ELIGIBILITY (opinion of SHPO staff or survey consultant)

Property is is not eligible individually.
Property is is not eligible as a contributor to a potential historic district.
 More information needed to evaluate.
If not considered eligible, state reason: _____

FORM COMPLETED BY:

Name and Affiliation: _____ Date: _____

Mailing Address: _____ Phone No.: _____

STATE OF ARIZONA

HISTORIC PROPERTY INVENTORY FORM

CONTINUATION SHEET

name of property _____ Continuation Sheet No. _____

=====

Property Address			
Street Number	Street Direction	Street Name	Location
27	S	5TH AV	Tucson
29	S	5TH AV	Tucson
31	S	5TH AV	Tucson
33	S	5TH AV	Tucson
35	S	5TH AV	Tucson
310	E	CONGRESS ST	Tucson
312	E	CONGRESS ST	Tucson
314	E	CONGRESS ST	Tucson
316	E	CONGRESS ST	Tucson
300	E	CONGRESS ST	Tucson
302	E	CONGRESS ST	Tucson
304	E	CONGRESS ST	Tucson
306	E	CONGRESS ST	Tucson
308	E	CONGRESS ST	Tucson

Contact Information	
Property Owner Information: CITY OF TUCSON REAL ESTATE DIVISION ATTN: WERNER J MEYER ESQ 5727 N 7TH ST STE 407 85014-5818	Property Description: TUCSON PTN LOTS 6 & 7 LYG E & ADJ RD BLK 91 PLUS ALL ABOVE RIALTO LOBBY HIGHER THAN 2405.70FT ELEVATION

Valuation Data							
Valuation Year	Property Class	Assessment Ratio	Land FCV	Imp FCV	Total FCV	Limited Value	Limited Assessed
2020	COMMERCIAL (1)	18.0	\$321,609	\$2,424,755	\$2,746,364	\$1,574,785	\$283,461
2021	COMMERCIAL (1)	18.0	\$321,609	\$2,424,755	\$2,746,364	\$1,653,524	\$297,634

Property Information					
Township:	14.0	Section:	12	Range:	13.0E
Map:	3	Plat:	71	Block:	091
Tract:		Land Measure:	13,983.00F	Lot:	00007
Census Tract:	100	File Id:	1	Group Code:	000
Use Code:	9730 (MUNICIPAL INDUSTRIAL PROPERTY)			Date of Last Change:	11/15/2016

Valuation Area				
District Supervisor: ADELITA GRIJALVA District No: 5				
DOR Market	Land Subarea	Neighborhood	Sub ID	Economic District
31	1111044 DEL	01020201	03071 DEL	30

Recording Information (9)					
Sequence No.	Docket	Page	Date Recorded	Type	
20152290150	0	0	8/17/2015	WTDEED	
20071390888	13100	4557	7/19/2007	WTDEED	
20061761218	12887	4921	9/12/2006	WTDEED	
20060641257	12775	5409	4/4/2006	WTDEED	
20040561036	12264	5137	3/23/2004	WTDEED	
20020831061	11789	5062	4/30/2002	WTDEED	
20001370576	11341	1805	7/17/2000		
20001020694	11306	2342	5/25/2000		
19990890940	11043	2177	5/10/1999		

Commercial Characteristics				
Property Appraiser: Sarah Rushing Phone: (520) 724-8292				
Commercial Summary				
Interface	Total Sq Ft	Cost Value	CCS Override	Market Override
Y	19,204	\$779,568	\$0	\$2,424,755

Commercial Detail							
SEQ-SECT	Const Year	Model / Grade	IPR	Sq Ft	RCN	RCNLD	Model Description
001-001	1922	111/3	0000000	18,181	\$1,640,905	\$610,417	RETAIL STORE
002-001	2010	103/3	0000000	1,023	\$208,828	\$169,151	RESTROOM BUILDING

Petition Information (3)					
Tax Year	Notice of Value			Notice of Change	
	Owner's Estimate	Petition	Work Up	Owner's Estimate	Work up
2009	\$520,000				
2007	\$380,000				
2003				\$250,850	

Permits (46)

Permit	Status	Issued	Final	City	Value	SqFt	Sub	FirstInsp	LastInsp	Processed	% Complete
T010T00062	COTH ~ FINAL	03/05/2001	03/07/2001	TUC	\$0	1,425		05/06/2005	05/06/2005		100
	Description: C OF O RETAIL										
T99CM04022	CALT ~ FINAL	08/20/1999	09/27/1999	TUC	\$5,000	0		07/31/2007			0
	Description: TI:RETAIL REMODEL RAILING AT RAMP, BARBER SHOP REMODEL										
T20CM06018	CALT ~ FINAL	10/29/2020	11/19/2020	TUC	\$6,000	2,813	3/*				
	Description: TENANT IMPROVEMENT										
T20CM02306	CALT ~ ISSUED	05/21/2020		TUC	\$30,000	4,315	3/*				
	Description: TI: OFFICE										
T17CM02519	CALT ~ FINAL	06/26/2017	07/06/2017	TUC	\$5,000	7,058	3/*				
	Description: BAR										
T16CM08849	CALT ~ FINAL	02/03/2017	02/15/2017	TUC	\$0	2,871	3/*				
	Description: TI, BAR										
T16CM09556	CALT ~ FINAL	02/02/2017	04/12/2017	TUC	\$20,000	846	3/*				
	Description: TI, TEA HOUSE & LOUNGE										
T14BU00223	COTH ~ FINAL	02/27/2014	05/01/2014	TUC	\$7,400	0	3/*				0
	Description: FIRE ALARM										
T14BU00134	COTH ~ FINAL	02/07/2014	05/21/2014	TUC	\$1,925	0	3/*				0
	Description: FIRE SPRINKLER										
T13CM02975	CALT ~ FINAL	01/08/2014	07/23/2014	TUC	\$140,000	14,767	3/*	12/10/2013			0
	Description: OFFICES										
T13CM02975	CALT ~ FINAL	01/08/2014	07/23/2014	TUC	\$140,000	14,767	3/*	12/10/2013	01/23/2014		0
	Description: OFFICES										
T13CM02975	CALT ~ FINAL	01/08/2014	07/23/2014	TUC	\$140,000	14,767	3/*	12/10/2013	04/28/2014		0
	Description: OFFICES										
T13CM02975	CALT ~ FINAL	01/08/2014	07/23/2014	TUC	\$140,000	14,767	3/*	12/10/2013	08/01/2014		100
	Description: OFFICES										
T13CM02975	CALT ~ FINAL	01/08/2014	07/23/2014	TUC	\$140,000	14,767	3/*	12/10/2013	11/07/2014		100
	Description: OFFICES										
T12CM06913	CALT ~ FINAL	04/18/2013	04/18/2013	TUC	\$1,500	0	3/*				0
	Description: TI:INTERIOR DEMO										
T13BU00397	COTH ~ FINAL	04/08/2013	05/02/2013	TUC	\$2,850	0	3/*				0
	Description: NEW HOOD FIRE SYSTEM										
T12CM08252	COTH ~ FINAL	04/05/2013	05/09/2013	TUC	\$160,000	1,604	3/*	05/31/2013			100
	Description: RESTAURANT										
T12CM08253	COTH ~ FINAL	04/05/2013	05/09/2013	TUC	\$280,000	2,646	3/*	05/31/2013			100
	Description: RESTAURANT										
T12CM08260	CALT ~ FINAL	04/05/2013	09/06/2013	TUC	\$80,000	812	3/*	05/31/2013			40
	Description: TAVERN										
T12CM08260	CALT ~ FINAL	04/05/2013	09/06/2013	TUC	\$80,000	812	3/*	05/31/2013	07/25/2013		60
	Description: TAVERN										
T12CM08260	CALT ~ FINAL	04/05/2013	09/06/2013	TUC	\$80,000	812	3/*	05/31/2013	10/18/2013		100
	Description: TAVERN										
T12CM08260	CALT ~ FINAL	04/05/2013	09/06/2013	TUC	\$80,000	812	3/*	05/31/2013	12/10/2013		100
	Description: TAVERN										
T13BU00387	COTH ~ FINAL	04/03/2013	05/02/2013	TUC	\$2,850	0	3/*				0
	Description: HOOD FIRE SUPPRESSION SYSTEM										
T13BU00311	COTH ~ FINAL	03/22/2013	05/02/2013	TUC	\$1,400	0	3/*				0
	Description: FIRE ALARM										
T13BU00228	COTH ~ FINAL	03/13/2013	05/02/2013	TUC	\$2,310	0	3/*				0
	Description: T.I. 12 New .re sprinklers										
T13BU00229	COTH ~ FINAL	03/13/2013	05/02/2013	TUC	\$2,695	0	3/*				0
	Description: T.I. INSTALL 14 NEW SPRINKLERS										
T12CM07950	CALT ~ FINAL	03/05/2013	08/28/2013	TUC	\$250,000	31,727	3/*	05/31/2013			40
	Description: TI: SHELL										
T12CM07950	CALT ~ FINAL	03/05/2013	08/28/2013	TUC	\$250,000	31,727	3/*	05/31/2013			60
	Description: TI: SHELL										
T12CM07950	CALT ~ FINAL	03/05/2013	08/28/2013	TUC	\$250,000	31,727	3/*	05/31/2013	07/25/2013		60
	Description: TI: SHELL										
T12CM07950	CALT ~ FINAL	03/05/2013	08/28/2013	TUC	\$250,000	31,727	3/*	05/31/2013	10/18/2013		100
	Description: TI: SHELL										
T12CM07950	CALT ~ FINAL	03/05/2013	08/28/2013	TUC	\$250,000	31,727	3/*	05/31/2013	12/10/2013		100
	Description: TI: SHELL										
T13BU00199	COTH ~ FINAL	02/22/2013	07/31/2014	TUC	\$38,693	0	3/*	12/26/2012			0
	Description: T.I. Work 1st Fl.-New system 2nd fl-Total 201 heads										
T13BU00199	COTH ~ FINAL	02/22/2013	07/31/2014	TUC	\$38,693	0	3/*	01/22/2013			0
	Description: T.I. Work 1st Fl.-New system 2nd fl-Total 201 heads										
T10CM02714	CALT ~ FINAL	10/04/2010	10/19/2010	TUC	\$0	21,776	3/*	10/06/2010	10/06/2010		0
	Description: INTERIOR EXHIBITION SPACE										
T10BU00563	COTH ~ FINAL	04/13/2010	10/13/2010	TUC	\$1,465	0	3/*				0
	Description: FIRE ALARM - RIALTO CREDITS										
T10CM00644	CADD ~ FINAL	03/26/2010	05/24/2010	TUC	\$770,000	21,776	3/*	04/01/2010	04/01/2010		0
	Description: TI:OFFICE:ADDITION:BATHROOMS										
T10BU00464	COTH ~ FINAL	03/23/2010	05/03/2010	TUC	\$18,233	0	3/*	04/01/2010	04/01/2010		0
	Description: INSTALL 93 NEW FIRE SPRINKLERS AND 25 FEET OF 4 INCH FIRE UNDERGROUND.										
T10CM00056	CALT ~ FINAL	03/10/2010	04/23/2010	TUC	\$0	0	3/*	04/01/2010	04/01/2010		0
	Description: DEMO:CANOPY & CHIMNEY										
T09CM01100	CALT ~ FINAL	05/04/2009	04/16/2010	TUC	\$125,000	0	3/*	07/22/2009	07/22/2009		0
	Description: TI: NEW STORE FRONT REVISION 1: REPLACEMENT ADDITIONAL DOORS AND STOREFRONT GLAZING REVISION 2: REVISE STOREFRONT										
T04CM04725	CALT ~ FINAL	05/13/2005	08/28/2013	TUC	\$250,000	0	3/*	05/06/2005	05/06/2005		0
	Description: TI:FACADE(REMODEL)										
T04EL00637	COTH ~ FINAL	03/31/2004	08/23/2006	TUC	\$0	0		07/20/2009	07/20/2009		0
	Description: RECONNECT:ELECTRIC RETAIL										
T04EL00638	COTH ~ FINAL	03/31/2004	08/23/2006	TUC	\$0	0		07/20/2009	07/20/2009		0
	Description: RECONNECT:ELECTRIC RETAIL										
T04EL00565	COTH ~ FINAL	03/19/2004	08/23/2006	TUC	\$0	0		07/20/2009	07/20/2009		0

Permits (46)

Permit	Status	Issued	Final	City	Value	SqFt	Sub	FirstInsp	LastInsp	Processed	% Complete
Description: RECONNECT:ELECTRIC.RETAIL											
T020T00135	COTH ~ FINAL	02/05/2002	02/07/2002	TUC	\$0	775		05/06/2005	05/06/2005		100
Description: C OF O:GALLERY-RETAIL STORE											
T020T00205	COTH ~ FINAL	02/05/2002	02/07/2002	TUC	\$0	850		05/06/2005	05/06/2005		100
Description: C OF O:RETAIL 31											
T02EL00066	COTH ~ FINAL	01/10/2002	08/24/2006	TUC	\$0	0		07/20/2009	07/20/2009		0
Description: ELECTRIC:RECONNECT											

Notes (24)

Created: 10/5/2016 Modi ed: 10/5/2016	20152290150 per pcl 4 of deed: map correction to 117-06-168A to include structures higher than 2405.70ft elevation above Rialto Lobby 117-06-168C. REF: COT benchmark #16 on sidewalk @ brdwy & 5th Ave is elevation of 2394.332ft.
Created: 1/26/2016 Modi ed: 1/26/2016	2017N No change to use code 2812. No change to Land/IMP class 1/0.No change to % complete
Created: 8/5/2015 Modi ed: 8/6/2015	2016S No change to use code 2812. No change to Land/IMP class 1/0.No change to % complete.
Created: 12/3/2014 Modi ed: 1/29/2015	2016N No change to use code 2812. No change to Land / IMP class 1/0. Shell space of 925 SF incomplete. Also 168B remains shell.
Created: 8/19/2014 Modi ed: 8/19/2014	2016N.No Change to Use Code 2812.No Change to Land/IMP class 1/0.Tl:Office is not complete.Pcl 168B/1st fr used as office w/168A (Connect Office).PCL 168A,168B,168C-2nd fr used together as office.Update IMP 1/1 & 2/1,Add IMP 1/2.Apex/Photos to BookMap
Created: 6/9/2014 Modi ed: 6/24/2014	2015S. No Change to Use Code at 2812. Change Land/IMP from 1/4 to 1/0. Parcel is 100% commercial.
Created: 12/12/2013 Modi ed: 12/12/2013	2015N-Per F/C 12/10/13 no change to use code 2812 & Land/IMP class (1/4) CCS IMP 001 still has approximately 11,854 SF of shell space current permits have been approved but not issued for TI. Office field check & verify for 2015S
Created: 8/27/2013 Modi ed: 8/27/2013	2014 ADJUSTED CLASSMASTER FROM 50/50 MIX TO 50.1 CLS 1 & 49.9 CLS 4; NEW LTD 836440 CORRECT
Created: 8/13/2013 Modi ed: 8/13/2013	2014S-Per F/C 07/25/13 no change to use code 2812 & Land/IMP class (1/4) update CCS IMP 001 from 18,172->18,181 SF new effective age from 1922->1941 11,854 SF is still at shell status 5,382 SF is used as restaurants 945 SF under construction for new bar
Created: 12/26/2012 Modi ed: 12/26/2012	2014N-Per F/C 12/26/12 no change to use code 2812 no change to percent complete update CCS IMP 001-001 SQFT from 21,813->18,172 P/U building addition from 2010 for restrooms 1023 SQFT updated APEX/photos in Book-Map
Created: 12/20/2011 Modi ed: 12/20/2011	No change to use code at 2812. No change to Land/imp class at 1/4(Comm/ResRental). No change to % complete. Will update CCS & Apex for 2013Supp.
Created: 8/23/2011 Modi ed: 8/23/2011	2012Supp - No change to use code at 2812. No change to Land/imp class at 1/4(Comm/ResRental). No change to % complete. Will update CCS & Apex for 2013N.
Created: 12/16/2010 Modi ed: 12/16/2010	2012N - No change to use code at 2812. No change to Land/imp class at 1/4(Comm/ResRental). Project is approx. 70% complete.
Created: 8/19/2010 Modi ed: 8/19/2010	No change to use code at 2812. No change to Land/imp class at 1/4(Comm/ResRental). Project is approx. 70% complete.
Created: 1/6/2010 Modi ed: 1/6/2010	No change to use code at 2812. No change to Land/imp class at 1/4(Comm/ResRental). First floor is undergoing renovation and new storefronts.
Created: 12/30/2009 Modi ed: 12/30/2009	2011 N -- CORR USE CODE FROM 1210 TO 2812.
Created: 7/28/2008 Modi ed: 7/28/2008	2009 A-LEVEL: REVIEWED & ADJUSTED BASED ON MARKET.
Created: 10/3/2006 Modi ed: 10/3/2006	12775-5409 CORRECTED BY 12887-4921
Created: 7/31/2006 Modi ed: 7/31/2006	2007 A-LEVEL OK.
Created: 1/30/2003 Modi ed: 1/30/2003	B-LEVEL OK
Created: 7/15/2002 Modi ed: 7/15/2002	7/15/02 2002 SPLIT CK NO CHANGE. 2003 UPDATED GEH
Created: 7/12/2002 Modi ed: 7/15/2002	USE SAME AT 1210 AND RATIO CHG TO 3/6 @ 18.7% FOR BOTH LAND & IMP FOR 2003
Created: 6/13/2002 Modi ed: 6/13/2002	Split to 168a,b.& c from 1680. 23,821' from the 29,009' imp of parcel 1680 to 168a. Photos taken
Created: 5/15/2002 Modi ed: 5/15/2002	2002-RESIDUE OF 117061680 AFTER 11739/819

1
2
3 **TEMPORARY REVOCABLE EASEMENT AGREEMENT**
4
5

6 This Temporary Revocable Easement ("**TRE**") is made and entered into by and among the
7 CITY OF TUCSON, an Arizona municipal corporation (the "**City**"); THE RIALTO THEATER
8 FOUNDATION, an Arizona non-profit corporation ("**Foundation**"); Rio Nuevo Multipurpose
9 Facilities District, a political subdivision of the State of Arizona ("**District**" and together with
10 Foundation "**Rialto**"); TUCSON PROPERTIES 1, LLC, a Delaware limited liability company
11 ("**TP1**" and also referred to as "**TP1 Housing**" and "**TP1 Retail**" for its differing operational
12 elements defined below) and THE RIALTO BLOCK PROJECT LLC, an Arizona limited liability
13 company ("**Rialto Block**"). The City, Rialto, TP1 and Rialto Block may be referred to herein
14 individually as a "**Party**" and collectively as the "**Parties.**"
15

16 **Recitals**
17

18 That certain Development Agreement for the Plaza Centro Project was approved and signed on
19 June 9, 2009, by the City through the Mayor and City Council by Resolution No. 21313. Said
20 agreement stated the terms of the conveyance and development of certain City-owned real
21 property into a mixed-use Student Housing Development (the "**Project**").
22

23 On February 17, 2010, the City, through the Mayor and City Council by Resolution No. 21477,
24 approved the First Amendment to the Development Agreement.
25

26 On June 14, 2011, the City, through the Mayor and City Council by Resolution No. 21773,
27 approved the Second Amendment to the Development Agreement. The Development
28 Agreement, as twice amended, is hereinafter referred to as "**DAPC**".
29

30 Thereafter, rights under the DAPC were transferred to TP1.
31

32 Section 2.5 of the DACP provides that the City will retain ownership of the Herbert Avenue right
33 of way, but provide use rights therein by easement to both TP1 (as successor in interest) and
34 Rialto. The Rialto Block is an adjacent property owner desiring to be a Party to this TRE.
35

36 The purpose of this TRE is to set forth the terms and conditions for the shared use of Herbert
37 Avenue. The segment of Herbert Avenue which is the subject of this TRE is depicted on the
38 attached Exhibit "A" and segregated for the Parties' uses as defined below (the "**Subject Area**").
39

40 That portion of Herbert Avenue to the south of the Subject Area is intended to remain open and
41 continue to be used as a public alley with typical public alley uses including but not limited to
42 pedestrians, bicycles, utility services, secondary access to abutters, loading, unloading,
43 maintenance and trash removal subject to the provisions of paragraph 5.c below.
44
45
46

1 TP1's abutting property development includes two distinct and separate operational elements,
2 (i) student housing and (ii) retail. This TRE addresses each operational element separately
3 with their differing rights and responsibilities. As such, TP1 and its operational elements are
4 addressed as "TP1 Housing" and "TP1 Retail" throughout this TRE to define and differentiate
5 the rights and responsibilities attributable to each operational element.
6
7

8 Agreement

9
10
11 **NOW, THEREFORE**, in consideration of the mutual covenants set forth below and other
12 valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree
13 as follows:

14 1. Recitals. The recitals are an integral part of this TRE and are incorporated herein by
15 reference.

16 2. Grant of TRE - Rialto. The City hereby grants to Rialto, and their members, agents,
17 employees, assigns, invitees and customers: A temporary non-exclusive revocable easement
18 over, across, and along the segment of Herbert Avenue as depicted in Exhibit "A" and noted as
19 "Rialto" for the purpose of occupying and using the alley consistent with the concepts in the
20 DAPC and the terms of this TRE.

21 3. Grant of TRE – TP1 Retail. The City hereby grants to TP1 Retail, and their members,
22 agents, employees, assigns, invitees and customers: A temporary non-exclusive revocable
23 easement over, across, and along the segment of Herbert Avenue as depicted in Exhibit "A"
24 and noted as "TP1 Retail" for the purpose of occupying and using the alley consistent with the
25 concepts in the DAPC and the terms of this TRE.

26 4. Grant of TRE – Rialto Block. The City hereby grants to Rialto Block, and their members,
27 agents, employees, assigns, invitees and customers: A temporary non-exclusive revocable
28 easement over, across, and along the segment of Herbert Avenue as depicted in Exhibit "A"
29 and noted as "Rialto Block" for the purpose of occupying and using the alley consistent with the
30 concepts in the DAPC and the terms of this TRE.

31 5. Acknowledgments and Restrictions.

32 a) Each party shall maintain a barrier or a handrail defining that portion of the subject
33 area allocated to its use under this TRE. Said barrier shall be designed to comply with the City
34 of Tucson Planning and Development Services Department's General Plan policies and Design
35 Guidelines so that they are architecturally integrated with the adjoining facility and constructed
36 in such a manner as to not allow an encroachment into other intended use areas defined by the
37 attached Exhibit "A". Each Party shall obtain all necessary permits prior to the installation of
38 their barrier(s) and all barriers, fixtures, furniture and equipment placed within the Subject Area
39 must be movable and temporary to allow for loading, unloading, maintenance and trash
40 removal in accordance with this Section.

1 b) The middle eight (8) feet of the Subject Area will remain open and unobstructed to
2 public bicycle and pedestrian traffic, as depicted in Exhibit "A" subject to the provisions of
3 paragraph 5.c below.
4

5 c) The provisions of this Section 5c apply to the Foundation's scheduled use including
6 events, shows and performances ("Rialto's Use") being held at the Rialto Theater. The use
7 provisions of this Section shall run from noon the day of Rialto's Use until 2 a.m. the following
8 morning.

9 Foundation shall be allowed to restrict bicycle and pedestrian use of the above
10 described eight (8) feet and shall, during the term of an active lease of premises east of the
11 subject area, utilize the south 28.4 feet of said eight (8) foot area as a temporary extension of
12 the use rights established by this TRE. Foundation shall also be allowed to close and utilize
13 the full width of Herbert Avenue south of the Subject Area and north of Broadway for loading,
14 unloading, staging and performer security.

15 Foundation shall be responsible for all traffic control including pedestrians and bikes
16 attempting to use Herbert Avenue and is required to maintain pedestrian ingress/egress to and
17 from the nearest major street, along the safest and most practical route, for unfettered ADA
18 access to all stairways and fire exits of any abutting property during these times of use.
19 Foundation is responsible for (i) appropriately notifying City, Rialto Block, and TP1 in advance,
20 and on a quarterly bases outlining the coming year, of the dates such events/shows/
21 performances will be held, and (ii) for maintaining safe and efficient use of the public right of
22 way. The parties agree that the notice required of the Foundation shall be as posted on its
23 website under its calendar of events.
24

25 d) TP1 Housing and its tenants may require extraordinary use of the public right of way
26 and the Subject Area three (3) to four (4) days twice per year for loading and unloading of
27 student housing residents. TP1 Housing shall be responsible for all traffic control including
28 pedestrians and bikes attempting to use Herbert Avenue and is required to maintain pedestrian
29 ingress/egress to and from the nearest major street, along the safest and most practical route,
30 for unfettered access to all stairways and fire exits of any abutting property during these times
31 of use. TP1 Housing is responsible for appropriately notifying City, Rialto, Rialto Block, and
32 TP1 Retail in advance, and on a quarterly bases outlining the coming year, of the dates of such
33 use and maintain safe and efficient use of the public right of way. TP1 Housing and its tenants
34 shall have priority over the Subject Area during those loading and unloading periods and TP1
35 Housing, Rialto, Rialto Block and TP1 Retail shall work collaboratively to coordinate the loading
36 and unloading periods to limit the impacts of and minimize issues with any scheduled
37 events/shows/performances being held at the adjacent Rialto Theater or any other anticipated
38 use of the right of way.
39

40 e) All parties are responsible for daily maintenance and cleanliness of their respective
41 portions of the Subject Area, including the 8 foot public pedestrian and bicycle area and that
42 portion Herbert Avenue south of the Subject Area and north of Broadway Boulevard by
43 performing daily litter removal, trash pickup and graffiti removal. Regular power washing shall
44 be performed by each Party as needed to keep the Subject Area free of surface staining and
45 unpleasant odors. This provision shall apply to the use of the Subject Area as well as use of
46 the remaining Herbert Avenue right of way including but not limited to trash pickup areas and
47 run off from power washing operations. Each party shall monitor its use area and notify any

1 offending party of any deferred maintenance issue. If the City or the Business Improvement
2 District (BID) is asked to intervene in a valid maintenance issue between the Parties, if not
3 resolved within 48 hours of written notice by the City or the Business Improvement District
4 (BID), the offending Party's right to this TRE may be revoked in accordance with Sections 7
5 and 13 below.

6
7 f) Rialto shall keep the thirty (30) foot driveway/delivery area behind the Rialto Theater
8 as shown by the attached Exhibit "A" open for use by trash and delivery vehicles serving TP1's
9 property and hereby grants use of said area to TP1 and its invitees, subject to the following:

10 (i) Rialto may revoke this provision at any time by providing all parties to this TRE sixty
11 (60) days written notice. In the case of a revocation of this provision by the Rialto, the Subject
12 Area and that portion of Herbert Avenue south of the Subject Area will be cleared and open for
13 typical public alley uses including but not limited to pedestrians, bicycles, utility services,
14 secondary access to abutters, loading, unloading, maintenance and trash removal each day
15 from 4:00 am to 12:00 pm. Also in the case of a revocation of this provision by the Rialto,
16 Section 5.c of this TRE shall automatically be revoked and Foundation will be required to obtain
17 a Special Event Permit from the City of Tucson prior to any closure or use activities outlined in
18 said Section 5.c.

19 (ii) If the use provisions of the thirty (30) foot area within this Section are subsequently
20 restored by the Rialto or its successor(s), all of the above conditions relating to occupancy and
21 use of the right of way shall also be restored.

22
23 g) This TRE is intended to create a mutually beneficial outdoor retail, dining, seating and
24 serving area within the Herbert Avenue right of way for the Parties. Improvements within the
25 Subject Area shall be built in compliance with the City of Tucson Code and shall be designed to
26 comply with the City of Tucson Planning Department's General Plan policies and Design
27 Guidelines so that the improvements shall be architecturally integrated with the adjoining
28 building. This TRE is only intended to allow the occupancy of the right of way and is in no way
29 a waiver or replacement for any required or necessary regulatory review including but not
30 limited to City of Tucson Transportation Department, City of Tucson Development Review, City
31 of Tucson Zoning Compliance Review, City of Tucson Fire Review, Design Review Board,
32 Historic Preservation Zone, State of Arizona Liquor Board. Grantees or their tenants shall obtain
33 all necessary permits and certificates prior to the installation of additional improvements within the
34 Subject Area. Grantees shall also comply with any law and Ordinance that may pertain to the
35 use of the Subject Area including but not limited to the State and local liquor regulations and
36 City of Tucson noise Ordinance (City Code Sec. 16-31).

37
38 6. Annual Fees. An annual fee is required by the City of Tucson for any commercial or
39 commercially benefitting activities within and occupancy of the public right of way. The three
40 parties to this TRE that are benefitting and occupying the Subject Area are Rialto, Rialto Block
41 and TP1 Retail; however, the City acknowledges some exceptional conditions within this TRE
42 and has applied a different Rent Multiplier than is typical of a TRE due to these exceptional
43 conditions. The following annual fees, due upon the granting of this TRE by the City's
44 signature of acceptance and upon the yearly anniversary thereafter until this TRE is revoked or
45 modified, shall apply for the occupancy of the Subject Area by said entities:

	Rialto	Rialto Block	TP1 Retail
Area	955.33	215.29	1019.74
Price/sq.ft.	\$ 25.00	\$ 25.00	\$ 25.00
Rent Multiplier	0.05	0.08	0.08
Tax	\$29.85	\$10.76	\$50.99
	<u>\$1,224.01</u>	<u>\$441.35</u>	<u>\$2,090.47</u>
TOTAL ROUNDED			
TRE FEE	\$1,250.00	\$450.00	\$2,100.00

The annual fee is subject to change at any time based on changes to the minimum annual TRE fee of the City, or based on market-reflected changes in rental rates for the property. In the event the annual fee is not paid within thirty days of the annual renewal date, a \$50 late fee will be added to the annual renewal fee for each month or portion of a month that the annual fee remains unpaid

7. Term of Easement. This easement shall commence on the date executed by all Parties and shall continue for one year, unless otherwise revoked. This Temporary Revocable Easement shall automatically renew for successive one-year periods under the terms set forth herein unless agreed to and modified by all the Parties or unless revoked by the Director of the Real Estate Program of the City of Tucson for a Party's breach of a material term. In the case of an individual breach of a material term by any Party, unless said breach affects the safety and welfare of the public or the remaining Parties' use, the Party in breach shall have thirty (30) days from the time of first notice by the City of the breach to rectify said breach. In the case of an individual breach of a material term by a single Party this TRE will survive for the remaining non-breaching Parties.

8. Insurance. For so long as this Agreement shall be in force and effect, each Party using their respective easement shall maintain public liability and bodily injury insurance in the amount of \$500,000.00 for each individual person, \$1,000,000.00 for each occurrence, and \$100,000.00 property damage for each occurrence, and shall cause the City to be named as co-insured for all purposes under such insurance. Each Party shall require that the insurance carrier provide the City with an appropriate endorsement and certificate of coverage containing a provision for a 30-day notice of cancellation. The endorsement and certificate of insurance shall be kept current and mailed to the City at: **City of Tucson/Real Estate Program**
ATTN: Property Management
P O Box 27210
Tucson Arizona 85726-7210

Please reference "2010-044" in the description area of the insurance certificate.

9. Release from Liability. The granting of the TRE by the City for use of portions of said public right of way is not a representation by the City of the practicability, safety or use of the area, and shall create no liability upon or cause of action against the City. The City shall have no liability or responsibility to the Rialto, Rialto Block or TP1, and/or their members, guests, invitees, assigns and/or others using the Subject Area, including death, injury, damage, destruction or loss arising out of the installation, maintenance and use of the amenities and other improvements within the Subject Area. In addition to the liability imposed by law upon the negligence of each Party, which liability is not impaired or otherwise affected hereby, each

1 Party individually hereby agrees to defend, indemnify and hold harmless the City, its officers,
2 boards, commissions, employees, and agents against and from any and all claims, demands,
3 causes of action, complaints, suits, losses, damages (including damage to City's property)
4 injuries and liabilities whatsoever (including those for costs, expenses, and attorney's fees), or
5 any part thereof which arise by reason of injury to any person or persons, including death, or
6 property damage, resulting from any act or omission of each Party individually or anyone
7 directly or indirectly employed by it in the prosecution of any work and maintenance and use of
8 the Subject Area.

9 10. No Damages. Rialto, Rialto Block and TP1 shall be barred from collecting damages from
10 the City for the loss, removal or destruction of all items or any improvements and/or materials, or
11 for any resulting or residual damage or injury to Rialto's, Rialto Block's and TP1's premises or
12 uses thereof occasioned by the removal of said improvements and/or materials.

13
14 11. Blue Stake. The Subject Area shall be Blue Staked in accordance with the provisions of
15 State law prior to any construction activities. Each Party individually and their assignees or
16 successors will assume full responsibility and cost for any damage that it may have caused to an
17 existing utility franchise by the installation of any encroachments within the Subject Area.

18
19 12. Utility Provision. If any of the said improvements/materials are required to be removed in
20 order for any utility to perform regular maintenance duties/functions, said removal and any
21 replacement of the aforementioned improvements/materials will be accomplished by the Party
22 that owns the affected improvements, at no cost to the utility or the City.

23
24 13. Reinstatement. In the event that this TRE, or any fractional Party's interest, is canceled
25 by the City for failure of any Party to comply with any of its terms or conditions, the fee to
26 reinstate the fractional Party's interest in this TRE will be \$500.00.

27
28 14. Assigning/Subleasing. Rialto, Rialto Block or TP1 shall not sublet all or any portion of the
29 Premises without the City's prior written consent which shall not be unreasonably withheld.
30 Rialto, Rialto Block and TP1 may assign all of its rights, duties and obligations under this TRE
31 to any entity which acquires all or substantially all of Rialto's, Rialto Block's or TP1's assets in
32 their adjacent properties by reason of a merger, acquisition or other business reorganization,
33 which shall not be deemed a third party assignment. A third party assignment shall require
34 City's consent, and City agrees not to withhold or delay such consent if to do so would be
35 commercially unreasonable. In the event of an assignment by lease to a tenant of Rialto, Rialto
36 Block or TP1, the assigning entity (Assignor) shall remain liable under this TRE. As
37 contemplated within this section, the City has consented to the future assignment of TP1's
38 rights, duties and obligations as separate entities, identified as TP1 Housing and TP1 Retail
39 under this TRE.

40
41 15. Modifications. This Agreement supersedes all prior discussions and agreements of the
42 Parties with respect to the subject matter hereof. As such, this Agreement contains the entire
43 understanding of the Parties and may not be amended, supplemented, or modified in any way
44 except in writing signed by all Parties.

1 16. Severability. The invalidity of any provision in this Agreement as determined by a court
2 of competent jurisdiction, shall in no way affect the validity of any other portion hereof.

3
4 17. Time of Essence. Time is of the essence to the performance of this Agreement.

5
6 18. Waivers. The failure of a Party to enforce any rights or conditions of this Agreement
7 shall not be construed to be a waiver of such rights or conditions, or a waiver by such Party to
8 thereafter enforce such right or condition or any other terms hereunder.

9
10
11 19. Governing Law, Venue, and Conditions Precedent to Litigation. This Agreement will be
12 governed by and construed according to the laws of the State of Arizona. Venue is proper in
13 the Superior Court of Pima County, Arizona. Litigation hereunder shall not be commenced
14 unless and after the Parties have participated in mediation.

15
16 20. Attorneys' Fees. In the event of any action to enforce the provisions of this Agreement,
17 the prevailing party shall be entitled to recover from the non-prevailing party its taxable court
18 costs and reasonable attorneys' fees.

19
20 21. Counterparts. This Agreement may be executed in one or more identical counterparts,
21 all of which taken together shall constitute one and the same original instrument.

22
23 DATED this _____ day of _____, 20____.

24
25 THE RIALTO THEATER FOUNDATION, an Arizona non-profit corporation

26
27
28 By: _____

29
30 Title: _____

31
32
33 STATE OF ARIZONA)
34 : ss.
35 COUNTY OF PIMA)

36
37 This instrument was acknowledged before me this ____ day of _____, 20__,
38 by _____ as _____
39 of The Rialto Theater Foundation, an Arizona non-profit corporation.

40
41
42
43
44 _____
45 Notary Public Signature
46
47

1 DATED this _____ day of _____, 20__.

2
3 Rio Nuevo Multipurpose Facilities District, a political subdivision of the State of Arizona

4
5
6 By: _____

7
8 Title: _____

9
10 STATE OF ARIZONA)
11 : ss.
12 COUNTY OF PIMA)

13
14
15 This instrument was acknowledged before me this ____ day of _____, 20__,
16 by _____ as _____
17 of Rio Nuevo Multipurpose Facilities District, a political subdivision of the State of Arizona.

18
19
20
21
22 _____
23 Notary Public Signature

24
25
26 DATED this _____ day of _____, 20__.

27
28 Tucson Properties 1 LLC, a Delaware limited liability company

29
30 By: _____

31
32 Title: _____

33
34 STATE OF ARIZONA)
35 : ss.
36 COUNTY OF PIMA)

37
38 This instrument was acknowledged before me this ____ day of _____, 20__, by
39 _____ as _____ of
40 Tucson Properties 1, a Delaware limited liability company.

41
42
43
44
45 _____
46 Notary Public Signature

1 DATED this 26 day of August, 2013

2 The Rialto Block Project, an Arizona limited liability company

3
4 By: [Signature]

5
6 Title: Member

7
8 By: [Signature]

9
10 Title: member



11
12
13 STATE OF ARIZONA)
14 : ss.
15 COUNTY OF PIMA)

16
17 This instrument was acknowledged before me this 26 day of August, 2013, by
18 Don Martin as MEMBER of The
19 Rialto Block Project LLC, an Arizona limited liability company.
20
21

22
23
24 [Signature]
25 Notary Public Signature
26
27

28 DATED this 26 day of August, 2013.

29 APPROVED AS TO FORM:

30
31
32
33
34
35 _____
36 Principal Assistant City Attorney

37
38
39 CITY OF TUCSON, a municipal corporation

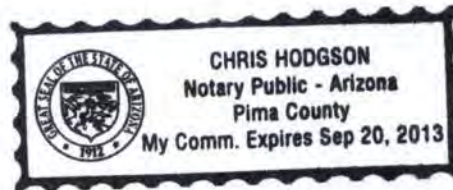
40
41
42 By: _____
43 Hector F. Martinez, Program Director
44 For Richard Miranda, City Manager
45
46
47

STATE OF ARIZONA }
 } ss
COUNTY OF PIMA }

This instrument was acknowledged before me this 28th day of August, 2013 by Matthew Scott Stiteler as Member of The Rialto Block Project, LLC, an Arizona limited liability company.



Notary Public Signature

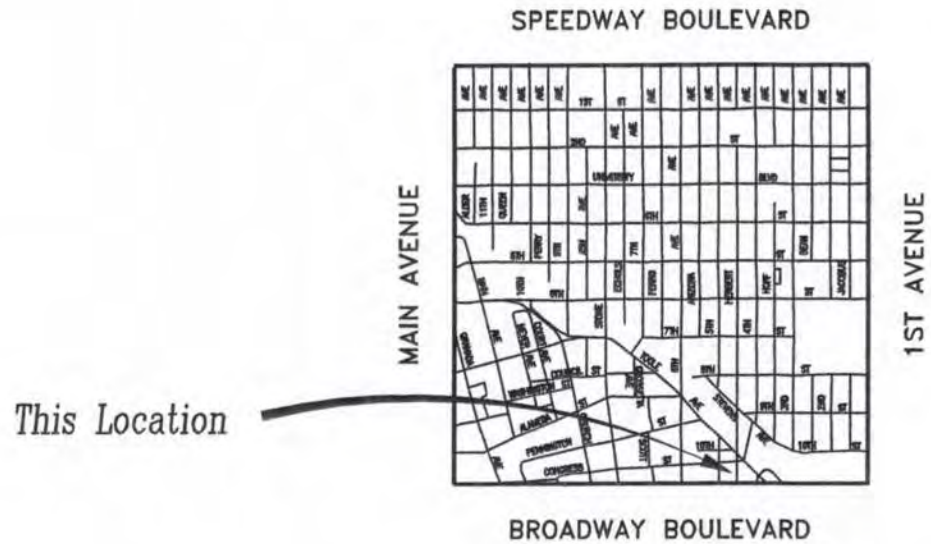


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STATE OF ARIZONA)
 : ss.
COUNTY OF PIMA)

This instrument was acknowledged before me this ____ day of _____, 20__,
by Hector F. Martinez, Director of the Real Estate Program of the City of Tucson, for Richard
Miranda, City Manager.

Notary Public Signature







LOCATION MAP

SEC. 12, T14S, R13E

HERBERT AVENUE
CITY OF TUCSON
BOOK 3, PAGE 70

LEGEND

1.  TEMPORARY REVOCABLE EASEMENT AREA - RIALTO
2.  TEMPORARY REVOCABLE EASEMENT AREA - TP1 RETAIL
3.  TEMPORARY REVOCABLE EASEMENT AREA - RIALTO BLOCK
4.  ASSESSOR'S TAX CODE NUMBER 117-06
5. OCR-2 ZONING

