

# SUPPLEMENTAL BOARD BOOK OF JANUARY 26, 2017



**J. Paul Ozer, Chair**  
**Juan Muñoz, Vice-Chair**  
**Leslie Bingham Escareño, Member**  
**T. Tolbert Chisum, Member**  
**Tom H. Gann, Member**  
**J. B. Goodwin, Member**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
BOARD MEETING**

**A G E N D A  
9:00 AM  
January 26, 2017**

**William B. Travis Building  
Room 1-111  
1701 Congress Avenue  
Austin, Texas**

**CALL TO ORDER**

**ROLL CALL**

**J. Paul Oxer, Chairman**

**CERTIFICATION OF QUORUM**

*Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.*

*Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.*

Resolution Recognizing February as *Black History Month*

**CONSENT AGENDA**

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

**ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:**

**EXECUTIVE**

- a) Presentation, Discussion, and Possible Action on Board Meeting Minutes summaries for the meetings of October 13, 2016; November 10, 2016; and December 15, 2016

**J. Beau Eccles**  
Board Secretary

**LEGAL**

- b) Presentation, Discussion, and Possible Action regarding the adoption of Agreed Final Orders concerning related properties George Gervin Apartments (HTF 851X03 / CMTS 2651), George Gervin – Garden Apartments (HOME 535247A/ CMTS 4205), and George Gervin – Garden Apartments (HTF 859X02 / CMTS 4206)
- c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Monterrey Villa Apartments (HTF 09801 / CMTS 2608)

**Jeff Pender**  
Deputy General Counsel

**COMMUNITY AFFAIRS**

- d) Presentation, Discussion, and Possible Action on the selection of Subrecipients to administer the Low Income Home Energy Assistance Program (“LIHEAP”) Comprehensive Energy Assistance Program (“CEAP”) to provide services in Anderson, Collin, Denton, Dimmit, Ellis, Henderson, Hunt, Kaufman, La Salle, Maverick, Navarro, Rockwall, and Van Zandt counties
- e) Presentation, Discussion, and Possible Action on Awards for 2017 Community Services Block Grant Discretionary (“CSBG-D”) Direct Client Assistance Funds
- f) Presentation, Discussion, and Possible Action Ratifying the Award for Federal Fiscal Year (“FFY”) 2016 Community Services Block Grant (“CSBG”) Discretionary Funds to Urban Inter-Tribal Center of Texas

**Michael DeYoung**  
Director

## SINGLE FAMILY OPERATIONS AND SERVICES

- g) Presentation, Discussion, and Possible Action on Authority to Enter Into a Memorandum of Agreement ("MOA") between the Texas Department of Housing and Community Affairs ("TDHCA") and the General Land Office ("GLO") regarding the administration of the Community Development Block Grant Disaster Recovery ("CDBG DR") Program

**Homero Cabello**  
Director

## ASSET MANAGEMENT

- h) Presentation, Discussion and Possible Action regarding Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
- |                                |          |
|--------------------------------|----------|
| 99002 Tidwell Estates          | Houston  |
| 99043 Arbor Terrace Townhomes  | Odessa   |
| 02079 Arbor Oaks Apartments    | Odessa   |
| 04255 Freeport Oaks Apartments | Freeport |
- i) Presentation, Discussion and Possible Action regarding Placed in Service Deadline Extensions
- |                                 |         |
|---------------------------------|---------|
| 14088 Mariposa at Spring Hollow | Saginaw |
|---------------------------------|---------|

**Raquel Morales**  
Director

## MULTIFAMILY FINANCE

- j) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer
- |                             |             |
|-----------------------------|-------------|
| 16435 Oak Valley Apartments | San Antonio |
|-----------------------------|-------------|

**Marni Holloway**  
Director

## HOME AND HOMELESS PROGRAM

- k) Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program ("HOME") Single Family Development Program Notice of Funding Availability ("NOFA"), and the notification of the posting of the NOFA to the Department's website and in the *Texas Register*
- l) Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program ("HOME") Single Family Programs Homebuyer Assistance ("HBA") and Tenant-Based Rental Assistance ("TBRA") Open Cycle Notice of Funding Availability ("NOFA"), and the notification of the posting of the NOFA to the Department's website and in the *Texas Register*

**Jennifer Molinari**  
Director

## CONSENT AGENDA REPORT ITEMS

### ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, December 2016 –January 2017
- b) Report on the Department's Swap Portfolio and recent activities with respect thereto
- c) Report on Advisory Groups to the Department
- d) Executive Report of Multifamily Program Amendments, Extensions and Ownership Transfers

**Michael Lyttle**  
Chief, External Affairs  
**Monica Galuski**  
Director, Bond Finance  
**Timothy K. Irvine**  
Executive Director  
**Raquel Morales**  
Director, Asset Management

## ACTION ITEMS

### ITEM 3: REPORTS

- a) Report on allegations of a "cover up" at the Hidalgo County Community Service Agency ("Hidalgo")
- b) Report on 2018 Qualified Allocation Plan ("QAP") Project
- c) Report on the submission of National Housing Trust Fund Allocation Plan to the U.S. Department of Housing and Urban Development ("HUD")

**Patricia Murphy**  
Chief, Compliance

**Marni Holloway**  
Director, MF Finance

### ITEM 4: INTERNAL AUDIT

- a) Presentation, Discussion and possible action on approval of the Internal Audit Charter
- b) Presentation and discussion of SAO reports
- c) Internal Audit review of Compliance Monitoring
- d) Report on the meeting of the Audit Committee
- e) Presentation and Discussion of the Internal Audit Self Assessment for Peer review

**Mark Scott**  
Director

**ITEM 5: ENFORCEMENT COMMITTEE**

Presentation, Discussion, and Possible Action on recommendation to debar Ebenezer Anene for a period of ten years

**Marni Holloway**  
Chair

**ITEM 6: ASSET MANAGEMENT**

Presentation, Discussion and Possible Action regarding Amendments to HOME Direct Loan Terms

**Raquel Morales**  
Director

13232 Pine Lake Estates

Nacogdoches

**ITEM 7: MULTIFAMILY FINANCE**

- a) Presentation, Discussion, and Possible Action regarding an exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application #17010 Baxter Lofts
- b) Presentation, Discussion, and Possible Action regarding an exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application #17255 Trinity Oaks Apartments
- c) Presentation, Discussion, and Possible Action regarding a Request for Rural Designation under 10 TAC §10.204(5)
- d) Presentation, Discussion and Possible action regarding a request for waiver of rules for Bishop Court, HTC#16049
- e) Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) Application of Bishop Courts in Bishop HTC #16049
- f) Presentation, Discussion, and Possible Action on a waiver relating to 10 TAC §10.101(b)(5) concerning Common Amenities associated with multifamily applications submitted under the 2017 program year

**Marni Holloway**  
Director

**PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS**

Recognition of J. Paul Oxer, Chair

**Timothy K. Irvine**  
Executive Director

**EXECUTIVE SESSION**

The Board may go into Executive Session (close its meeting to the public):

- 1. The Board may go into Executive Session Pursuant to Tex. Gov’t Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;
- 2. Pursuant to Tex. Gov’t Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;
- 3. Pursuant to Tex. Gov’t Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov’t Code Chapter 551; including seeking legal advice in connection with a posted agenda item;
- 4. Pursuant to Tex. Gov’t Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department’s ability to negotiate with a third person; and/or
- 5. Pursuant to Tex. Gov’t Code §2306.039(c) the Department’s internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

**J. Paul Oxer**  
Chairman

**OPEN SESSION**

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

**ADJOURN**

To access this agenda and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information.

If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado al siguiente número 512-475-3814 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

**NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:**

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

**NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

1k

**BOARD ACTION REQUEST**  
**HOME PROGRAM DIVISION**  
**JANUARY 26, 2017**

Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Development Program Notice of Funding Availability (“NOFA”), and the notification of the posting of the NOFA to the Department’s website and in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) has approximately \$2,000,000 of Community Housing Development Organization (“CHDO”) set-aside deobligated funds to make available for the HOME Single Family Development Program, and \$150,000 in funding from HOME Program funds for CHDO operating expenses;

**WHEREAS**, it is important that the Department commit HOME funding as expeditiously as possible to provide greater assurance that federal HOME Program commitment deadlines can be achieved, which, if not met, could result in the return of funds to the U.S. Department of Housing and Urban Development (“HUD”); and

**WHEREAS**, the Department wishes to release a NOFA for the HOME Single Family Development Program totaling \$2,000,000 in CHDO set-aside funds and \$150,000 in HOME Program funds for CHDO operating expenses in accordance with 10 Texas Administrative Code §1.19 concerning reallocation of financial assistance, and federally mandated set-asides;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department’s website and to publish a notification in the *Texas Register* a 2017 HOME Single Family Development Program NOFA for awards the amount of \$2,000,000 in deobligated CHDO funds and \$150,000 in HOME Program funds for CHDO operating expenses and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.

## **BACKGROUND**

On December 2, 2016, HUD published an interim final rule making changes with respect to HOME Program commitment and expenditure requirements. Beginning with FY 2015 HOME allocations, HUD will no longer use the cumulative method for measuring compliance with the requirement that Participating Jurisdictions (“PJs”) commit HOME funds within 24 months of obligation. Instead HUD will determine compliance with the deadlines on a grant-specific basis instead of the “cumulative average” approach HUD previously employed. The rule was effective on January 3, 2017. Staff has determined that a significant amount of funds may be subject to a return to HUD treasury accounts unless HOME funds can be re-committed to HOME eligible projects.

To ensure that the Department can meet the HUD HOME commitment and expenditure deadlines for CHDO funds, staff is proposing to release a HOME Single Family Development Program NOFA for approximately \$2,000,000 from previously deobligated HOME CHDO set-aside funds and an additional \$150,000 of HOME Funds for CHDO operating expenses in accordance with 10 Texas Administrative Code (“TAC”), Chapter 1, §1.19, Reallocation of Financial Assistance.

CHDO funds in an amount not to exceed \$500,000 per application may be awarded under this NOFA to CHDO applicants for development of new and rehabilitation of existing single family housing for sale to low-income households. CHDO operating expense funds may be awarded in an amount not to exceed \$50,000 per applicant to provide operational support to the CHDO during the development period. Applicants may apply for more than one award of CHDO funds but will not be considered for more than one award of CHDO operating expenses.

Selection of an applicant under the Open Application Cycle will be a first-come, first-served model based on the application receipt date and time. Applicants must meet the minimum threshold requirements established in 10 TAC Chapter 23 for the Single Family Development Program to be considered for award.

The availability and use of these funds are subject to the Department’s Administrative Rule at 10 TAC Chapter 1, Enforcement Rule at 10 TAC Chapter 2, Single Family Umbrella Rules at 10 TAC Chapter 20, the Minimum Energy Efficiency Requirements for Single Family Construction Activities at 10 TAC Chapter 21, the Department’s 2016 HOME Program Rule at 10 TAC Chapter 23, and the federal regulation governing the HOME Program at 24 CFR Part 92. The 2016 HOME Single Family Programs NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules.

Funds will be provided under the NOFA as follows:

### Fund Distribution

CHDO Set-Aside Activity - \$2,000,000

CHDO Operating Activity - \$150,000

### Award Process

In accordance with 10 TAC §23.22(a), applications received in response to an open application cycle will be prioritized for review based on its “Received Date and Time.” Awards will be made for the first received eligible applicants for which sufficient funding is available.

Details on the award selection process, handling of administrative deficiencies, funding limitations, eligible and ineligible applicants and activities, threshold requirements, award selection criteria, and application submission requirements will be included in the NOFA posted to the Department's website with notification of the NOFA posting in the *Texas Register*.

Application Acceptance Period

Applications proposing activities located entirely within a Colonia will be accepted until April 3, 2017 at 5:00 pm Austin local time. After this date funds will be available statewide except for within areas served by other Participating Jurisdictions ("PJ") until Thursday, June 1, 2017, at 5:00 pm Austin local time.



**HOME Investment Partnerships Program (“HOME”)  
CFDA# 14.239**

**2017 HOME Single Family Development Program  
Notice of Funding Availability (“NOFA”)**

**1) Summary.**

- a) The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) announces a NOFA of approximately \$2,000,000 in funding from the HOME Investment Partnerships Program (“HOME”) for Community Housing Development Organizations (“CHDOs”) contract awards to develop single-family housing for low-income Texans.
- b) The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (“TAC”) rules in effect at the time of application: Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program, effective August 30, 2015, (“State HOME Rules”); and Tex. Gov’t Code §2306. Other federal and state regulations include but are not limited to, 24 CFR Part 58 for environmental requirements, 2 CFR Part 200 for Uniform Administrative Requirements, 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (“Federal HOME Rules”). Units of local government must adhere to the Uniform Grant Management Standards (“UGMS”) as outlined in Chapter 783 in the Texas Local Government Code. Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
- c) Capitalized terms in this NOFA have the meanings defined herein or as defined in State HOME Rules, Tex. Gov’t Code §2306 or the Federal HOME Rules.
- d) In the event that the Resale and Recapture provisions in 10 TAC §23.29 conflict with the Resale and Recapture provisions in the Department’s action plan as approved by the U.S. Department of Housing and Urban Development (“HUD”), the provisions in the action plan will prevail, in accordance with 24 CFR §92.254(a)(5).

- e) If changes to the contract are required during the contract term due to required changes in Federal or State law, the Department may initiate an amendment process to ensure compliance.

**2) Source of Funds.** Funds totaling approximately \$2,000,000 are made available for Single Family Development from prior year HOME allocations in accordance with 10 TAC, Chapter 1, §1.19, Reallocation of Financial Assistance. The Department, in its sole discretion, may also release additional unallocated HOME funds, deobligated funds, Program Income, and funds reallocated from undersubscribed set-asides, as allowable and available, under this NOFA. In accordance with Tex. Gov't Code §2306.111(d), these funds are not subject to the Regional Allocation Formula. The Department, in its sole discretion, also reserves the right to cancel or modify the amount available in this NOFA.

**3) Eligible Activities.**

- a) These funds are made available through the Department's allocation of HOME funds from the U.S. Department of Housing and Urban Development ("HUD"). The program is designed to create housing options affordable to individuals and families of low income who may otherwise reside in substandard housing. All funds released under this NOFA are to be used for the creation of affordable housing for sale to low-income Texans earning 80% or less of the Area Median Family Income ("AMFI").
- b) Funds provided under this NOFA may be used for pre-development costs, acquisition, lot development, onsite infrastructure, construction, rehabilitation and down payment assistance to qualified homebuyers. Onsite infrastructure includes costs for individual service lines, approved septic installation, sidewalks, curbs and site improvements. Examples of excluded infrastructure costs are water, sewer, electrical, main or transfer lines, streets and other improvements that serve areas outside the development site. First-lien loans made to homebuyers under this NOFA shall not subordinate if the homebuyer obtains a home equity loan during the term of the loan. Second-lien loans for downpayment assistance and/or closing costs may subordinate in the event of a refinance if the new loan amount is at least \$1,000 more than the amount owed on the second-lien loan.
- c) CHDO Applicants must be the owner, developer, and construction loan borrower for the proposed development, and must be in sole charge of construction in accordance with 24 CFR §92.300(a)(6).
- d) Specific program guidelines can be found at 10 TAC, Chapter 23, Single Family HOME Program, Subchapter G, Single Family Development Program §§23.70-23.72.

**4) Eligible Applicants.**

- a) Eligible Applicants are private nonprofit organizations that have submitted an application for CHDO Certification to the Department in conjunction with the application for award under this NOFA. Applicants that are determined to meet the definition of a CHDO and that may be certified as a CHDO by the Department may be eligible for award under this NOFA.

- b) If an Applicant that is a private nonprofit organization is requesting a waiver of the grant application fee, they must do so in a board resolution authorizing the submittal of the application to the Department, and must state that the nonprofit organization offers expanded services such as child care, nutrition programs, job training assistance, health services, or human services; and must provide evidence of such expanded services.
- c) Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application submission.
- d) All Applicants will be subject to a Previous Participation Review by the Department pursuant to 10 TAC §1.302. Staff will not recommend applications for funding unless the Applicant has successfully completed a previous participation review as outlined in 10 TAC §1.302.
- e) Audit Requirements. An Applicant is not eligible to receive funds or any other assistance from the Department unless a past audit or Audit Certification Form has been submitted to the Department in a satisfactory format in accordance with 10 TAC §1.403. This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified.

#### **5) Prohibited Activities.**

- a) Prohibited activities include those at 24 CFR §92.214 and in the State HOME Rules.
- b) Funds provided under this NOFA are not eligible for use in a Participating Jurisdiction ("PJ").

#### **6) Allocation of HOME Funds.**

- a) In accordance with 10 TAC §23.22(a), an application received by the Department in response to an Open Application Cycle will be assigned a "Received Date and Time" and will be prioritized for review based on a first-come, first-served basis.
- b) Applications that do not meet minimum threshold as described in 10 TAC §23.25 and 10 TAC §23.70 will not be considered for funding.
- c) Only Applications proposing activities located entirely within a Colonia will be accepted until **Friday, April 3, 2017, 5:00 p.m. Austin local time**. After this date funds will be available statewide except for within areas served by other Participating Jurisdictions. Colonia designation and the state issued ID number is available on the Secretary of State website and must be included in Applications submitted on or before **Friday, April 3, 2017, 5:00 p.m. Austin local time**.
- d) Based on the availability of funds, applications proposing to serve any area of the state, excluding Participating Jurisdictions, will be accepted from **Monday, April 5<sup>th</sup>, 8:00 a.m. Austin local time until Thursday, June 1, 2017, 5:00 p.m. Austin local time**.

- e) Funding recommendations for Awards will be presented to the Department's Executive Award and Review Advisory Committee ("EARAC"), which will in turn make its recommendations to be presented to the Governing Board based on eligibility and previous participation review. Recommendations are limited by the total amount of funds available under this NOFA and the maximum award amount limitations for each Activity type.
- f) The Department may decline to consider any Application if the proposed activities would not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications that are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process or making awards. The Department reserves the right to request clarification on individual elements of any Application.
- g) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

**7) Administrative Deficiencies.** Administrative deficiencies noted during the review of an Application during an Open Application Cycle are subject to the administrative deficiency process outlined in 10 TAC §23.24(c). The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. Austin local time on the fifth business day following the date of the deficiency notice, the Application shall be terminated. Applicants that have been terminated may reapply during the application acceptance period.

**8) Limitations on Funds.**

- a) The Department awards HOME funds to eligible recipients for the provision of housing for low, very low and extremely low-income individuals and families, pursuant to 10 TAC §23.71. The maximum amount of Project funds awarded to a contact under an Open Application Cycle is established in the NOFA in accordance with 10 TAC §23.26(a). Award amounts for Project funds in this NOFA are limited to no more than \$500,000 per application and per CHDO.
- b) Each CHDO that is awarded Project funds under this NOFA may also be eligible to receive a grant for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies. Applicants will be required to submit organizational operating budgets, audits and other financial and non-financial materials detailed in the HOME application. The award amount for CHDO Operating Expenses shall not exceed \$50,000. Funds for CHDO Operating Expenses may be drawn in an amount not to exceed \$25,000 prior to submission of eligible projects in accordance with the performance benchmark requirement defined in 10 TAC 23.26(c). In the event that the CHDO does not comply with the performance benchmark requirements, the remaining funds awarded for CHDO Operating Expenses may be deobligated. The Department reserves the right to limit an Applicant to receive not more than one award of CHDO Operating Expenses during the same fiscal year and to further limit the award of CHDO Operating Expenses.

- c) In accordance with 10 TAC §23.26(f), the Administrator may incur and be reimbursed for eligible costs incurred before the effective date of the HOME contract in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

**9) Threshold Requirements.**

- a) General Threshold and Selection Criteria are established in 10 TAC §23.25 for all Set-Aside types. Additional threshold requirements for Single Family Development are located at 10 TAC §23.70.
- b) Applications submitted in response to an Open Application Cycle which do not meet threshold will be issued a deficiency notice as noted above and threshold must be satisfied prior to a recommendation for funding.
- c) Pursuant to 10 TAC §23.25(a)(5), if a submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, will be terminated with notice and rights to appeal but without being processed as an Administrative Deficiency. To the extent that a review was unable to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant.

**10) Application Requirements.**

- a) Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.
- b) All Application materials including manuals, program guidelines, and applicable HOME rules, are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>.
- c) All Applications must be submitted in accordance with the 2017 Application Submission Procedures Manual ("ASPM") forms and instructions.

**11) Public Notifications.** The Department will notify all persons and organizations regarding the proposed development as required by §2306.1114, Tex. Gov't Code within fourteen (14) Days of Application receipt. In order to meet this requirement, the Applicant must request a list of Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:

- a) Not later than fourteen (14) days prior to submission of the Application, the Applicant must e-mail, fax or mail with registered receipt a completed "Neighborhood Organization Request" letter as provided in the Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county

commissioner representing that district; if the Development is located in an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format;

- b) If no reply letter is received from the local elected officials by seven (7) days prior to the submission of the Application, then the Applicant must certify to that fact in the "Application Notification Certification Form" provided in the Application;
- c) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the submission of the Application, in the "Application Notification Certification Form" provided in the Application.

## 12) Application Submission.

- a) All applications submitted under this NOFA must be received on or before **June 1, 2017, 5:00 p.m. Austin local time**, regardless of method of delivery. The Department will accept applications from **8:00 a.m. Austin local time to 5:00 p.m. Austin local time** each business day, excluding federal and state holidays, from the date this NOFA is published on the Department's web site until the deadline. For questions regarding this NOFA please contact Abigail Versyp at (512) 475-0908 or via e-mail at [abigail.versyp@tdhca.state.tx.us](mailto:abigail.versyp@tdhca.state.tx.us).
- b) Applications can be sent via overnight delivery to:

Texas Department of Housing and Community Affairs  
HOME and Homeless Programs Division  
221 East 11th Street  
Austin, TX 78701-2410

Or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs  
HOME and Homeless Programs Division  
PO Box 13941  
Austin, TX 78711-3941

- c) Applicants must submit a completed Application, required documentation, and associated application materials, as described in this NOFA ASPM. All scanned copies must be scanned in accordance with the guidance provided in the ASPM.
- d) All Application materials including manuals, this NOFA, program guidelines, and applicable HOME rules are available on the Department's website at

<http://www.tdhca.state.tx.us/home-division/applications.htm>. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.

- e) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$300 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Pursuant to Tex. Gov't Code §2306.147(b), the Department will waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not an allowable or reimbursable cost under the HOME Program.
- f) This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.

### **13) Dispute Resolution/Appeal.**

- a) In accordance with Tex. Gov't Code §2306.082 and 10 TAC §1.17, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Tex. Gov't Code Chapter 2009, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's Rule on ADR at 10 TAC §1.17.
- b) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

6

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JANUARY 26, 2017**

Presentation, Discussion, and Possible Action regarding amendments to Direct HOME loan terms for Pine Lake Estates (#13232)

**RECOMMENDED ACTION**

**WHEREAS**, Pine Lake Estates (the “Development”) received a Direct Loan award of HOME funds in the amount of \$806,754 and an award of 9% Housing Tax Credits in 2013 to rehabilitate 100 multifamily units in Nacogdoches, Nacogdoches County;

**WHEREAS**, the Department re-evaluated the first lien financing several times prior to closing and last formally approved a financing structure that included \$2,252,500 in priority permanent debt at 5.75% interest with a 30 year amortization period (\$157,740 in annual debt service) and a 15 year loan term, loaned by Community Bank of Texas, which closed on May 23, 2013;

**WHEREAS**, the Owner is now requesting to substitute for the permanent first lien financing a loan by Lancaster Pollard through the Federal Housing Administration (FHA) 223(f) Pilot Program that would (i) increase the permanent debt by \$747,500 to \$3,000,000, (ii) reduce the interest rate to 4%, (iii) extend the amortization period by 10 years to a 40 years amortization, and (iv) extend the loan term by 15 years to 40 years;

**WHEREAS**, the United States Department of Housing and Urban Development (“HUD”) also requires, in its FHA Multifamily Accelerated Processing (“MAP”) Guide, that all subordinate debt in FHA funded developments must be repayable only from Cash Surplus (as defined for FHA purposes) after the deduction of certain expenses and first lien debt service and further restricts repayment of subordinate debt to be made from only 75% of such Cash Surplus;

**WHEREAS**, the Department’s rules regarding Amendments to Direct Loan Terms, under 10 TAC §13.12, require that post closing loan modifications requiring changes in the Department’s loan terms, lien priority, or amounts will generally only be considered as part of a work out arrangement or other condition intended to mitigate financial risk and will not require additional Board approval except where the post closing change could not have been anticipated prior to closing, which is not the case for this Development;

**WHEREAS**, 10 TAC §10.307(a)(3) allows for a Direct Loan to be structured as payable from surplus cash flow provided the first lien mortgage is a federally insured HUD or FHA mortgage and the debt coverage ratio, inclusive of the loan, continues to meet the Department’s underwriting requirements;

**WHEREAS**, the Department has not previously accepted the 75% Cash Surplus restriction in loan documents, loan modifications, or subordination agreements since it has the effect of

prioritizing a return to the owner ahead of debt service to the Department, and HUD has rejected the sponsor lender's and Development Owner's requests to waive the 75% Cash Surplus requirement for this transaction;

**WHEREAS**, the 2013-1 NOFA references the Direct Loan Requirements at 10 TAC §10.307 in effect at the time of NOFA release which provides for surplus cash to be available for debt service, and staff has interpreted this to mean all surplus cash, not some lesser percentage of surplus cash;

**WHEREAS**, the Development Owner requests that the Department allow the Department's existing subordinate loan to be restricted to 75% of the Cash Surplus available along with the other accommodations requested for their refinancing of the first lien (namely (i) increased debt in front of TDHCA debt, (ii) increased debt service in front of TDHCA debt service, (iii) increased amortization of the debt in front of TDHCA, and (iv) increased term of the TDHCA loan to 40 years;

**WHEREAS**, Tex. Gov't Code §2306.142 provides the Board with the "specific duty and power to establish interest rates and amortization schedules for loans made or financed..." by the Department; and

**WHEREAS**, the staff interpretation of the rule would lead to a conclusion that the restriction on a certain percentage of surplus cash is inconsistent with the terms of the NOFA,

**NOW, therefore, it is hereby**

**RESOLVED**, that the request to modify the loan terms, approve the new source of the first lien debt and re-subordinate the Department's loan for Pine Lake Estates, as presented at this meeting, is denied, it being noted that the denial recommendation is based on staff's interpretation of the rule, which the Board is authorized and empowered to interpret as it deems fit or waive for good cause, yet the terms of a NOFA may not be waived after a NOFA is closed; and

**FURTHER RESOLVED**, that the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

### **BACKGROUND**

Pine Lake Estates received a Direct Loan award of HOME funds in the amount of \$806,754 and an award of 9% Housing Tax Credits in 2013 to rehabilitate 100 multifamily units in Nacogdoches, Nacogdoches County. In a letter dated January 5, 2017, Pine Lake Apartments A Limited Partnership, a Texas limited partnership (the "Development Owner" or "Owner") through its attorneys, Locke Lord, on behalf of the General Partner (Realtex Development Corporation, Manager – Rick J. Deyoe, President) requested approval to modify the terms of our existing HOME loan in conjunction with the refinancing of their permanent first lien.

The amount of the HOME loan was originally curtailed from the \$1,000,000 request due to a determination by the Department at underwriting that the Development would be over sourced. The approved terms of the loan for Pine Lake Estates were based on those available via the Notice of Funding Availability (“NOFA”) open at the time of application, and the requested minimum 0% interest, 30 year amortization and 18 year loan term with a second lien priority on the property as collateral.

Staff recently completed the cost certification review of this Development and reviewed the senior debt and HOME loan changes within the analysis. The Owner has proposed an increase in the outstanding first lien debt of \$747,500 to \$3,000,000 and extending the amortization period and loan term of the first lien to 40 years. FHA would then also require the Department’s second lien to extend to a loan term of 40 years. In addition to the increased debt amount and despite the extended amortization and reduced first lien interest rate (from 5.75% to 4%), the debt service for the first lien would also increase from \$157,740 to \$159,399. Based on both the Development’s historical operation and the analysis at cost certification, the analysis concludes that the Development is financially feasible at a DCR within the range of underwriting tolerance, with a structure that would have been consistent with the NOFA and the rules at the time of award. Pursuant to 10 TAC §13.12(7) the Owner’s request presents neither a work out arrangement nor other condition intended to mitigate financial risk to the Department.

The 2013-1 NOFA references the Direct Loan Requirements (10 TAC §10.307) in effect at the time of NOFA release, which provided for debt service to be “payable from surplus cash flow.” Staff has interpreted the plain meaning of this provision to mean that all surplus cash flow would be available for debt service, not a certain percentage of surplus cash;

This is consistent with other surplus cash notes modified by the Department in recent years where a HUD loan was introduced. The Board has, on a case by case basis, reviewed for approval or denial requests similar to the request presented herein. In cases where a re-subordination is requested and the first lien debt amount is equal to or less than the original first lien debt amount, the re-subordination is almost always approved since the new lender can typically get an assignment of the original lenders debt instrument. In all prior cases where the permanent first lien was being refinanced with FHA funding, the Department’s position was to approve the shift from a hard second lien payment to a soft Cash Surplus payment where repayment of the Department’s subordinate loan would be made from 100% of the Cash Surplus. This is the first instance where FHA has indicated they would not continue with the transaction unless the Department limited its loan repayment to only 75% of the Cash Surplus. Restricting the repayment of the Department funds in such a way would put the return interests of equity and/or the Owner ahead of the Department, which is contrary to the traditional waterfall of operating income in the banking industry and limits or delays the Department’s ability to recycle HOME funds into other affordable housing transactions.

Staff recommends denial of the requested modification of loan terms and re-subordination of the Department’s loan for Pine Lake Estates, and proposes that the Department’s subordinate debt be repaid through the refinancing of the permanent first lien. To the extent the Owner, by the instant action, is seeking a waiver of the NOFA provision referencing the Direct Loan Requirements (10 TAC §10.307), staff advises that NOFA provisions may not be waived after the NOFA is closed, as it is a competitive selection process.<sup>1</sup> If the Board, alternatively, finds that the reference in 10 TAC §10.307 to “surplus cash flow” equates to a 75% Cash Surplus structure (including modification of the loan terms and re-subordination of the Department’s loan), it must first determine per 10 TAC §10.307(a)(3) that the financial risk is

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<sup>1</sup> The Department must follow its selection method for HOME funds as described in its 2013 Annual Action Plan per 24 CFR §92.320.

outweighed by the need for the proposed housing, and it is recommended that this approval be expressly limited to the facts presented in this case.



600 Congress Avenue, Suite 2200  
Austin, Texas 78701-3055  
Telephone: 512-305-4700  
Fax: 512-305-4800  
www.lockelord.com

Matthew Borah  
Direct Telephone: 512-305-4877  
Direct Fax: 512-391-4897  
mborah@lockelord.com

January 5, 2017

**VIA EMAIL: raquel.morales@tdhca.state.tx.us**

Raquel Morales  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701

RE: Pine Lake Estates (the "**Development**")  
(TDHCA No. 13232)  
Amendment Request for Payment of HOME Loan from 75% of Surplus Cash

Dear Ms. Morales:

We serve as counsel for the above referenced Development. As such, we are submitting this amendment request on behalf of Pine Lake Apartments A Limited Partnership, a Texas limited partnership (the "**Owner**"), the owner of the Development, to request approval for the repayment of a subordinate HOME loan made by Texas Department of Housing and Community Affairs (the "**Department**") be limited to 75% of surplus cash from the Development.

The Owner has received a HOME loan from the Department in the amount \$806,754.00 (the "**HOME Loan**") as evidenced by that certain Subordinate Promissory Note dated as of May 23, 2014 (the "**HOME Note**"). The Owner has applied for financing through the Federal Housing Administration, utilizing the 223(f) PILOT program (the "**HUD Loan**"), which would require the Department to subordinate the HOME Loan to the HUD Loan pursuant to a Subordination Agreement. As you are aware, a requirement of the standard HUD form of Subordination Agreement is that the payments of any subordinate debt be limited to 75% of surplus cash from the Development. Lancaster Pollard, the lender for the HUD Loan, submitted a waiver request to HUD to revise the Subordination Agreement to permit the repayment of the HOME Loan from 100% of surplus cash. Attached hereto as Attachment 1 is a letter from Lancaster Pollard detailing their correspondence with HUD regarding their efforts to seek a waiver.

Despite the Development serving the senior community and persons with disabilities, being subject to a HAP Contract, and the HUD Loan utilizing the 223(f) PILOT program, all of which make this HUD Loan very appealing to HUD, they have refused the request to revise the Subordination Agreement to provide for the HOME Loan to be repaid from 100% of surplus cash. Attached hereto

January 5, 2017

Page 2

as Attachment 2 is email correspondence detailing HUD's reasoning for refusing to accept the waiver request.

Given that HUD is unwilling to revise its policy regarding payment of the HOME Loan, the Owner requests the Department approve a modification of the terms of the HOME Loan, the amendment and restatement of the HOME Note, and the execution of a Subordination Agreement to provide for the repayment of the HOME Loan be limited to 75% of surplus cash.

Pursuant to Section 10.901 of the Multifamily Rules, this amendment request does not require an amendment fee because the changes are with respect to a Direct Loan program. The Owner requests staff recommendation, in support of this request, to be considered at the next available TDHCA Board meeting.

If there are any questions or if further information is needed regarding the foregoing, please let us know. Thank you for your time and consideration.

Sincerely,



Matthew Borah

cc: Rick J. Deyoe  
Tiffany Cornelius  
Jeff Banker  
Orin Parvin  
Grant Blosser  
Cynthia Bast  
(via email)

**ATTACHMENT 1**

**Letter from Lancaster Pollard**

**(attached hereto)**

July 12, 2016

Mr. Rick Deyoe  
President  
Realtex Development  
1101 S Capital of Texas Hwy, Suite F200  
Austin, TX 78746

RE: Pine Lake Estates

Dear Mr. Deyoe:

The purpose of this correspondence is to outline the request of a waiver that was submitted to HUD regarding Pine Lake Estates.

Pine Lake Estates has applied for financing through the Federal Housing Administration (FHA), utilizing the 223(f) PILOT program. In addition to the FHA financing, the project has been awarded Low Income Housing Tax Credits (LIHTC's) and a HOME loan both through the Texas Department of Community Affairs (TDHCA).

One component of the requirement for the FHA loan is for the subordinate lender to sign a subordination agreement. As part of the subordination agreement, no more than seventy five percent (75%) of the projects cash flow can be made available for the projects subordinate debt service.

A condition of the HOME Loan is the project apply one hundred percent (100%) of the projects available cash flow be applied to the payment due on the HOME loan. This requirement does not comport with the requirements under the HUD subordination agreement.

A waiver request was made to HUD to increase the maximum funds available from 75% of available cash flow to 100%. This request was denied by HUD on December 23, 2016. HUD is still committed to processing the transaction, however, HUD will not entertain any additional requests for the increase.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



Jeff Banker  
Lancaster Pollard

**ATTACHMENT 2**

**E-Mail Correspondence from HUD**

**(attached hereto)**

David,

The emails below constitute my interaction with HQ regarding the waiver request for 100% surplus cash to pay subordinate debt. Please let us know as soon as you hear something back regarding this issue, keeping in mind the 2/2/17 deadline that I noted in my previous email (12/28/16). Thank you.

Sincerely,

Mike Buis

Acting Underwriting Branch Chief

U.S. Department of Housing and Urban Development

801 Cherry Street, Unit #45, Suite 2500

Fort Worth, TX 76102

Phone 817-978-5809

[mike.buis@hud.gov](mailto:mike.buis@hud.gov)

**From:** Arteaga, Elizabeth H

**Sent:** Friday, December 23, 2016 1:45 PM

**To:** Buis, Michael A <[Michael.A.Buis@hud.gov](mailto:Michael.A.Buis@hud.gov)>

**Cc:** Johnson, Cynthia H <[Cynthia.H.Johnson@hud.gov](mailto:Cynthia.H.Johnson@hud.gov)>; Bernaciak, Thomas A <[Thomas.A.Bernaciak@hud.gov](mailto:Thomas.A.Bernaciak@hud.gov)>

**Subject:** RE: Pine Lake Estates - 75% Surplus Cash

This transaction includes a requested mortgage amount of \$3 million and a HOME loan for approx. \$806,000 (which was received in 2014/2015 when the project was sub. Rehabbed).

The underwritten DSCR is approx. 2.09% and cash flow after debt service is approx. \$185,000.

If this is correct, then TDHCA can expect to be repaid over the specified term with 75% of the project's surplus cash- and I'm guessing even sooner.

Based on the lender's underwriting, I don't anticipate the Owner defaulting during the term of the loan (which TDHCA seems to be concerned about).

The lender states "HUD is requiring the Department to take a higher risk position *in favor of the developer/owner*, which we've accommodated by modifying our hard debt structured HOME Loan secondary debt to a surplus cash structure, but with payment from cashflow before any return to the owner."

The 75% of cash flow requirement is intended to maintain the borrower's long-term interest in the *project's* success.

I don't see a compelling reason to approve the waiver.

**From:** Buis, Michael A

**Sent:** Wednesday, December 21, 2016 3:09 PM

**To:** Arteaga, Elizabeth H <[Elizabeth.H.Arteaga@hud.gov](mailto:Elizabeth.H.Arteaga@hud.gov)>

**Cc:** Johnson, Cynthia H <[Cynthia.H.Johnson@hud.gov](mailto:Cynthia.H.Johnson@hud.gov)>

**Subject:** FW: Pine Lake Estates - HUD Questions

Liz,

I received some answers to my questions on Pine Lake Estates from the lender/TDHCA (see email below). They are still asking for a waiver for payment of the subordinate loan out of 100% of cash flow rather than 75% of cash flow. This may continue to be an issue on future applications wherein there is subordinate debt and TDHCA is involved, as they appear to be pretty much set in their desire to have the subordinate debt paid out of 100% of cash flow. Perhaps General Counsel from HQ could get together with TDHCA to come to some sort of an agreement on this issue? Anyway, I am sending you all of this information so that the Loan Committee Members may opine on this waiver one last time. Should they still not accept this waiver request, we can tell the lender to continue on to the next phase of getting TDHCA Board approval of 75% surplus cash flow for subordinate debt payments, or we could final reject the application all together.

The lender also provided the following back on October 20<sup>th</sup> concerning the age restriction issues that the property was facing:

"The project recently underwent an MOR inspection in September, which resulted in a finding of noncompliance with HUD guidelines because the property did not properly implement the elderly and disabled preference according to the current Tenant Selection Plan. As such, the MOR report indicated a necessary plan of corrective action that the property must implement within 30 days in order to regain compliance.

The borrower is currently working with their HUD Asset Manager, Deborah Talamantes, to implement this corrective action plan and bring the project

into compliance with all HUD tenant selection guidelines. While communication has been somewhat slow in recent weeks, we are still optimistic that this issue will be resolved in the near term via the prescribed remedies detailed in the MOR report findings. Accordingly, we would request that you allow for additional time so that the borrower can implement this corrective action and clear the issue with their Asset Manager at HUD. It is our understanding that these steps should allow the project to move forward towards closing the 223(f) PILOT transaction."

Sincerely,

Mike Buis

Acting Underwriting Branch Chief

U.S. Department of Housing and Urban Development

801 Cherry Street, Unit #45, Suite 2500

Fort Worth, TX 76102

Phone 817-978-5809

[mike.buis@hud.gov](mailto:mike.buis@hud.gov)

**From:** Lisa Vecchietti

**Sent:** Wednesday, December 14, 2016 11:28 AM

**To:** [mike.buis@hud.gov](mailto:mike.buis@hud.gov); Raquel Morales <[raquel.morales@tdhca.state.tx.us](mailto:raquel.morales@tdhca.state.tx.us)>

**Cc:** David Lacki <[dlacki@lancasterpollard.com](mailto:dlacki@lancasterpollard.com)>; Orin Parvin <[oparvin@lancasterpollard.com](mailto:oparvin@lancasterpollard.com)>; Grant Blosser <[gblosser@lancasterpollard.com](mailto:gblosser@lancasterpollard.com)>

**Subject:** Pine Lake Estates - HUD Questions

Mike,

Below are the questions you sent to Raquel Morales at TDHCA with answers that she has reviewed.

1. Would you be able to explain the importance of having TDHCA's subordinate debt subject to 100% of surplus cash flow? It is possible, though not guaranteed, that upon gaining a better understanding of TDHCA's position, we could approve this request. *The Department's liability to HUD should the owner/developer default on our HOME Loan secondary debt is 100% of the debt we've provided. HUD is requiring the Department to take a higher risk position in favor of the developer/owner, which we've accommodated by modifying our hard debt structured HOME Loan secondary debt to a surplus cash structure, but with a fixed payment from cash flow before a return to the*

*developer. Cash flow above this amount will still be available to the developer. This will provide the owner with the incentive to maintain the property in order to always be able to achieve maximum allowable rents.*

2. Have all similar deals, of which you are aware, been structured with 100% of cash flow going towards repayment of the HOME Loan?  
*The Department has closed on several transactions with subordination documents that specify a fixed payment either specifically identifying from 100% surplus cash or simply stating from surplus cash and being silent on the percentage. See list below. (However, this is the first PILOT transaction with a TDHCA HOME Loan.)*

*Palladium Van Alstyne – 113-35652 (closed in May 2016)*

*LAKE DALLAS – HUD Project No:113-35575*

*VAN ALSTYNE – HUD Project No:113-35595*

*Mission Village of Pecos -- HUD Project No: 113-35602*

*Mission Village of Jacksonville -- HUD Project No: 113-35630*

*Mission Village of Monahans -- HUD Project No: 113-35646*

3. What are the possible repercussions to TDHCA if 100% of surplus cash is not allowed?  
*The Department's liability to HUD should the owner/developer default on our secondary debt is 100% of the HOME Loan debt we've provided. HUD is requiring the Department to take a higher risk position in favor of the developer/owner, which we've accommodated by modifying our hard debt structured HOME Loan secondary debt to a surplus cash structure, but with payment from cashflow before any return to the owner.*
4. Have any transactions, for which this was not allowed (if any), failed to pay off the subordinate debt or defaulted in some way?  
*The lack of sufficient cash flow to pay the fixed debt service does not constitute an event of default regardless of the 75% or 100% of cash flow language. The only difference is in the case of default of the first lien if a foreclosure should occur then any prior payments at 75% would have allowed 25% to the owner who lost the property and a larger outstanding balance that has to be written off/repaid by the Department.*
5. Is 75% of surplus cash insufficient to cover the required/desired payments for the HOME loan? If so, is there a percentage somewhere in between 75% and 100% that would cover those estimated payments? We may be able to approve a waiver if something can be worked out wherein we can meet in the middle and the reasoning for the requested higher percentage can be justified.  
*The transaction will be underwritten by TDHCA to meet an overall minimum 1.15 DSCR based on projected net operating income, debt service from the proposed 1<sup>st</sup> lien FHA loan, and an annual debt service of \$26,892 for the HOME Loan. This means that the Department's underwriting factors in cash flow that will go to the owner which is the .15 of the 1.15 DCR and represents 15% of the total debt service. The HOME Loan payments are treated as hard debt regardless of the restructuring to be subordinate with payments from cashflow. The \$26,892 annual debt service represents 12% of the*

*TDHCA underwritten Net Operating Income of \$224,000 and 42% of the cashflow after payment of the 1<sup>st</sup> lien FHA loan all-in debt service estimated at \$160,687 annually at application.*

We would like to move forward with the application with the waiver request for payment of the subordinate loan out of 100% of cashflow rather than 75% of cashflow. Please let me know if you have any questions.

Thank you,

Lisa Vecchietti

*Vice President*

Office: (512) 327-7400 x3

Cell: (512) 202-1655

[lvecchietti@lancasterpollard.com](mailto:lvecchietti@lancasterpollard.com)

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## Asset Management Division

### Legal Document Request Form

Completed forms can be emailed to [asset.management@tdhca.state.tx.us](mailto:asset.management@tdhca.state.tx.us) or can be submitted as directed in the Introduction of the Post Award Activities Manual.

#### REQUEST INFORMATION

Date Submitted: March 10, 2016      Document(s) Requested: *HUD Rider, Subordination Agreement*  
Requested Action: *Review of Drafted Document(s)*      Date Final Document Needed: April 10, 2016

**NOTE:** Please submit requests at least 30 days prior to the final document needed date.

#### DEVELOPMENT INFORMATION

Dev. Name: Pine Lake Estates      File No. / CMTS No.: 13232 /

#### CONTACT INFORMATION

Request Submitted By: Matthew Borah      Phone #/Email: (512) 305-4877 /  
Attorney Contact:      Phone #/Email: ( ) - /

**NOTE:** Only enter Attorney contact if different from Requestor above.

#### FINAL DOCUMENT MAILING ADDRESS

Final Documents must be FedExed to:

Independence Title Company  
5900 Sherpherd Mountain Cove, Bldg. 2, Suite 200  
Austin, Texas 78730  
Attn: Dan Phares      Phone #: (512) 279-7273

**NOTE:** Documents will be sent priority overnight unless otherwise arranged.

#### LIST OF ATTACHMENTS

The following documents are attached to this request (please list documents by title):

1. HUD Rider to LIHTC LURA
2. Subordination Agreement

3. HUD Rider to HOME LURA (clean)
5. HUD Memo re: HOME recording order

4. HUD Rider to HOME LURA (redline)
- 6.

Comments:

*NOTE: Draft notes and loan agreements must be submitted for any Loan Subordination and HUD Rider requests. The draft documents must identify all terms of the revised financing. If terms are not stated, additional documents should be submitted.*

#### LOAN SUBORDINATION REQUESTS AND HUD RIDERS ONLY – NEW LOAN INFORMATION

Name of Lender: Lancaster Pollard Mortgage Company, LLC

Loan Amt: \$3,000,000\*

*\*If Loan Amt will increase from original debt, please explain the purpose of the additional financing in the Comment box below:*

Comments:

1. HUD requires that the HOME Note be amended to extend the maturity date past the maturity date of the HUD loan (minimum of 35 years).
2. HUD requires that the HOME Note be amended to make it payable from up to 75% of available surplus cash in accordance with the MAP Guide. Section 8.7.E. of the MAP Guide provides the following proposed language to include in the HOME Note: "So long as the Secretary of Housing and Urban Development or his/her successors or assigns, are the insurers or holders of the first mortgage on Pine Lake Estates, FHA Project No. \_\_\_\_\_), payment(s) due under this Note, any secondary debt instruments shall be payable from up to 75% of available surplus cash. Non-project sources that are outside the Mortgaged Property may also be used to repay subordinate financing. The term surplus cash is defined in the Regulatory Agreement dated (insert date) between HUD and (insert name of borrower). The restriction on payment(s) imposed by this paragraph shall not excuse any default caused by the failure of the maker to pay the indebtedness evidenced by this Note."
3. HUD also requests TDHCA approve the HUD Rider to be attached to the HOME Loan LURA. Attached is a clean and redlined copy of the HUD Rider to HOME LURA compared against the LIHTC Rider approved by TDHCA. Although TDHCA has not approved use of the HUD Rider to the HOME LURA in the past, we are hopeful that the new 2016 MAP Guide eliminates TDHCA's concerns surrounding termination of the HOME affordable restrictive covenants. Section 8.7(5) of the 2016 MAP Guide now provides Lender's Counsel with the flexibility to modify the HUD Rider without obtaining a waiver from HUD such that the restrictive covenants are not subordinate to the HUD Mortgage and permit the Rider to HOME LURA to be recorded prior to the HUD Mortgage. The revisions highlighted in the redline of the Rider to HOME LURA as well as similar provisions set forth in the draft of the Subordination Agreement reflect this intent to carve out the subordination of the affordability restrictions. Please also see the attached memo/guidance from HUD issued in December 2015 that specifically addresses the HOME subordination issue. As the memo suggests, HUD's intent is to address concerns of the state agency and to eliminate the need for a waiver on this topic. I hope that the attached memorandum and the corresponding revisions to the Rider and Subordination Agreement adequately address the prior concerns of TDHCA.

Loan Type: HUD 223(f)

Amortization: 35 yrs

Term: 35 yrs

Annual Payment: \$Not yet determined.

**Subordination Agreement**

U.S. Department of Housing  
and Urban Development  
Office of Housing

OMB Approval No. 2502-0598  
(Exp. 06/30/2017)

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Project Name: Pine Lake Estates

HUD Project No: \_\_\_\_\_

THIS **SUBORDINATION AGREEMENT** ("**Agreement**") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and among (i) Lancaster Pollard Mortgage Company, LLC, a Delaware limited liability company ("**Senior Lender**"), (ii) Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas ("**Subordinate Lender**"), and (iii) Pine Lake Apartments a Limited Partnership, a Texas limited partnership ("**Borrower**").

### Recitals

**WHEREAS**, Borrower is the owner of that certain 100 unit residential rental development known as "Pine Lake Estates" ("**Project**"), located at \_\_\_\_\_ . Senior Lender has made or is making the senior mortgage loan as described on Schedule A hereto ("**Senior Indebtedness**") to Borrower in the original principal amount(s) as shown on Schedule A, evidenced by the Note described in Schedule A ("**Senior Note**"), and secured by, among other things, the Security Instrument as described in Schedule A (collectively, "**Senior Security Instrument**"), covering the property described in Exhibit A attached hereto together with all improvements thereon and personal property used relative thereof, all as more particularly described in the Senior Security Instrument ("**Mortgaged Property**").

**WHEREAS**, Subordinate Lender made a subordinate loan to Borrower in the amount of \$806,754.00 ("**Subordinate Loan**"), pursuant to the Subordinate Loan Documents as defined below, and secured by, among other things, a mortgage lien against the Mortgaged Property.

**WHEREAS**, Senior Lender, with the approval of the U.S. Department of Housing and Urban Development ("**HUD**"), has agreed to permit Subordinate Lender to keep the Subordinate Loan outstanding and maintain a subordinate mortgage lien against the Mortgaged Property subject to all of the conditions contained in this Agreement and in accordance with Program Obligations. "**Program Obligations**" means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply

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to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Agreement rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on HUD's official website: (<http://www.hud.gov/offices/adm/hudclips/index.cfm>, or a successor location to that site).

**NOW, THEREFORE**, in order to induce Senior Lender to permit Subordinate Lender to keep outstanding the Subordinate Loan to Borrower and to keep a subordinate mortgage lien against the Mortgaged Property, and in consideration thereof, Senior Lender, Subordinate Lender and Borrower agree as follows:

**1. Definitions.**

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

(a) "**Affiliate**" is defined in 24 C.F.R. 200.215, or any successor regulation.

(b) "**Bankruptcy Proceeding**" means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

(c) "**Borrower**" means all entities identified as "Borrower" in the first paragraph of this Agreement, together with any successors, heirs, and assigns (jointly and severally). Borrower shall include any entity taking title to the Mortgaged Property, whether or not such entity assumes the Senior Note, provided that the term "Borrower" shall not include Senior Lender in the event that Senior Lender may acquire title to the Mortgaged Property. Whenever the term "Borrower" is used herein, the same shall be deemed to include the obligor of the debt secured by the Senior Security Instrument.

(d) "**Business Day**" means any day other than Saturday, Sunday or any other day on which Senior Lender or HUD is not open for business.

(e) "**Covenant Event of Default**" is defined in the Senior Security Instrument.

(f) "**Entity**" means an estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

(g) "**Monetary Event of Default**" is defined in the Senior Security Instrument.

**(h) "Non-Project Sources"** means any funds that are not derived from Project Sources.

**(i) "Project Sources"** means the Mortgaged Property (as defined in the Senior Security Instrument), any proceeds of the Senior loan, and any reserve or deposit made with Senior Lender or any other party as required by HUD in connection with the Senior loan.

**(j) "Senior Indebtedness"** means all present and future indebtedness, obligations, and liabilities of Borrower to Senior Lender under or in connection with the Senior loan or Senior Loan Documents.

**(k) "Senior Lender"** means the Entity named as such in the first paragraph on page 1 of this Agreement, its successors and assigns.

**(l) "Senior Loan Documents"** means the Senior Note, the Senior Security Instrument, and the Regulatory Agreement between Borrower and HUD, as such documents may be amended from time to time and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Senior Indebtedness.

**(m) "Senior Security Instrument Default"** means a "Monetary Event of Default" or a "Covenant Event of Default" as defined in the Senior Security Instrument.

**(n) "Subordinate Indebtedness"** means all present and future indebtedness, obligations, and liabilities of Borrower to Subordinate Lender under or in connection with the Subordinate Loan or the Subordinate Loan Documents.

**(o) "Subordinate Lender"** means the Entity named as such in the first paragraph on page 1 of this Agreement.

**(p) "Subordinate Loan Documents"** means the Subordinate Promissory Note, the Subordinate Deed of Trust (with Security Agreement and Assignment of Rents), the Construction Loan Agreement, the LURA (below defined), and all other documents (excluding the affordable restrictive covenants contained in Articles II and III of the LURA) at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as identified in Schedule B.

**(q) "Subordinate Loan Enforcement Action"** means the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative (other than administrative action regarding income, rent and affordability restrictions under the Land Use Restriction Agreement by and between Subordinate Lender and Borrower dated of even date with the Subordinate Loan Documents pursuant to Chapter 2306 of the Texas Government Code), or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-

off or recoupment, or the taking of any other enforcement action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

**(r) "Subordinate Mortgage Default"** means any act, failure to act, event, conditions, or occurrence which allows (but for any contrary provision of this Agreement), or which with the giving of notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), Subordinate Lender to take a Subordinate Loan Enforcement Action.

**(s) "Surplus Cash"** is defined herein to mean the same as that term is defined in the Regulatory Agreement between Borrower and HUD.

## **2. Permission to Allow Mortgage Lien Against Mortgaged Property.**

Senior Lender agrees, subject to the provisions of this Agreement, to the Subordinate Mortgage and other recorded Subordinate Loan Documents against the Mortgaged Property (which are subordinate in all respects (excluding the affordable restrictive covenants contained in Articles II and III of the LURA) to the lien of the Senior Security Instrument) to secure Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of Borrower to Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by Borrower and Subordinate Lender in Section 3 are true and correct on the date of this Agreement. If any of the representations and warranties made by Borrower and Subordinate Lender in Section 3 are not true and correct on such date, the provisions of the Senior Loan Documents applicable to unpermitted liens on the Mortgaged Property shall apply.

## **3. Borrower's and Subordinate Lender's Representations and Warranties.**

Borrower and, with respect to subsections (a) through (d) below, Subordinate Lender each make the following representations and warranties to Senior Lender:

**(a) Subordinate Loan Documents.** The Subordinate Loan is evidenced by the Subordinate Note and is secured by the Subordinate Mortgage.

**(b) Terms of the Subordinate Loan.** The original principal amount of the Subordinate Note is \$806,754.00. Interest on the Subordinate Note accrues monthly at the rate of 0% per annum. The Subordinate Note is due and payable in full on \_\_\_\_\_, \_\_\_\_\_, ("Maturity"). The principal of the Subordinate Note will be fully amortized at Maturity. The promissory note evidencing the Subordinate Note obligates Borrower to make monthly payments of \$2,240.98 beginning December 1, 2015 and on the same day of every succeeding month thereafter, subject to available Surplus Cash. As long as HUD is the insurer or holder of the Senior Note on FHA Project No. \_\_\_\_\_, any payments due from project income under the Subordinate Note shall be payable only (i) from Surplus Cash of the Project; but in no event greater than seventy-five percent (75%) of the total amount of Surplus Cash; or (ii) from monies received

from Non-Project Sources. No prepayment of the Subordinate Note shall be made until after final endorsement by HUD of the Senior Note, unless such prepayment is made from Non-Project Sources and is approved in writing by HUD. The restriction on payment imposed by this paragraph shall not excuse any default caused by the failure of the Borrower to pay the indebtedness evidenced by the Subordinate Note.

**(c) Relationship of Borrower to Subordinate Lender.** Subordinate Lender is not an Affiliate of Borrower.

**(d) Term.** The term of the Subordinate Note matures on \_\_\_\_\_, and does not end before the term of the Senior Note.

**(e) Subordinate Loan Documents.** The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, HUD prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

**(f) Senior Loan Documents.** The executed Senior Loan Documents are the same forms as approved by HUD prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

#### **4. Deliveries.**

Borrower shall submit the following items to Senior Lender and HUD not later than ten (10) Business Days after the date of the initial disbursement of proceeds of the Subordinate Loan.

**(a) Title Evidence.** Evidence of title (title policy or title policy endorsement, as appropriate) insuring the lien of the Senior Security Instrument which insures that (i) the lien of the Subordinate Mortgage is subordinate to the lien of the Senior Mortgage, and (ii) this Agreement has been recorded among the applicable land records.

**(b) Certification.** A certification from Borrower and Subordinate Lender to HUD that the Subordinate Loan Documents do not contain any changes from the Subordinate Loan Documents submitted to, and approved by, HUD, before the date of this Agreement.

**(c) Loan Documents.** A complete set of the Subordinate Loan Documents.

#### **5. Terms of Subordination.**

**(a) Agreement to Subordinate.** Senior Lender and Subordinate Lender

agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement, to the prior payment of the indebtedness evidenced by the Senior Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects (excluding the affordable restrictive covenants set forth in Articles II and III of the LURA) to the liens, terms, covenants and conditions of the Senior Security Instrument and the other Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Security Instrument and the other Senior Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Security Instrument, curing defaults by Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Security Instrument, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property). Subordinate Lender agrees to extinguish and release its lien on any and all Mortgaged Property in the event Senior Lender, HUD, or a designee of either acquires title to the Mortgaged Property pursuant to a deed in lieu of foreclosure.

**(b) Subordination of Subrogation Rights.** Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Mortgaged Property which (but for this subsection) would be senior to the lien of the Senior Security Instrument, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Security Instrument.

**(c) Payments Before Senior Security Instrument Default.** Until Subordinate Lender receives a default notice of a Senior Security Instrument Default from Senior Lender, Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents provided that such payments are otherwise permitted under the terms of this Agreement.

**(d) Payments After Senior Security Instrument Default.** Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Security Instrument Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without Senior Lender's prior written consent. Subordinate Lender agrees that, after it receives a default notice from Senior Lender with written instructions directing Subordinate Lender not to accept payments from Project Sources on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) unless either (i) such payment is being made solely from Non-Project Sources or (ii) such payment is made with Senior Lender's prior written

consent. If Subordinate Lender receives written notice from Senior Lender that the Senior Security Instrument Default which gave rise to Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by Senior Lender, the restrictions on payment to Subordinate Lender in this Section 5 shall terminate, and Senior Lender shall have no right to any subsequent payments made to Subordinate Lender by Borrower prior to Subordinate Lender's receipt of a new default notice from Senior Lender in accordance with the provisions of this Section 5(d).

**(e) Remitting Subordinate Loan Payments to Senior Lender.** If, after Subordinate Lender receives a default notice from Senior Lender in accordance with subsection (d) above, Subordinate Lender receives any payments under the Subordinate Loan Documents (other than payments permitted under subsection (d) above), Subordinate Lender agrees that such payment or other distribution will be received and held in trust for Senior Lender and unless Senior Lender otherwise notifies Subordinate Lender in writing, will be promptly remitted, in kind to Senior Lender, by warrant of the State of Texas, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, Borrower specifically authorizes Subordinate Lender to remit any such payments to Senior Lender, and specifically waives any and all rights to have such payments returned to Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by Subordinate Lender, and remitted to Senior Lender under this Section 5, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to Senior Lender waive any Subordinate Mortgage Default which may arise from the inability of Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

**(f) Agreement Not to Commence Bankruptcy Proceeding.** Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any Bankruptcy Proceeding with respect to Borrower, without Senior Lender's prior written consent.

## **6. Default Under Subordinate Loan Documents.**

**(a) Notice of Default and Cure Rights.** Subordinate Lender shall deliver to Senior Lender a default notice within five Business Days in each case where Subordinate Lender has given a default notice to Borrower. Failure of Subordinate Lender to send a default notice to Senior Lender shall not prevent the exercise of Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. Senior Lender shall have the opportunity, but not the obligation, to cure any Subordinate Mortgage Default within 60 days following the date of such notice; provided, however that Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents, subject to the limitations set forth in Section 6(b) below.

**(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.** If a Subordinate Mortgage Default occurs and is continuing, Subordinate Lender agrees that it will not commence foreclosure proceedings with respect to the Mortgaged Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents with respect to the Mortgaged Property, including, but not limited to accelerating the Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder without Senior Lender's prior written consent. However, the preceding sentence shall not (i) limit Subordinate Lender's right to bring an action seeking recovery solely from Non-Project Sources or (ii) preclude Subordinate Lender from exercising or enforcing all the rights available to Subordinate Lender under the Subordinate Loan Documents and/or under applicable law to enforce covenants and agreements of Borrower relating to income, rent or affordability restrictions.

## **7. Default Under Senior Loan Documents.**

**(a) Notice of Default and Cure Rights.** Senior Lender shall deliver to Subordinate Lender a default notice within five Business Days in each case where Senior Lender has given a default notice to Borrower (provided that Senior Lender shall have no liability to Borrower, Subordinate Lender or to any other Entity for failure to timely give such notice). Failure of Senior Lender to send a default notice to Subordinate Lender shall not prevent the exercise of Senior Lender's right and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. Borrower agrees that Subordinate Lender shall have the opportunity, but not the obligation, to cure either a Monetary Event of Default or a Covenant Event of Default within 30 days following the date of such notice, or any time prior to an assignment of the Senior Security Instrument from Senior Lender to HUD, whichever date is later. Subordinate Lender acknowledges that Senior Lender shall be entitled during such period described above to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender shall have the opportunity to cure a Covenant Event of Default during such period described above so long as there is no Monetary Event of Default under the Senior Loan Documents. All amounts paid by Subordinate Lender to Senior Lender to cure any default under the Senior Loan Documents shall be deemed to have been advanced by Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

**(b) Cross Default.** Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Security Instrument Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents.

## **8. Conflict.**

Borrower, Senior Lender and Subordinate Lender each agrees that, in the event of any conflict or inconsistency between the terms of the Senior Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this

Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of Senior Lender and Subordinate Lender in the Mortgaged Property; and (b) solely as between Senior Lender and Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which Senior Lender and Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any Senior Security Instrument Default or Subordinate Mortgage Default, as the case may be; give Borrower the right to notice of any Senior Security Instrument Default or Subordinate Mortgage Default, as the case may be other than that, if any, provided, respectively under the Senior Loan Documents or the Subordinate Loan Documents, as applicable; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

**9. Rights and Obligations of Subordinate Lender under the Subordinate Loan Documents and of Senior Lender under the Senior Loan Documents.**

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

**(a) Protection of Security Interest.** Subordinate Lender shall not, without the prior written consent of Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that Subordinate Lender shall have the right to advance funds to cure Senior Security Instrument Defaults pursuant to Section 7(a) above and advance funds pursuant to the Subordinate Mortgage for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Mortgaged Property and curing other defaults by Borrower under the Subordinate Loan Documents.

**(b) Condemnation or Casualty.** In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Mortgaged Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Mortgaged Property (collectively, a "Casualty"), at any time or times when the Senior Security Instrument remains a lien on the Mortgaged Property the following provisions shall apply:

**(1)** Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to Senior Lender's rights under the Senior Loan Documents with respect thereto, and Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by or with the written consent of Senior Lender; and

**(2)** all proceeds received or to be received on account of a Taking

or a Casualty, or both, shall be applied (to payment of the costs and expenses of repair and restoration and/or to payment of the Senior Security Instrument) in the manner determined by Senior Lender in its sole discretion; provided, however, that if Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Security Instrument, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Senior Security Instrument shall be paid to, and may be applied by, Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents. Any proceeds then remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Subordinate Loan Documents shall be paid by the Subordinate Lender to Borrower.

**(c) No Modification of Subordinate Loan Documents.** Borrower and Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents without Senior Lender's consent shall be void ab initio and of no effect whatsoever, to the extent allowed by law.

## **10. Modification of Senior Loan Documents; Refinancing of Senior Indebtedness.**

Subordinate Lender consents to any agreement or arrangement in which Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money, provided however, there shall be no modification of the Senior Loan Documents without the consent of the Subordinate Lender if such modification would increase the principal amount of the Senior Indebtedness beyond the original principal amount of the Senior Indebtedness (excluding any amounts having been advanced by Senior Lender for the protection of its security interest pursuant to the Senior Loan Documents), increase the interest rate of the Senior Indebtedness, or decrease the original maturity term of the Senior Indebtedness.

Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness in accordance with Program Obligations (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Indebtedness, the Senior Note, the Senior Security Instrument, the Senior Loan Documents and Senior Lender shall mean, respectively, the indebtedness related to the refinance loan, the refinance note, the security instrument securing the refinance note, all documents evidencing, securing or

otherwise pertaining to the refinance note and the holder of the refinance note, provided however, there shall be no refinancing of the Senior Indebtedness without the consent of the Subordinate Lender if such refinancing would increase the principal amount of the Senior Indebtedness beyond the original principal amount of the Senior Indebtedness (excluding any amounts having been advanced by Senior Lender for the protection of its security interest pursuant to the Senior Loan Documents), increase the interest rate of the Senior Indebtedness, or decrease the original maturity term of the Senior Indebtedness.

#### **11. Default by Subordinate Lender or Senior Lender.**

If Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting Lender shall have the right to all available legal and equitable relief.

#### **12. Notices.**

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which Senior Lender or Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating next Business Day delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two Business Days after mailing in the United States), addressed to the respective parties as follows:

#### **SENIOR LENDER:**

Lancaster Pollard Mortgage Company, LLC  
65 East State Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215  
Attention: Lisa Vecchietti, Vice President

With a copy to:

U.S. Department of Housing and Urban Development  
Director - Office of Multifamily Asset Management  
Room 6160  
451 Seventh Street, S.W.  
Washington, DC 20410

**SUBORDINATE LENDER:**

Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street, Austin, Texas 78701  
P. O. Box 13941  
Austin, Texas 78711  
Attention: Asset Management Division

All with a copy to: Director of Multifamily Finance

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

**13. General.**

**(a) Assignment/Successors.** This Agreement shall be binding upon Borrower, Senior Lender and Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of Senior Lender and Subordinate Lender.

**(b) No Partnership or Joint Venture.** Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute Senior Lender as a joint venturer or partner of Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of any other party hereto.

**(c) Senior Lender's and Subordinate Lender's Consent.** Wherever Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

**(d) Further Assurances; UCC Financing Statements.** Subordinate Lender, Senior Lender and Borrower each agree, at Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Loan Documents are subordinate to the lien, covenants and conditions of the Senior Loan Documents, or to further evidence the intent of this Agreement. Senior Lender is hereby authorized to file any and all UCC financing statement amendments required to reflect the priority of the Senior Indebtedness.

**(e) Amendment.** This Agreement shall not be amended except by written instrument signed by all parties hereto.

**(f) Governing Law.** This Agreement shall be governed by the laws of the State in which the Mortgaged Property is located, except as, so long as the Senior loan is insured or held by HUD, and solely as to rights and remedies of HUD, federal jurisdiction may be appropriate pursuant to any federal requirements. The State courts, and with respect to HUD's rights and remedies, federal courts, and governmental authorities in the State in which the Mortgaged Property is located, shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Subordinate Loan Documents. To the extent allowed by law, Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

**(g) Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**(h) Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to Section 5 hereof; (iii) the acquisition by Senior Lender of title to the Mortgaged Property pursuant to a foreclosure; or (iv) the acquisition by Subordinate Lender of title to the Mortgaged Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement. Notwithstanding the foregoing, in the event the Senior Indebtedness is refinanced, the term of this Agreement shall continue and the Subordinate Indebtedness and Subordinate Loan Documents shall be subordinate to any such indebtedness related to the refinance loan as provided in Section 10 above.

**(i) Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

**(j) Indemnification Provisions.** Notwithstanding anything to the contrary set forth in this Agreement or otherwise, in no event will HUD be responsible for any of Borrower's indemnification obligations set forth in the Subordinate Loan Documents.

Each signatory below hereby certifies that each of their statements and representations contained in this Agreement and all their supporting documentation thereto are true, accurate, and complete. This Agreement has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the

Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

**[SIGNATURES APPEAR ON SUCCEEDING PAGES]**

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



Pine Lake Estates  
Nacogdoches, Texas  
FHA Project No. \_\_\_\_\_

SUBORDINATE LENDER:

Texas Department of Housing and Community Affairs,  
a public and official agency of the State of Texas

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
2016, by \_\_\_\_\_, \_\_\_\_\_ of the Texas Department of  
Housing and Community Affairs, a public and official agency of the State of Texas, on  
behalf of said agency.

\_\_\_\_\_  
NOTARY PUBLIC  
IN AND FOR THE STATE OF TEXAS

Notary's Name (Printed):  
\_\_\_\_\_

[SEAL]

Pine Lake Estates  
Nacogdoches, Texas  
FHA Project No. \_\_\_\_\_

**BORROWER:**

**PINE LAKE APARTMENTS A LIMITED PARTNERSHIP,**  
a Texas limited partnership

By: IAHI-Pine, LLC,  
a Texas limited liability company,  
its general partner

By: Realtex Development Corporation,  
a Texas corporation  
its managing member

By: \_\_\_\_\_  
Name: Rick J. Deyoe  
Title: Managing Member

**STATE OF TEXAS       §**  
                                  **§**  
**COUNTY OF DALLAS   §**

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Rick J. Deyoe, managing member of Realtex Development Corporation, a Texas corporation, Managing Member of IAHI-Pine, LLC, a Texas limited liability company, General Partner of Pine Lake Apartments a Limited Partnership, a Texas limited partnership, on behalf of said Partnership.

\_\_\_\_\_  
**NOTARY PUBLIC**  
**IN AND FOR THE STATE OF TEXAS**

Notary's Name (Printed):

[SEAL] \_\_\_\_\_

**Warning:**

**Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.**

## SCHEDULE A

Senior Indebtedness: that certain loan in the original principal amount of Three Million and 00/100 Dollars (\$3,000,000.00) from Senior Lender to Borrower.

Senior Note: that certain Note (HUD-94001M) in the original principal amount of Three Million and 00/100 Dollars (\$3,000,000.00) (and Rider 1 thereto) executed by Borrower in favor of Senior Lender, dated as of \_\_\_\_\_, 2016.

Senior Security Agreement: that certain Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement (HUD-94000M) with Addendum (Texas) and Rider to Security Instrument for LIHTC Properties attached, if applicable, executed by Borrower in favor of Senior Lender dated as of \_\_\_\_\_, 2016.

And all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Senior Indebtedness.

EXHIBIT A

## EXHIBIT B

Subordinate Indebtedness: Subordinate HOME loan from Subordinate Lender in the original principal amount of Eight Hundred Six Thousand Seven Hundred Fifty Four Hundred and 00/100ths Dollars (\$806,754.00), evidenced by:

1. Architect Agreement dated May 23, 2014, executed by \_\_\_\_\_, a \_\_\_\_\_;
2. Construction Loan Agreement dated May 23, 2014, executed by Borrower and Subordinate Lender.
3. Contractor Agreement dated May 23, 2014, executed by \_\_\_\_\_.
4. "**LURA**" -- Land Use Restriction Agreement dated as of May 23, 2014, executed by Borrower and Subordinate Lender.
5. "**Subordinate Mortgage**" -- Subordinate Deed of Trust (with Security Agreement and Assignment of Rents) dated as of May 23, 2014, executed by Borrower for the benefit of Subordinate Lender.
6. "**Subordinate Note**" -- Subordinate Promissory Note in the stated amount of \$806,754.00, dated May 23, 2014, executed by Borrower to the order of Subordinate Lender.
7. UCC-1 Financing Statement to be recorded in \_\_\_\_\_ County, Texas with Borrower as debtor and Subordinate Lender and secured party.
8. UCC-1 Financing Statement to be recorded with the Texas Secretary of State with Borrower as debtor and Subordinate Lender as secured party.
9. And all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness.

Notwithstanding anything to the contrary set forth in the Subordination Agreement to which this Schedule B is attached, the affordable restrictive covenants contained in Article II and III of the LURA are not subordinate to the liens, terms, covenants and conditions of the Senior Security Instrument and the other Senior Loan Documents.

Cost Cert Submission Date: Month, Year                      OR                       Cost Cert not yet submitted

Names of any additional senior lenders (and lien position):

**LOAN SUBORDINATION REQUESTS AND HUD RIDERS ONLY – TDHCA LOAN INFORMATION**

Property has a loan with TDHCA.    Loan/Program Number: HOME

Current Balance: \$Amount to be submitted separately

TDHCA loan will be fully paid off at the time of closing.

TDHCA loan will receive a partial payment at the time of closing in the amount of \$ .

New debt will require revised TDHCA loan terms (such as changes in interest rate, loan amount, or conversion to soft debt).\*

*\*Board approval or further financial evaluation may be required. Contact your Asset Manager prior to submission.*

**EASEMENT AGREEMENTS/ EASEMENT CONSENT AND SUBORDINATIONS ONLY**

All agreements pertaining to such easement(s) are attached to this form.

An explanation of the easement request is included in the comment box below:

Comments:

7d

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 26, 2017**

Presentation, Discussion, and Possible Action regarding a request for waiver of rules for Bishop Courts, HTC #16049

**RECOMMENDED ACTION**

**WHEREAS**, Bishop Courts (the “Development”) received a 9% Housing Tax Credit award in 2016 for the construction of 60 new multifamily units in the City of Bishop;

**WHEREAS**, the Applicant has requested approval of a design change which may require waiver 10 TAC §10.101(b)(8)(B) for otherwise exempt units;

**WHEREAS**, in order to achieve the number of units with a bedroom and bathroom on the ground floor required by 10 TAC §10.101(b)(8)(B), and to meet requirements for mobility accessible units required by 10 TAC §10.101(b)(8)(A), the Applicant proposes to treat all three bedroom, two and a half bath units as the same unit type and not differentiate their exempt or non-exempt status in order to count them together to meet the 20% requirement for a bedroom at the entry level;

**WHEREAS**, staff previously did not recognize that the 20% otherwise exempt units requirement in 10 TAC §10.101(b)(8)(B) could not be met through provision of other units in this development;

**WHEREAS**, the proposed modifications are being addressed separately as a material amendment request, and would not have a negative impact on the scoring of the Application, and a re-evaluation of financial feasibility conducted by staff determined that the new cost and financing structure meets the Department’s feasibility requirements, and;

**WHEREAS**, staff believes the applicant acted in good faith in interpreting the language of 10 TAC §10.101(b)(8)(B) to indicate that units of similar size and same combination of bedrooms and bathrooms would be considered the same unit type for the purposes of the rule, making the need for this waiver not necessarily foreseeable at the time of application.

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested waiver for Bishop Courts as presented at this meeting is approved, and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

## **BACKGROUND**

Bishop Courts was approved for a 9% HTC allocation during the 2016 competitive cycle. The Applicant proposed the new construction of 15 fourplexes containing 60 two-story (townhouse) multifamily units in the City of Bishop, Nueces County. The Applicant now requests approval for changes in the site plan, unit and building plans, net rentable area, development costs, and financing structure to eliminate elevators that were proposed to meet accessibility requirements in response to deficiency notices during review of the Application.

Specifically, the amendment requests to substitute 12 one-story units for 12 two-story (i.e., townhouse or “otherwise exempt”) units of similar size and the same bedroom and bathroom count, thereby eliminating the elevators that were needed to fulfill the accessibility requirements imposed on all developments by 10 TAC §10.101(b)(8)(A). Regarding other effects on the development, the size of the site would remain the same; the number and type of residential buildings would remain the same (15 fourplexes); the common area, number of units, unit mix, and site amenities would not change; and the site plan would change only insofar as the sizes of the building footprints change.

The Applicant originally submitted floor plans they have used successfully in other markets for a development composed entirely of three-bedroom, two and one-half bath townhouses. Through the review and underwriting process, staff identified a problem with lack of mobility accessibility with the floor plans. Prior to the July 28 meeting at which credits were awarded, the Applicant provided revised floor plans that included pneumatic lifts in 3 units, in order to meet the requirement that 5% of the units be fully accessible. Neither the Applicant or Staff identified the lack units that met the requirements in 10 TAC §10.101(b)(8)(B).

With submission of the Carryover Agreement, the Applicant included an amendment request related to floor plans. In response to changes required in other markets, and in order to provide more easily accessible units at lower cost, the Applicant proposes to change 12 of the townhouse units to single story flats.

7e

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 26, 2017**

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) Application of Bishop Courts in Bishop (HTC #16049)

**RECOMMENDED ACTION**

**WHEREAS**, in 2016 Bishop Courts (the “Development”) received an award of 9% Housing Tax Credits for the new construction of 60 units of general multifamily housing in Bishop, Nueces County;

**WHEREAS**, Bishop Courts, LP (the “Development Owner”) has requested approval to reduce the net rentable square footage by more than 3% due to a re-design of twelve of the units from two-story townhome to one-story flats, to more clearly conform to the Department’s visitability standards;

**WHEREAS**, Board approval is required for a decrease of three percent or more in the square footage of the units under Tex. Gov’t Code §2306.6712 and 10 TAC §10.405(a)(3)(D), and the Owner has complied with the amendment requirements in 10 TAC §10.405(a); and

**WHEREAS**, the reduction in net rentable square footage does not negatively affect the Development, impact the viability of the transaction, or affect the amount of tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material application amendment for Bishop Courts is approved as presented to this meeting and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

## **BACKGROUND**

Bishop Courts was submitted and approved for a 9% HTC allocation during the 2016 cycle to construct 60 new multifamily units in Bishop. Exhibits in the original HTC application identified a development consisting of all three-bedroom townhome units. 12 of the units were larger in size to accommodate accessibility on the first floor. During the underwriting process staff identified the need to provide accessibility under the 2010 ADA standards and provide five percent of the total units to be fully accessible. In response the Applicant provided revised floor plans for three units to include a pneumatic lift to access the second floor.

On October 31, 2016, the Applicant submitted an amendment request to substitute a single story design for 12 of the accessible units (20%). The amendment included a 311 square foot in size for these 12 units and eliminates the need for the lift. This also results in making all units the same size. The Applicant's letter states the savings as a result of this change is approximately \$35,000 which is likely due to the elimination of the pneumatic lifts. The overall rentable space is reduced by 3,732 square feet or 4.3%. This is greater than the three percent threshold for board approval in 10 TAC §10.405(a)(3)(D).

Staff has reviewed the original application, underwriting report and concluded that the reduced square footage does not negatively impact the tax credit allocation awarded. The need for consistent unit size was not recognized at the time of Application by either the Applicant or staff and, therefore, the adjustment from two-story to one-story units with a consistent unit size is a reasonable explanation of how the need for the proposed modification was not reasonably foreseeable or preventable.

Staff recommends approval of the material application amendment request as presented herein.



## Asset Management Division

### Amendment Request Form

Completed forms and supporting materials can be emailed to [asset.management@tdhca.state.tx.us](mailto:asset.management@tdhca.state.tx.us)

#### TYPE OF AMENDMENT REQUESTED

Date Submitted: 10/31/2016

Amendment Requested: *Application Amendment*,

Has the change been implemented? *No*

Award Stage: *Commitment (Prior to Carryover)*

***NOTE: Material Application or LURA Amendment requests must be received 45 days before the Board Meeting.***

Contact your Asset Manager if you are unsure what type of Amendment to request: <https://www.tdhca.state.tx.us/asset-management/contacts.htm>

#### DEVELOPMENT INFORMATION

Dev. Name: Bishop Courts

File No. / CMTS No.: 16049 /

#### CONTACT INFORMATION

Request Submitted By: Robbye Meyer

Phone #/Email: (512) 963-2555 /

#### SECTION 1: COVER LETTER

A cover letter ***MUST*** be submitted with your request. Review your cover letter to ensure it includes:

- The change(s) requested       The reason the change is necessary       The good cause for the change  
 An explanation of whether the amendment was reasonably foreseeable or preventable at the time of Application

#### SECTION 2: REQUIRED DOCUMENTATION

Entering an Amendment conveys to the Department that representations in the Application have changed. You ***MUST*** provide information about any and all changes made from the time of Application (or as last approved by the Department) in your request, including any items that will be impacted by the requested change. Failure to represent or properly document all changes may result in delays, denials, or a request for re-submission. The following is attached:

- Revised Development Financing Exhibits – if sources, terms, conditions, or amounts of financing will be impacted or changed by your amendment request, revised Application exhibits and term sheets (or executed Loan documents and LPA, if the loan has closed) must be submitted
- Signed Statement of No Financial Impact – if no sources, terms, conditions, or amount of financing will be impacted or changed by your amendment request, the Owner must sign and submit a statement to this effect
- Revised Application Exhibits/Documents Reflecting or Supporting All Requested Changes – revised site plans, surveys, Building and Unit Configuration exhibit, etc.
- Material Amendment fee of \$2,500 (Applicable to Non-Material Amendments only if changes have been implemented prior to Amendment approval) – *N/A for Developments only funded by a Direct Loan program (HOME, NSP, HTF)*

### SECTION 3A: MATERIAL APPLICATION AMENDMENT ITEMS

Check all items that have been modified from the original application (see *Subchapter E, §10.405(a)(3)*):

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Site plan                       | <input type="checkbox"/> Scope of tenant services         | <input type="checkbox"/> Exclusion of reqs in Subchapters B & C        |
| <input type="checkbox"/> Number of units*                | <input type="checkbox"/> Reduction of 3%+ in unit sq ft   | <input type="checkbox"/> Cost increases/changes affecting direct loans |
| <input type="checkbox"/> Bedroom mix                     | <input type="checkbox"/> Reduction of 3%+ common are      | <input type="checkbox"/> Cost increases/changes affecting credits      |
| <input checked="" type="checkbox"/> Architectural design | <input type="checkbox"/> Residential density (5%+ change) | <input type="checkbox"/> Other   |

If “Number of units” is selected above and the total LI units or LI units at any rent or income level will be reduced, also:

- Written confirmation from the lender *and* syndicator that the development is infeasible without the adjustment in units
- Evidence supporting the need for the adjustment in units

***NOTE: The approved amendment may carry a penalty in accordance with §10.405(a)(6)(b).***

### SECTION 3B: MATERIAL LURA AMENDMENT ITEMS

Check all items that require a material LURA amendment (see Subchapter E, *§10.405(b)(2)*):

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Reductions in the number of LI units           | <input type="checkbox"/> Changes in scope of tenant services | <input type="checkbox"/> Change in Target Population |
| <input type="checkbox"/> Changes to income or rent restrictions         | <input type="checkbox"/> Removal of HUB or Non-profit        | <input type="checkbox"/> Other                       |
| <input type="checkbox"/> Change in ROFR period or other ROFR provisions |  |  |

The following additional items are attached for consideration or will be forthcoming:

- Draft Notice of Public Hearing\*       Evidence of public hearing\*

***NOTE: \*Draft Notice of Public Hearing must be provided 10 business days before the hearing and must be approved by TDHCA. \*The Public Hearing must be held at least 7 business days prior to the Board meeting and evidence in the form of attendance sheets and a summary of comments made must be submitted to TDHCA.***

### SECTION 4A: NON-MATERIAL APPLICATION AMENDMENT SUMMARY

Identify all non-material changes that have been or will be made (Contact your Asset Manager if you are unsure of whether your request is non-material):

*Short Summary Regarding Application Changes*

- Amendment is requesting a change in Developer(s) or Guarantor(s) and Previous Participation forms are attached.

### SECTION 4B: NON-MATERIAL LURA AMENDMENT SUMMARY

Identify non-material amendments requested to the LURA:

*Short Summary Regarding LURA Changes*

# *Bishop Courts, LP*

1739 University Avenue, Suite 116 • Oxford, MS 38655 • Telephone (662) 202-8226  
Email [stewart.rutledge@rosedalecorporation.com](mailto:stewart.rutledge@rosedalecorporation.com)

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October 31, 2016

Ms. Marni Holloway  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs (TDHCA)  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

**Re: Application #16049, Bishop Courts, Bishop, TX**

Dear Ms. Holloway:

Since our submission and ultimate award in July, there have been some design changes to rules in other states that the developers of Bishop Courts do business. Due to these changes, they have redesigned their product for the other states and would like to use that same redesign here in Texas for the accessible units in Bishop Courts.

Instead of having a two-story townhome design, we are requesting to substitute a single-story design for the twelve (12) accessible units. The single-story units would contain the same square footage as the two-story units and have the same number of bedrooms and bathrooms. The building elevations from the front would look like the other two-story units so the community would be uniform throughout.

This change would make the fully accessible units that are currently proposed to have elevator lifts safer in the case of a fire or power failure.

As an option, if staff would rather only have the fully accessible units as single-story, the developer could only substitute those three (3) units instead of all twelve (12) accessible units.

This really is not a matter of foreseeable or preventable, it is a matter of changing events in development that happens. The developer would like to keep a consistency in development and it makes reasonable sense to provide a safer environment for those that will be living in the development.

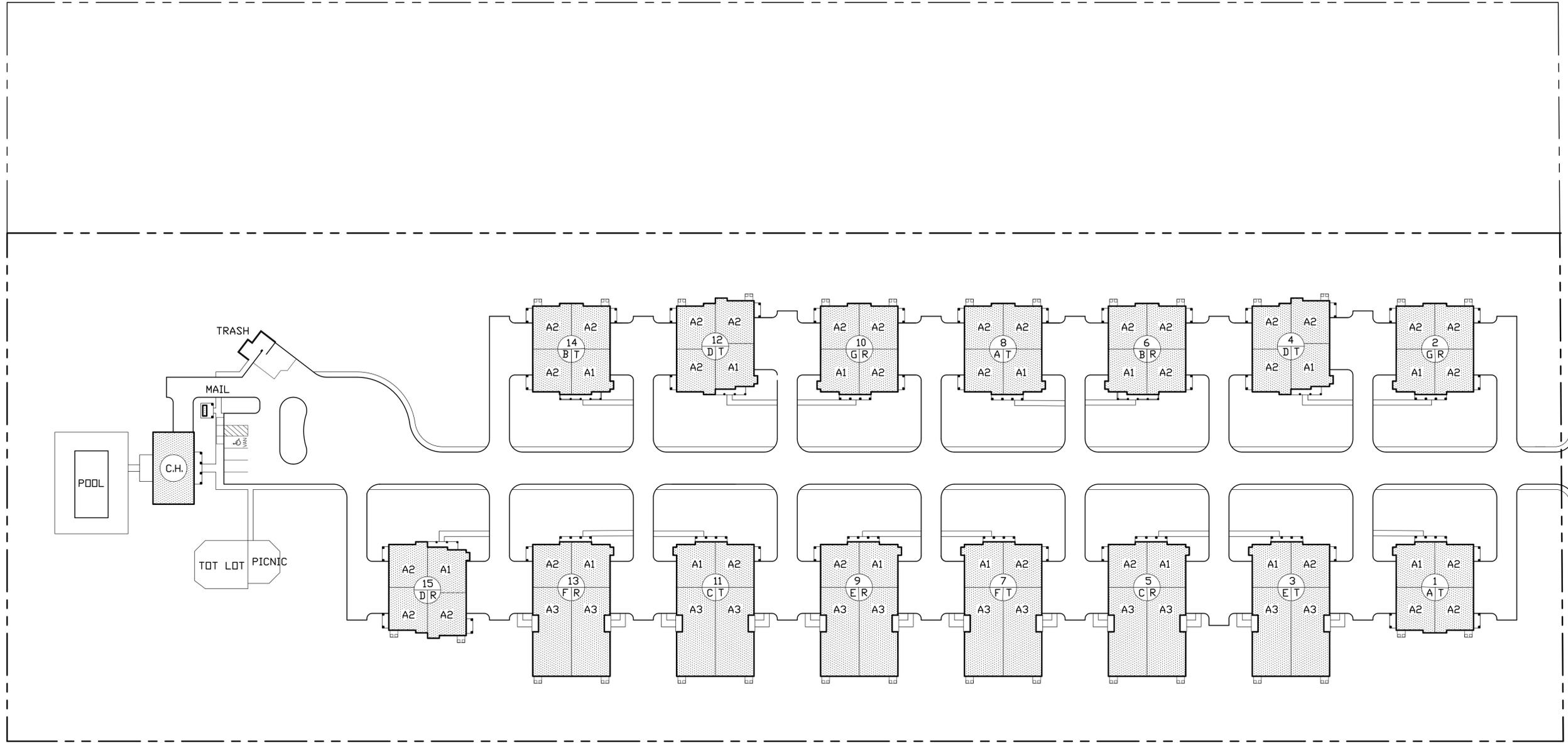
There is no bottom line financial change. The cost difference is approximately \$35,000 and the developer will use that savings to increase the amenities in the development (i.e more playground equipment, pool amenities, landscaping, lighting, etc...).

A copy of the redesigned plans is attached with this request. If you have any questions, I can be reached at (512) 963-2555 or by email at [robbyemeyer@gamil.com](mailto:robbyemeyer@gamil.com).

Sincerely,



Robbye G. Meyer  
**Bishop Courts 2016 GP, LLC**  
**Member**



U. S. H I G H W A Y 7 7

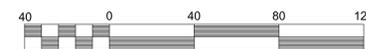
**BUILDING SCHEDULE**

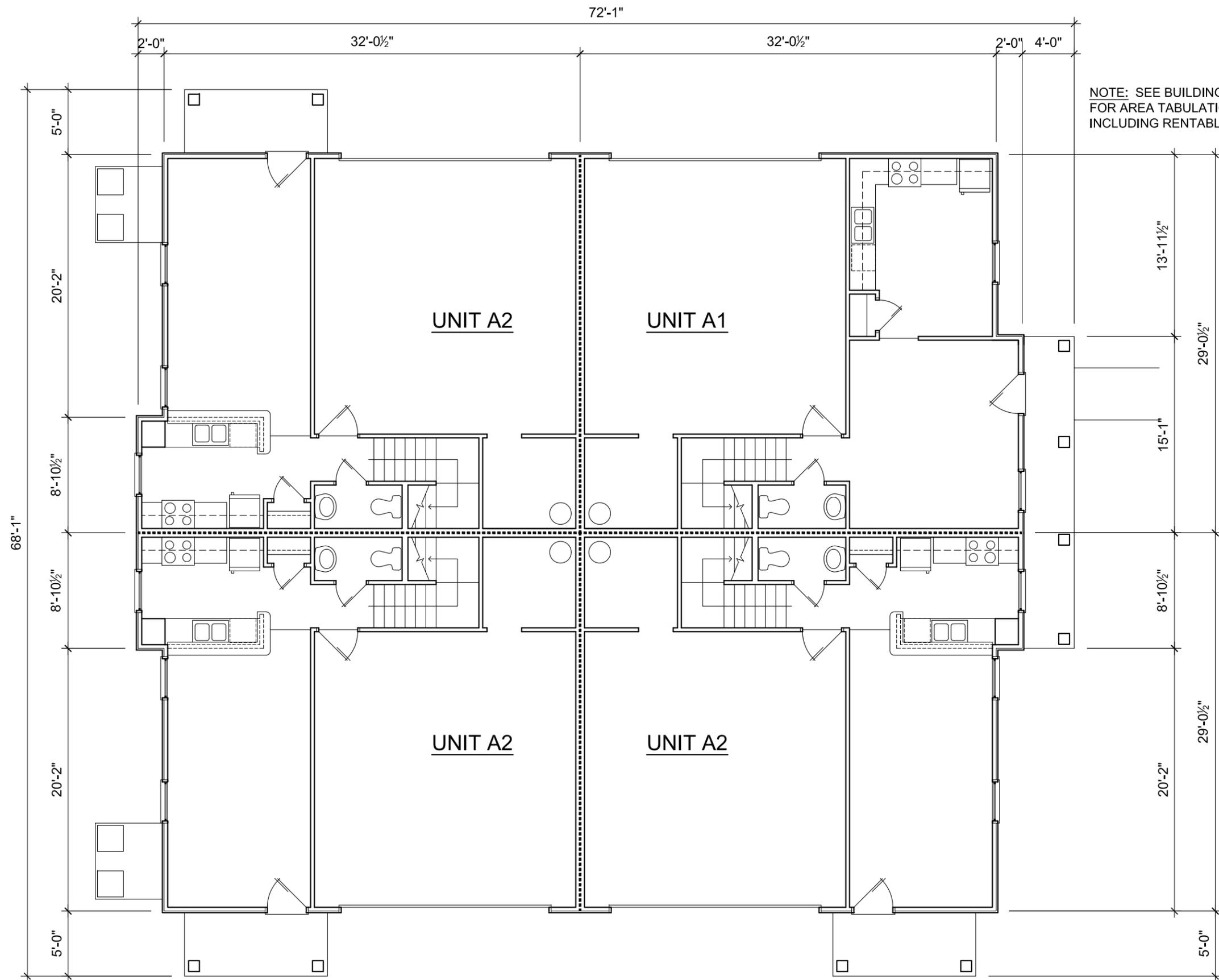
STRUCTURE NUMBER	TYPE UNITS / STRUCTURE			TOTAL UNITS			TOTAL UNITS	AREA / UNIT				AREA / STRUCT.		NO. OF STRUCT.	TOTAL AREAS		
	A1	A2	A3	A1	A2	A3		GROSS COND'D	GROSS UNCONDITIONED OR EXT. SPACE			GROSS COND'D	GROSS UNCOND'D		GROSS COND'D	GROSS UNCOND'D	
								PORCH	GARAGE	STOR	SPRINK						
1, 2, 4, 6, 8, 10, 12, 14 & 15	1			9				1,396 SF	100 SF	426 SF	50 SF	16 SF / STRUCT.	5,545 SF	2,185 SF	9	49,905 SF	19,665 SF
		3			27			1,383 SF	55 SF								
3, 5, 7, 9, 11 & 13	1			6				1,396 SF	100 SF				5,545 SF	2,185 SF	6	33,270 SF	13,110 SF
		1			6			1,383 SF	55 SF	426 SF	50 SF	16 SF / STRUCT.	5,545 SF	2,185 SF	6	33,270 SF	13,110 SF
			2			12		1,383 SF									
C.H.	CLUBHOUSE												1,590 SF	344 SF	1	1,590 SF	344 SF
TOTALS				15	33	12	60								16	84,765 SF	33,119 SF

**LEGEND**

- 1 - STRUCTURE
- A T - T = TYPICAL / R = REVERSED ELEVATION SCHEME

**SITE / KEY PLAN**





**1st FLOOR BUILDING PLAN STRUCTURES 1, 2, 4, 6, 8, 10, 12, 14 & 15**

SCALE: 1/8" = 1'-0"

**A1.1**

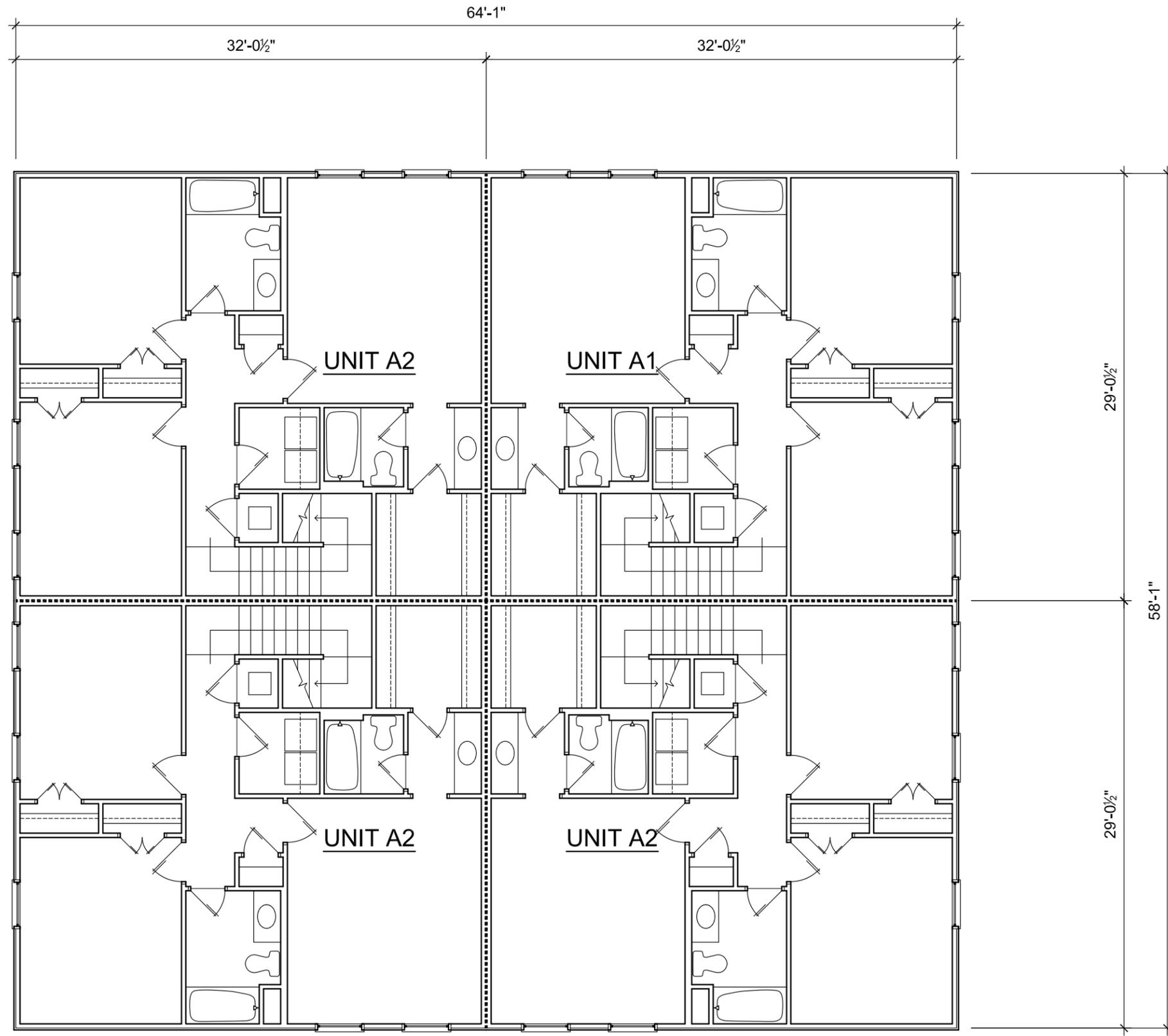
BISHOP COURT  
BISHOP, TX

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

FAX (615) 352-7151

10-12-16

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615) 352-7152



**2nd FLOOR BUILDING PLAN STRUCTURES 1, 2, 8, 9, 12 & 13**

SCALE: 1/8" = 1'-0"

**A2.1**

BISHOP COURT  
BISHOP, TX

10-12-16

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

FAX (615) 352-7151

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152



NOTE: SEE BUILDING SCHEDULE ON SHEET C2.0 FOR AREA TABULATIONS OF ALL SPACES INCLUDING RENTABLE AND NON-RENTABLE

10-12-16

FAX (615) 352-7151

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615) 352-7152

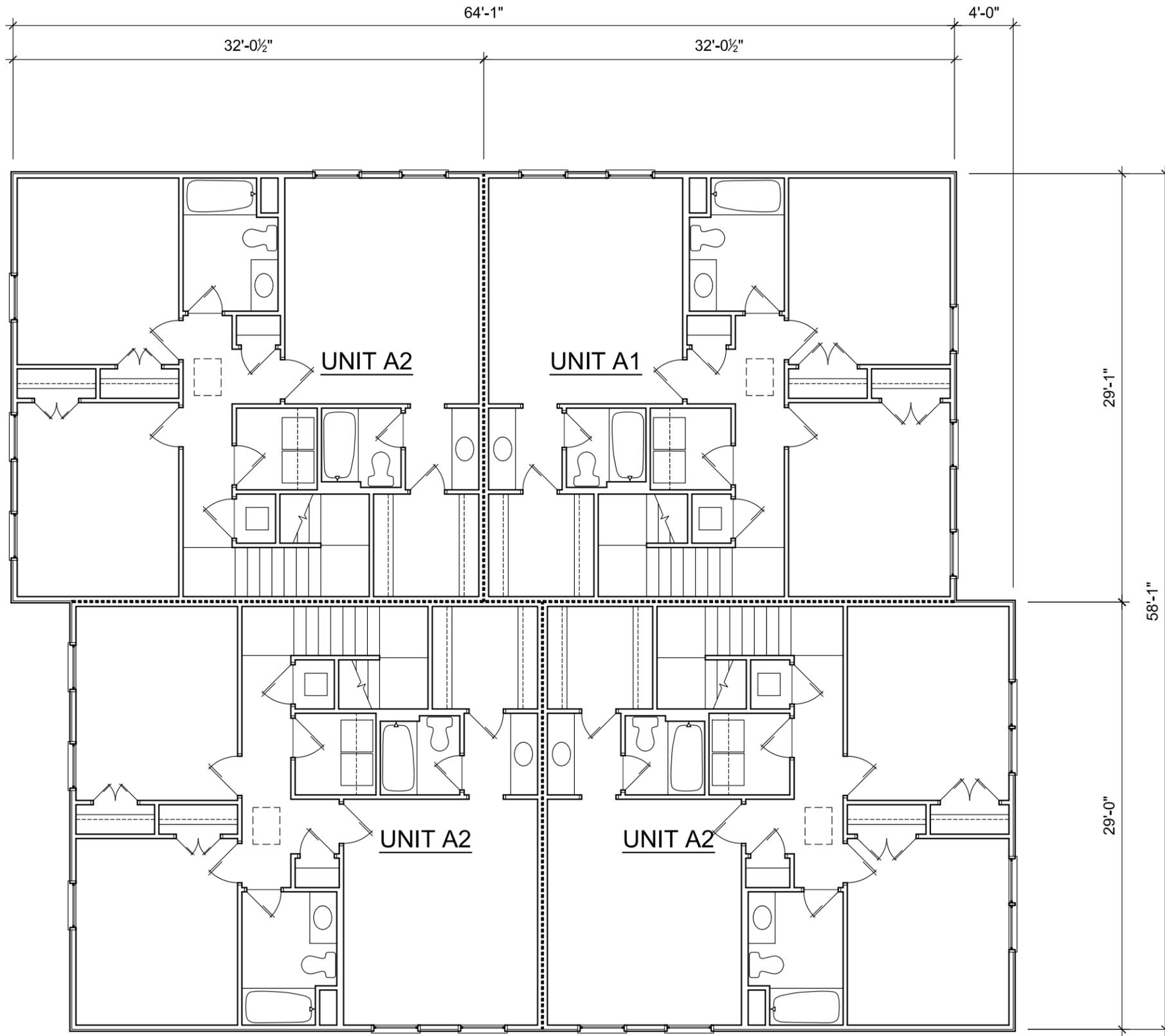
# 1st FLOOR BUILDING PLAN STRUCTURES 4, 12 & 15

SCALE: 1/8" = 1'-0"

# A1.2

BISHOP COURT  
BISHOP, TX

STREET



**2nd FLOOR BUILDING PLAN STRUCTURES 4, 12 & 15**

SCALE: 1/8" = 1'-0"

**A2.2**

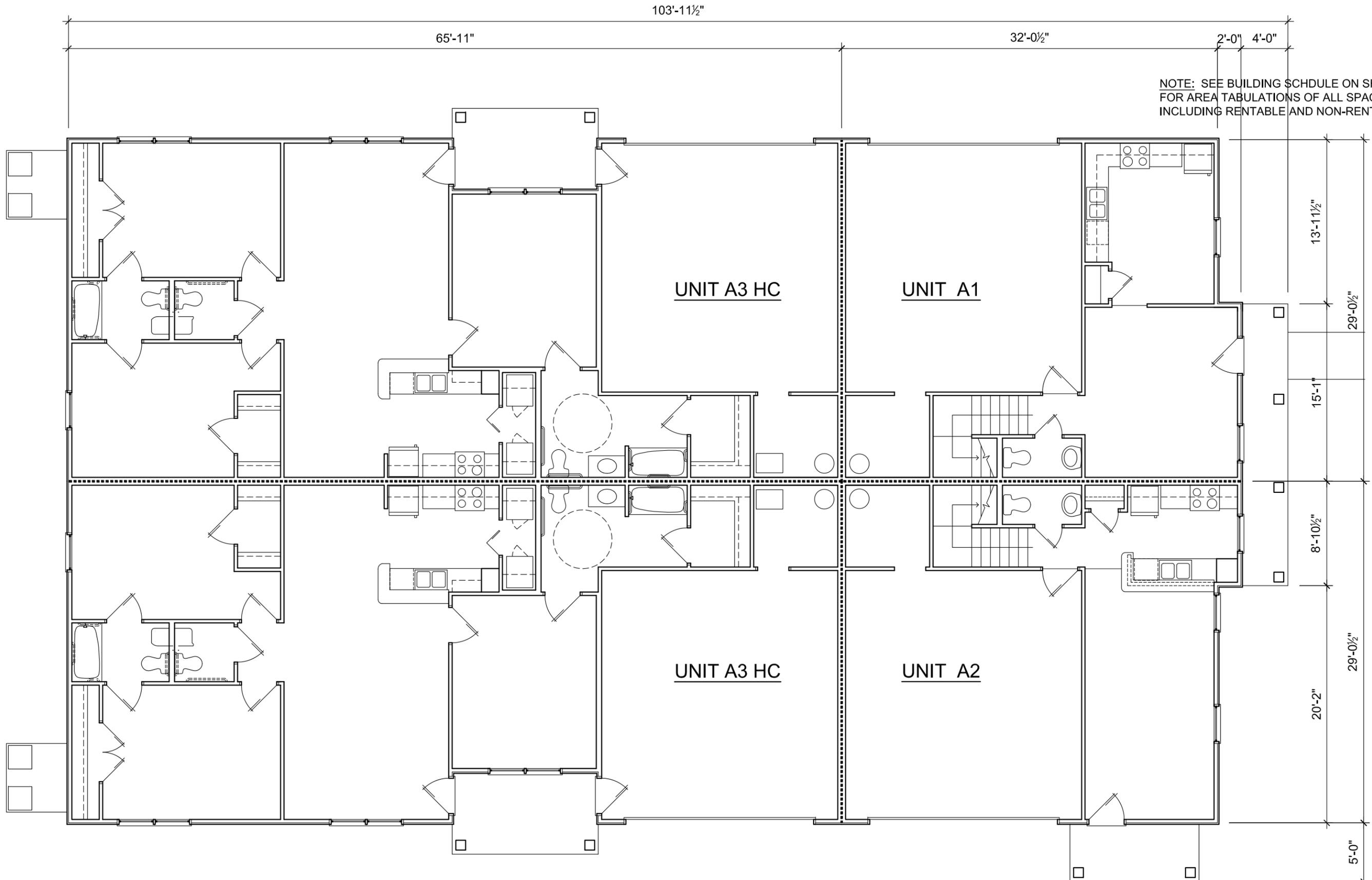
BISHOP COURT  
BISHOP, TX

10-12-16

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

FAX (615) 352-7151

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152



NOTE: SEE BUILDING SCHEDULE ON SHEET C2.0 FOR AREA TABULATIONS OF ALL SPACES INCLUDING RENTABLE AND NON-RENTABLE

**1st FLOOR BUILDING PLAN STRUCTURES 3, 5, 7, 9 11 & 13**

SCALE: 1/8" = 1'-0"

**A1.3**

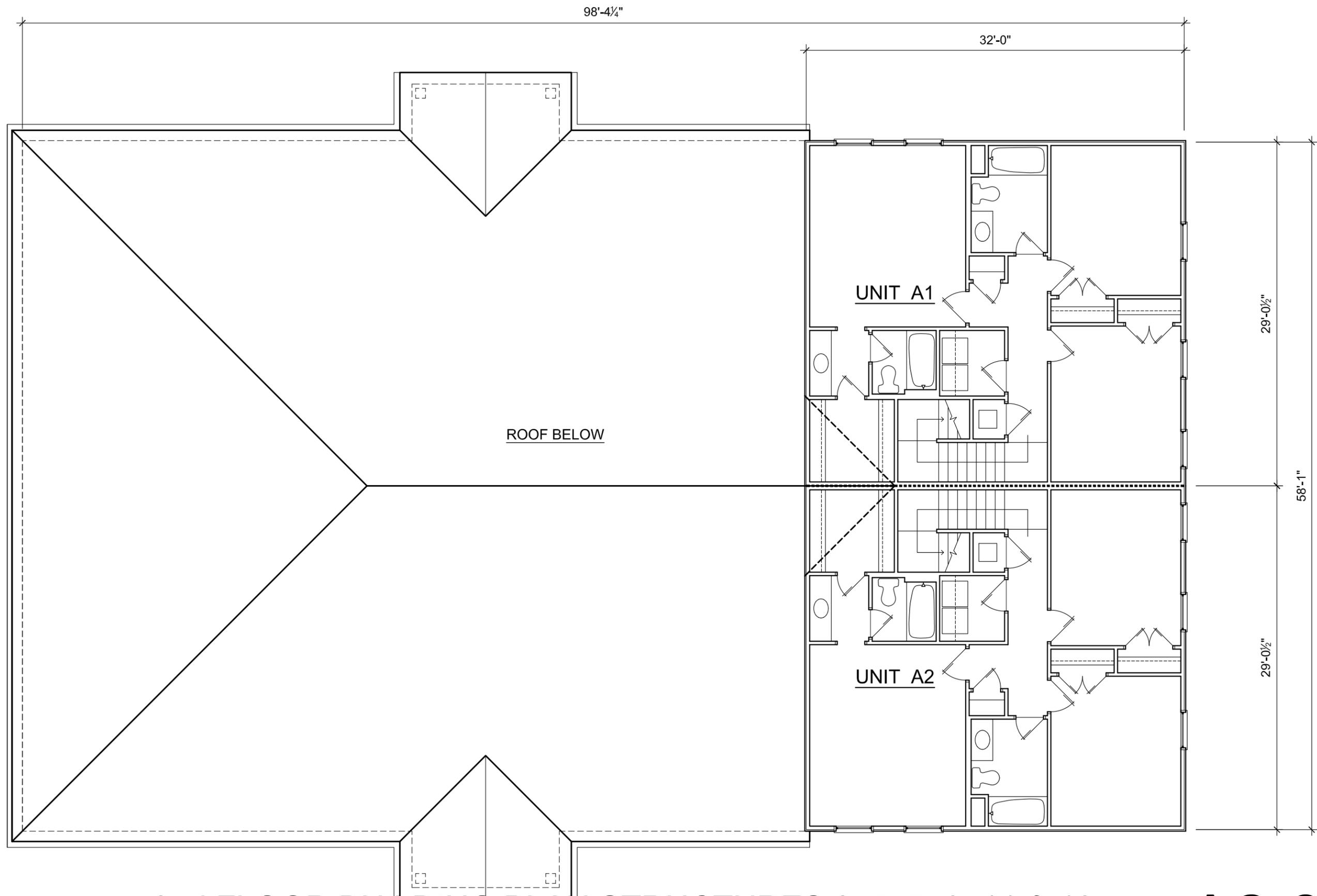
BISHOP COURT  
BISHOP, TX

STREET

10-12-16

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS FAX (615) 352-7151

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 –(615)352-7152



**2nd FLOOR BUILDING PLAN STRUCTURES 3, 5, 7, 9, 11 & 13**

SCALE: 1/8" = 1'-0"

**A2.3**

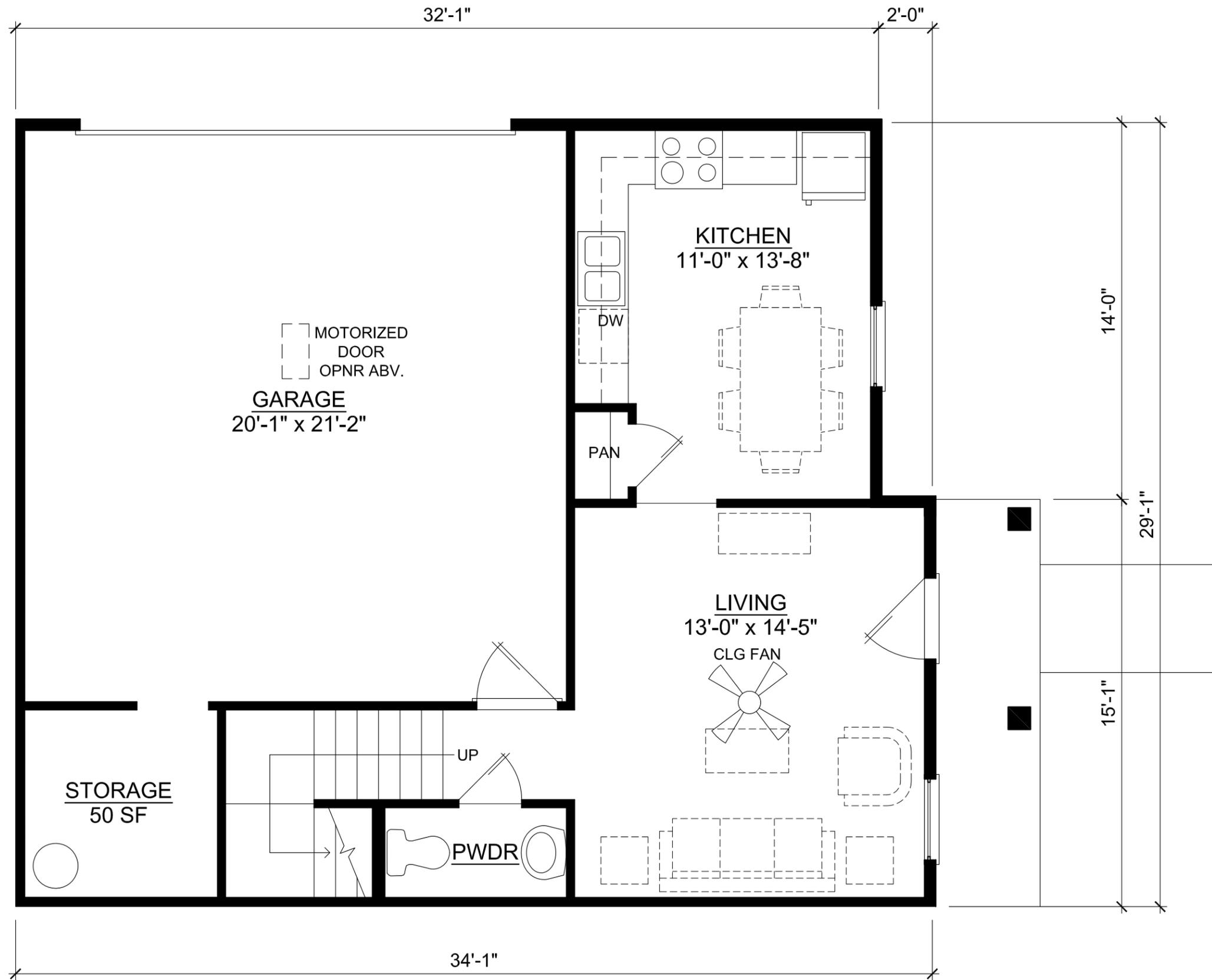
BISHOP COURT  
BISHOP, TX

10-12-16

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

FAX (615) 352-7151

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 –(615)352-7152



**THREE BR TOWNHOUSE 1st FLR PLAN UNIT A1**

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

GROSS AREA: 465 S.F.  
TOTAL GROSS AREA: 1,396 S.F.

**A3.1**

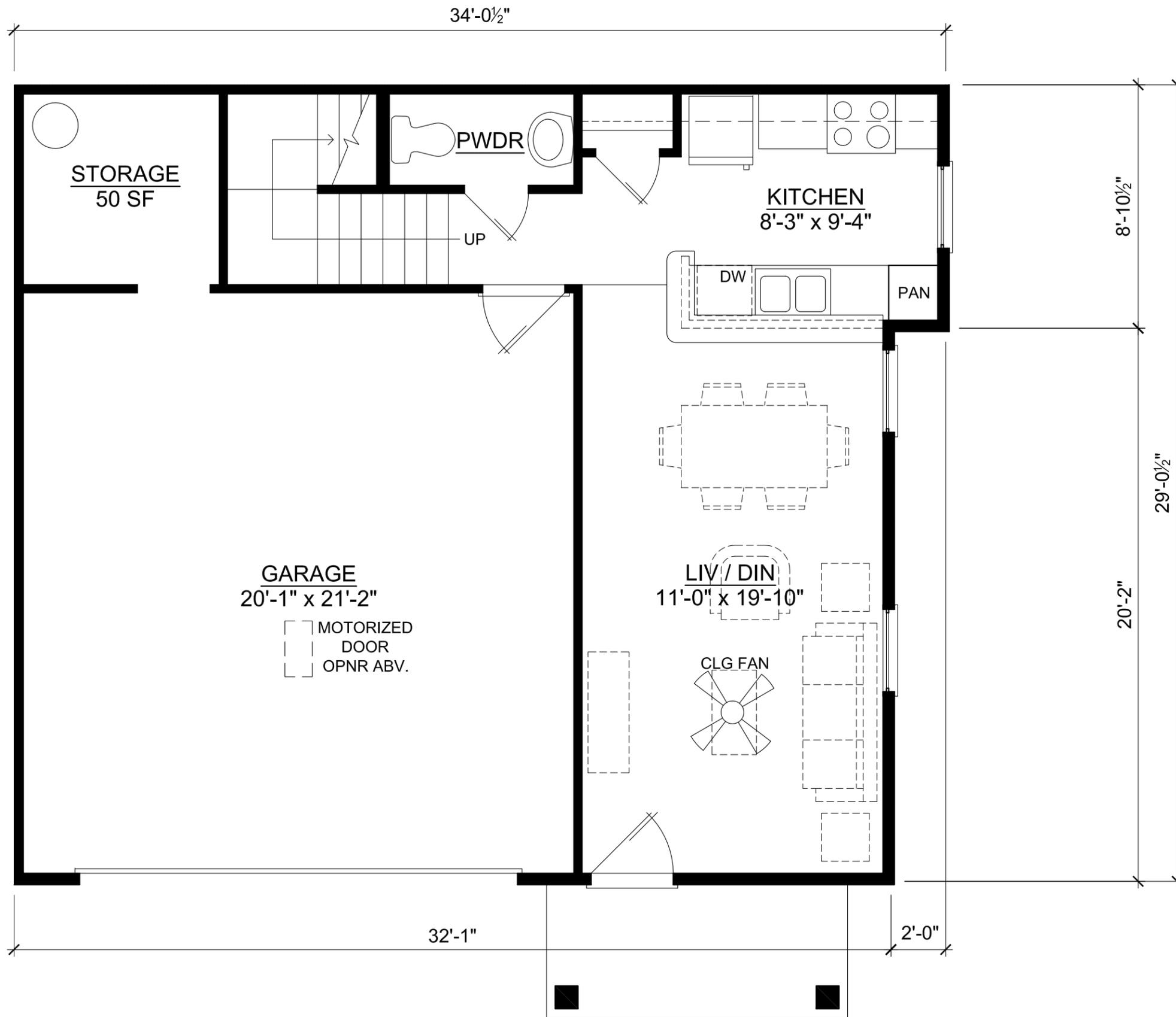
BISHOP COURT  
BISHOP, TX

10-12-16

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

FAX (615) 352-7151

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615) 352-7152



**THREE BR TOWNHOUSE 1st FLR PLAN UNIT A2**

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

GROSS AREA: 452 S.F.  
 TOTAL GROSS AREA: 1,383 S.F.

**A3.2**

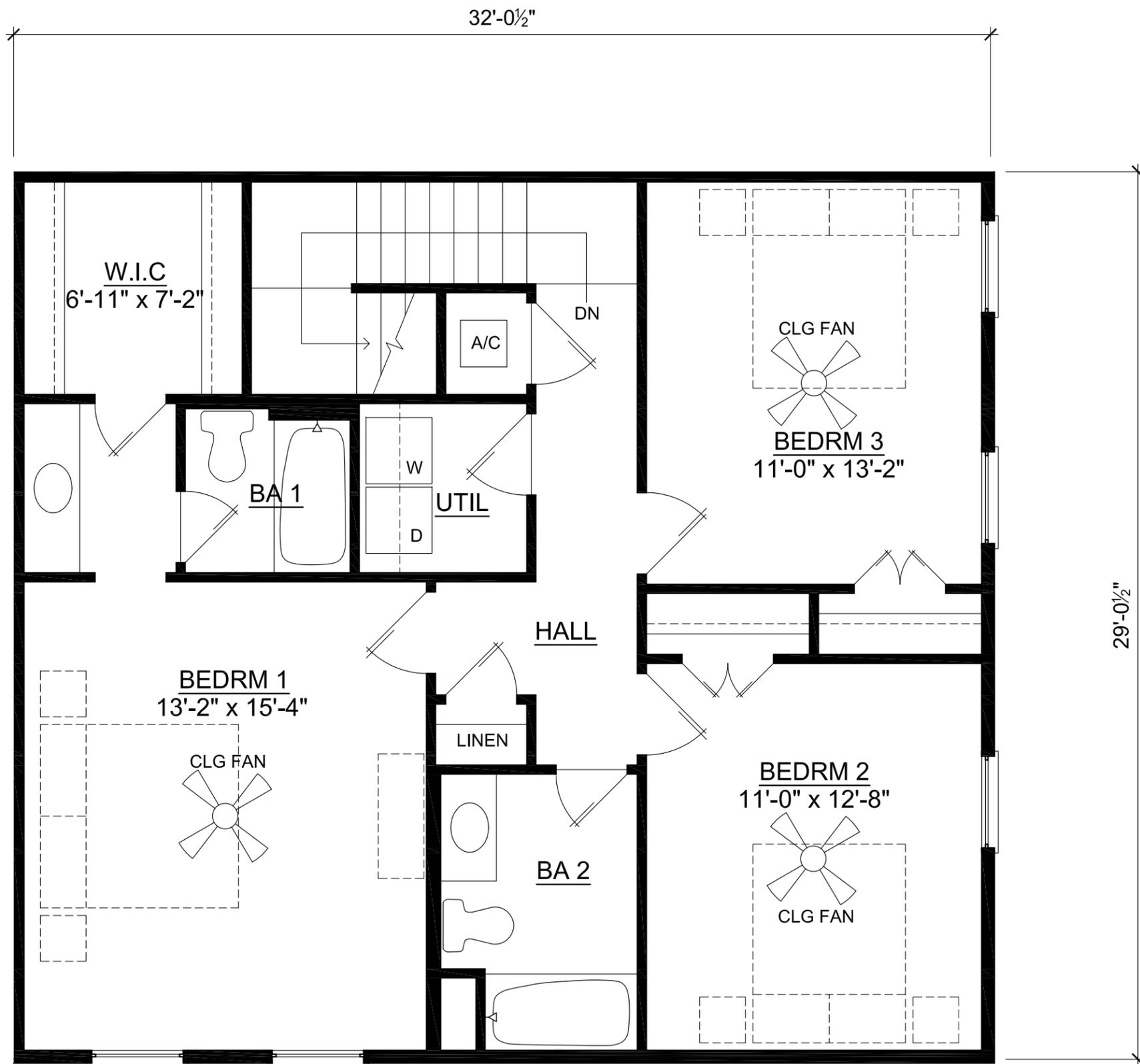
BISHOP COURT  
 BISHOP, TX

10-12-16

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

FAX (615) 352-7151

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 –(615)352-7152



# THREE BR TOWNHOUSE TYPICAL 2nd FLR PLAN

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

GROSS AREA: 931 S.F.

# A3.3

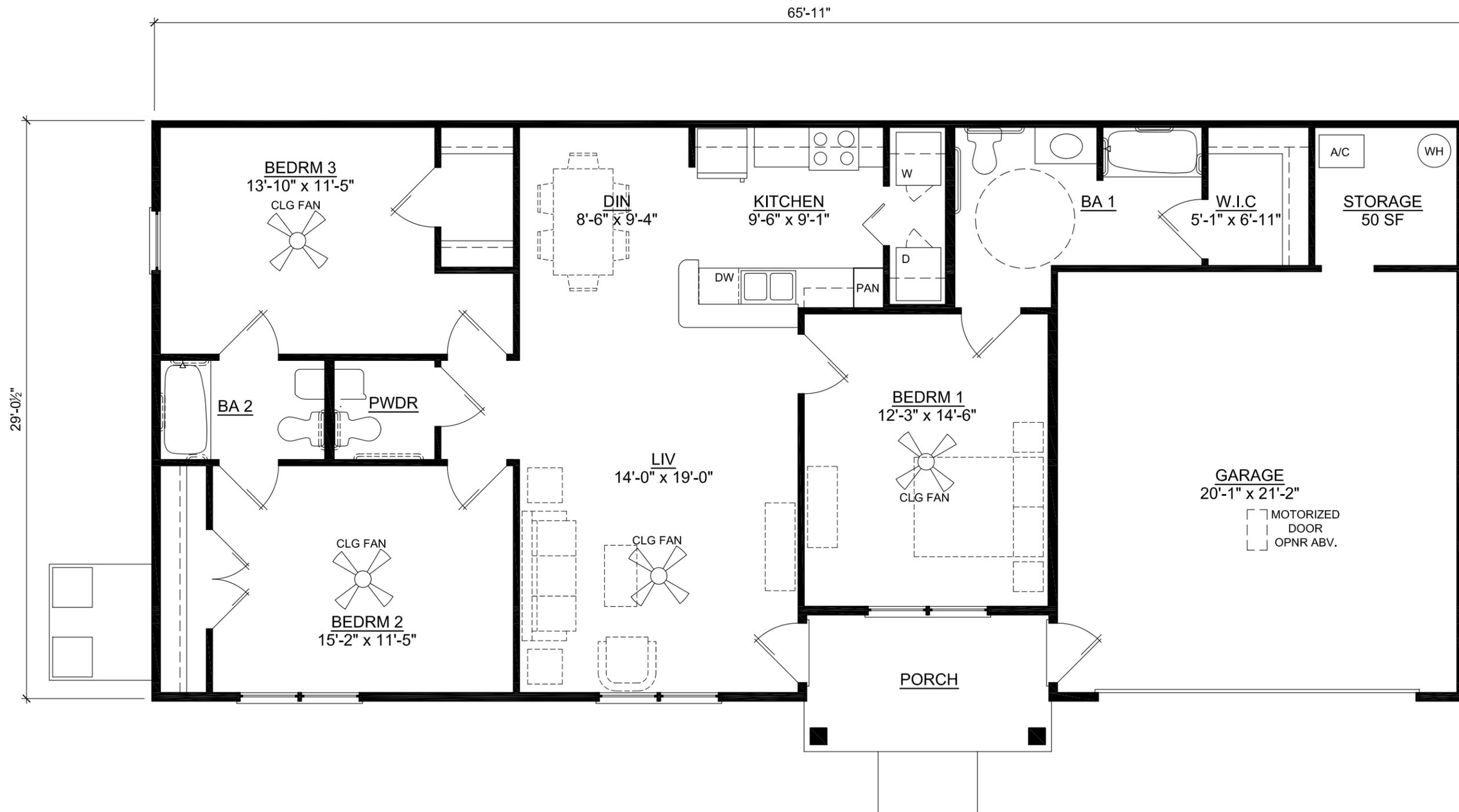
BISHOP COURT  
BISHOP, TX

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# THREE BR HANDICAPPED GARDEN UNIT A3

NO SCALE

CONDITIONED GROSS AREA: 1,383 S.F.

UNCONDITIONED AREA: 476 S.F.

TOTAL GROSS AREA: 1,860 S.F.

# A3.4

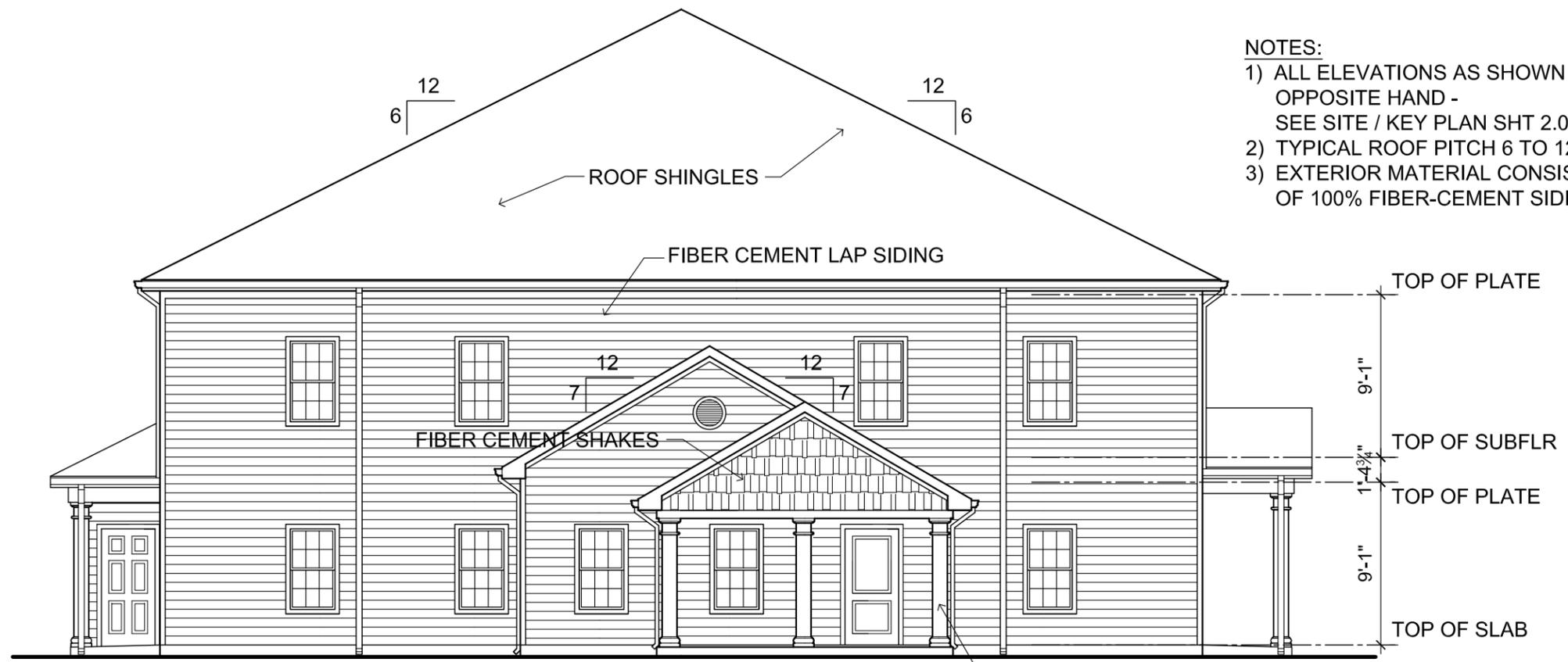
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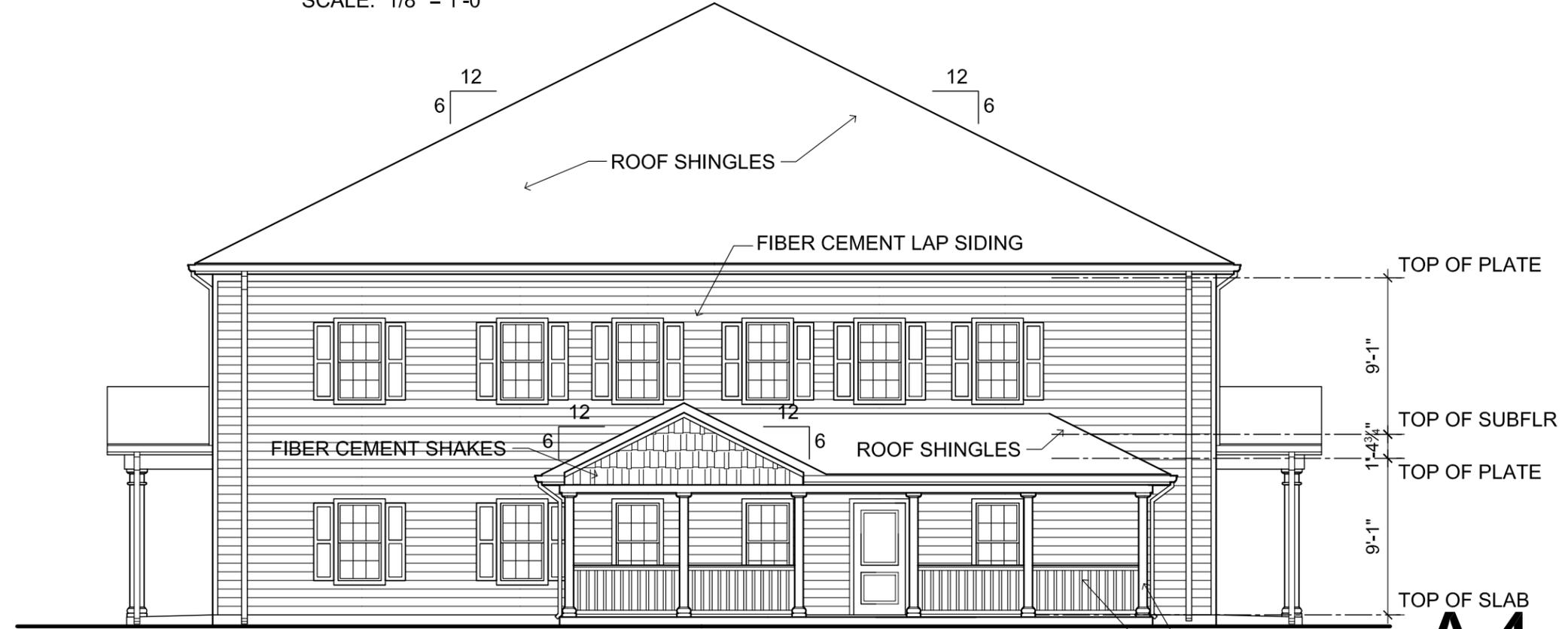
**STREET ELEVATION - SCHEME A**

SCALE: 1/8" = 1'-0"

- NOTES:  
 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0  
 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.  
 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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**STREET ELEVATION - SCHEME B**

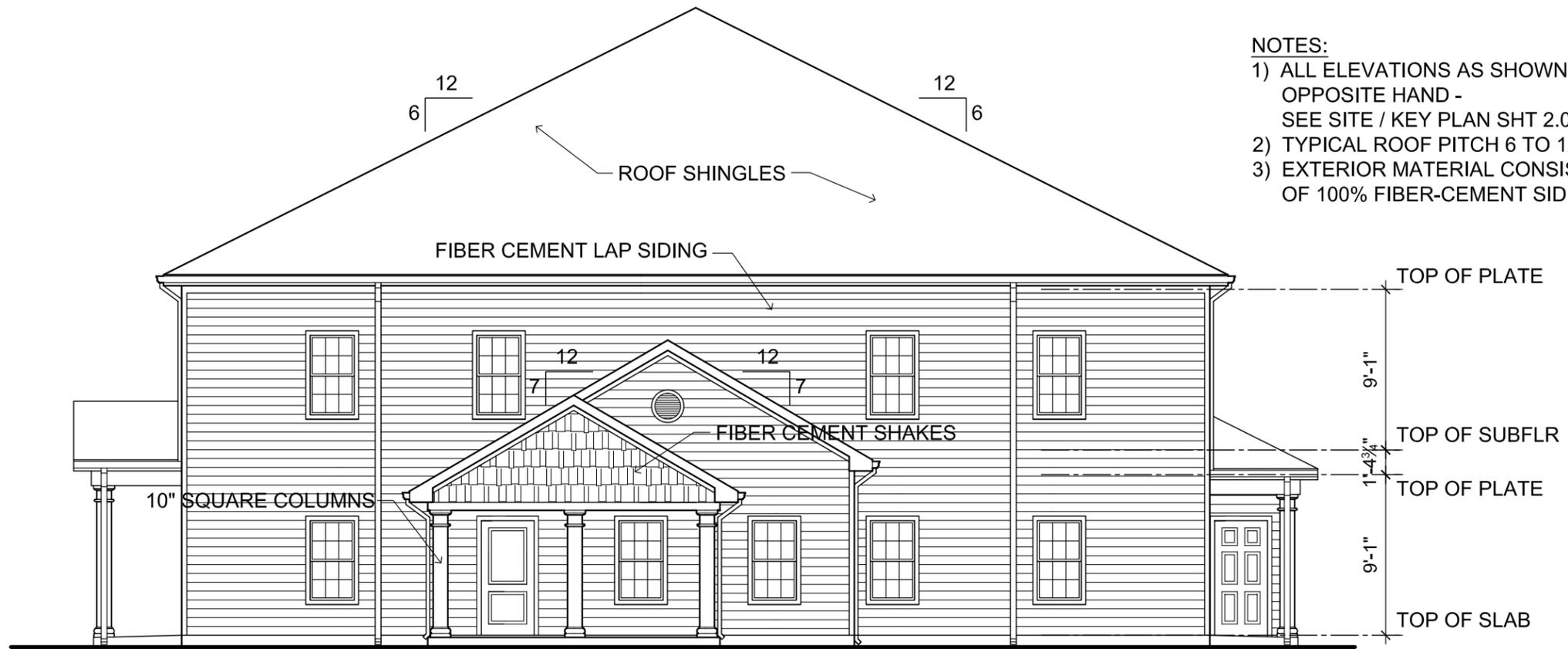
SCALE: 1/8" = 1'-0"

**A4.1**

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 BISHOP, TX

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SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152



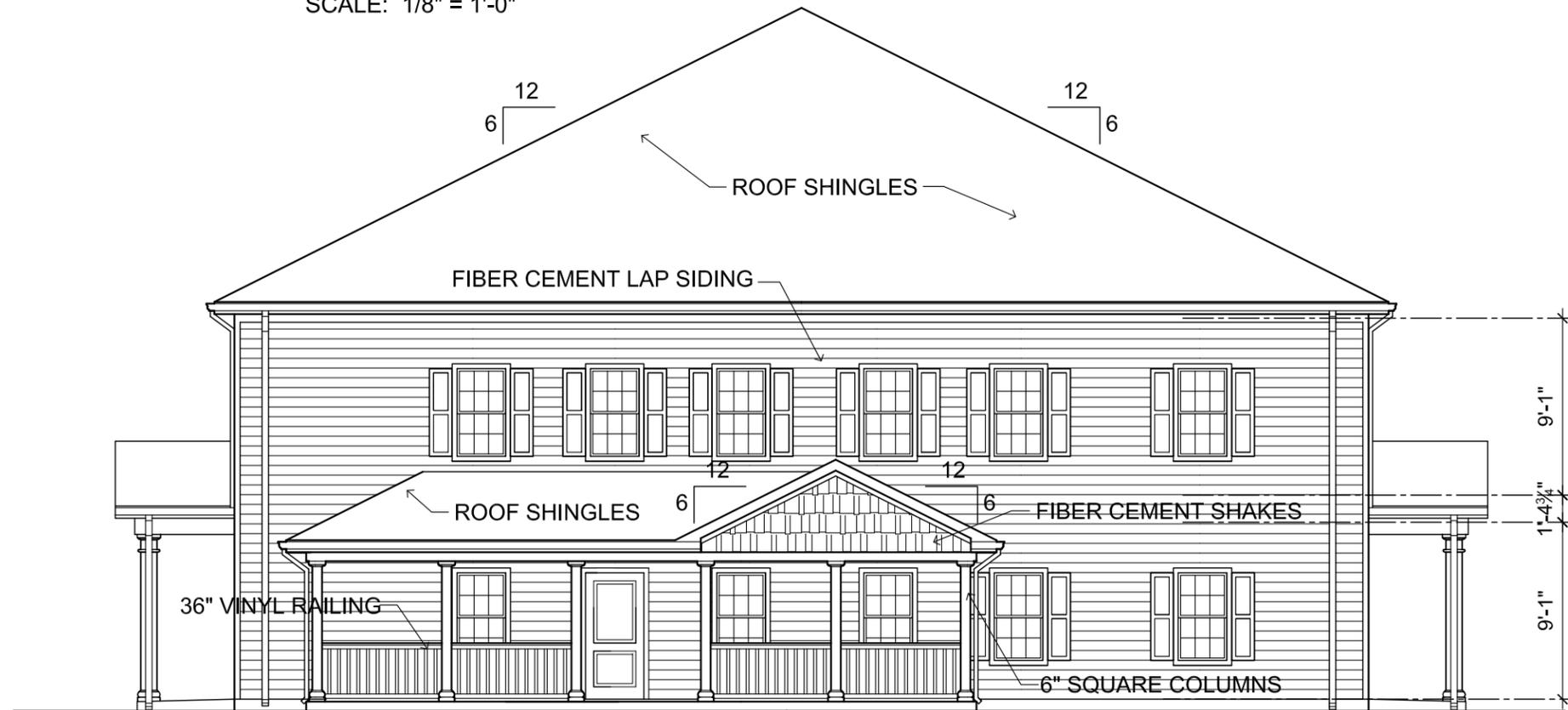
- NOTES:  
 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0  
 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.  
 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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**STREET ELEVATION - SCHEME A REVERSED**

SCALE: 1/8" = 1'-0"



**STREET ELEVATION - SCHEME B REVERSED**

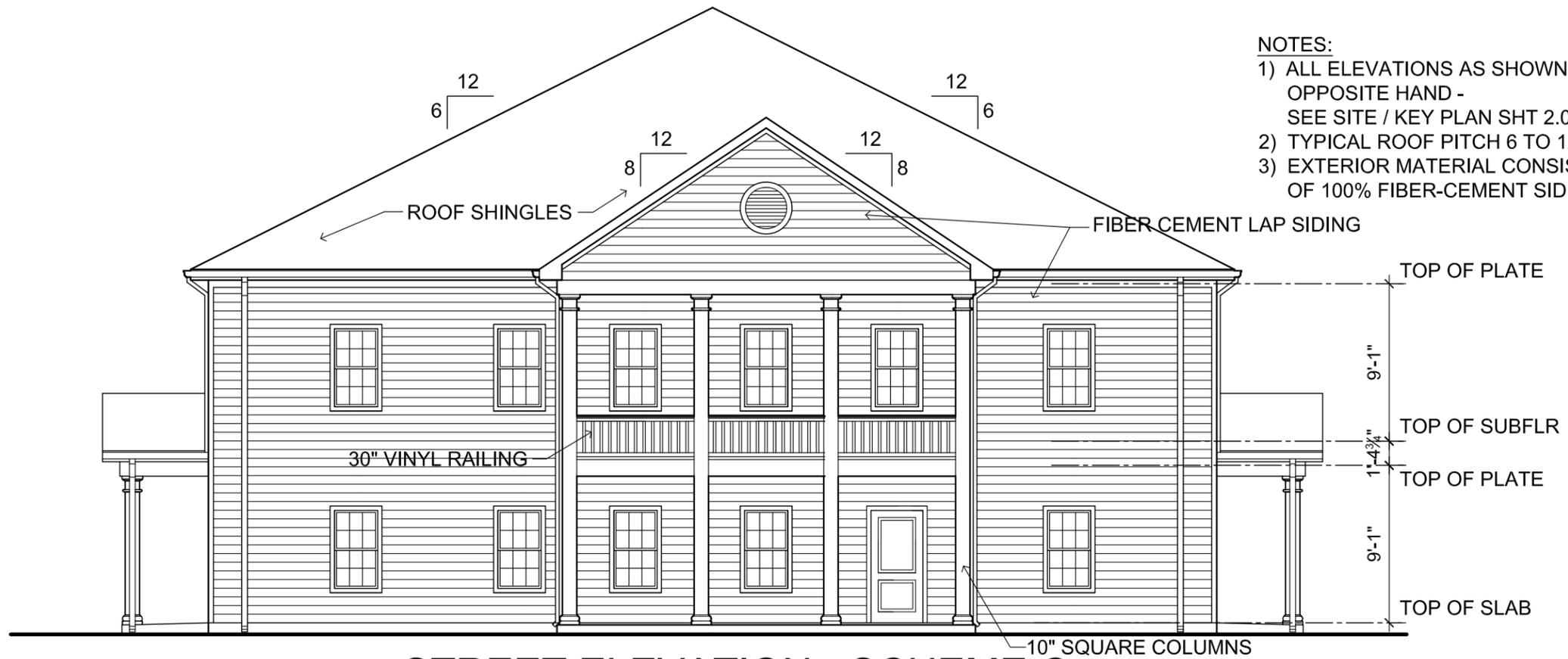
SCALE: 1/8" = 1'-0"

**A4.2**

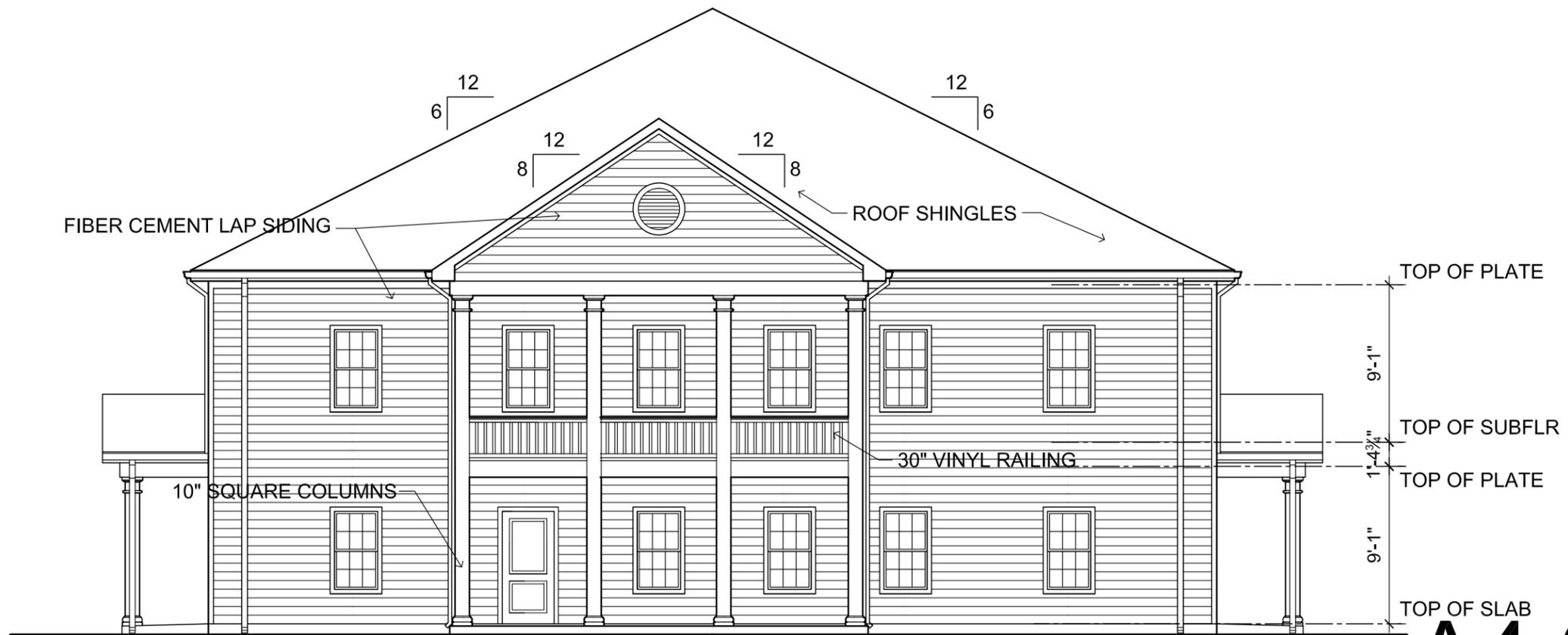
BISHOP COURT  
 BISHOP, TX

BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152



**STREET ELEVATION - SCHEME C**



**STREET ELEVATION - SCHEME C REVERSED**

- NOTES:  
 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0  
 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.  
 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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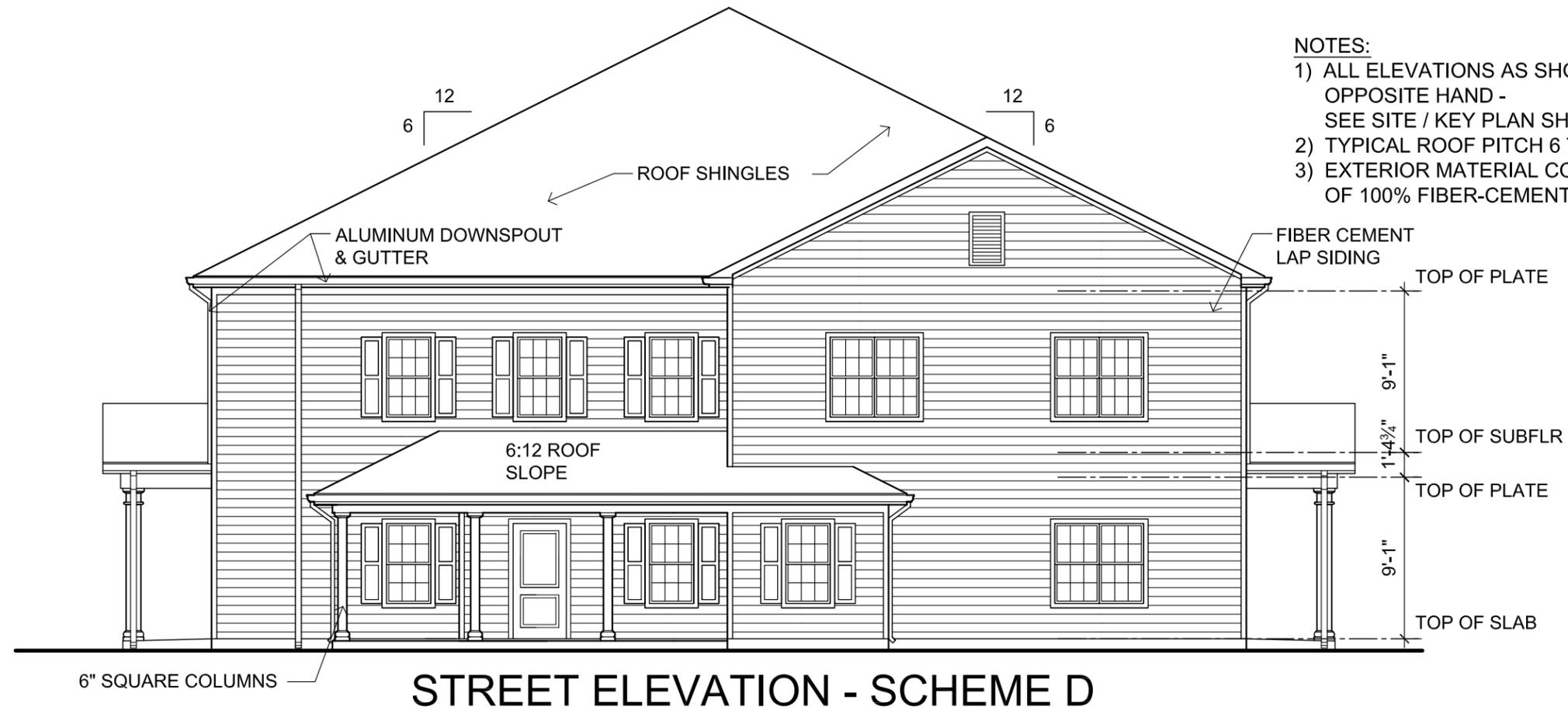
FAX (615) 352-7151

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SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152

**A4.3**

BISHOP COURT  
 BISHOP, TX



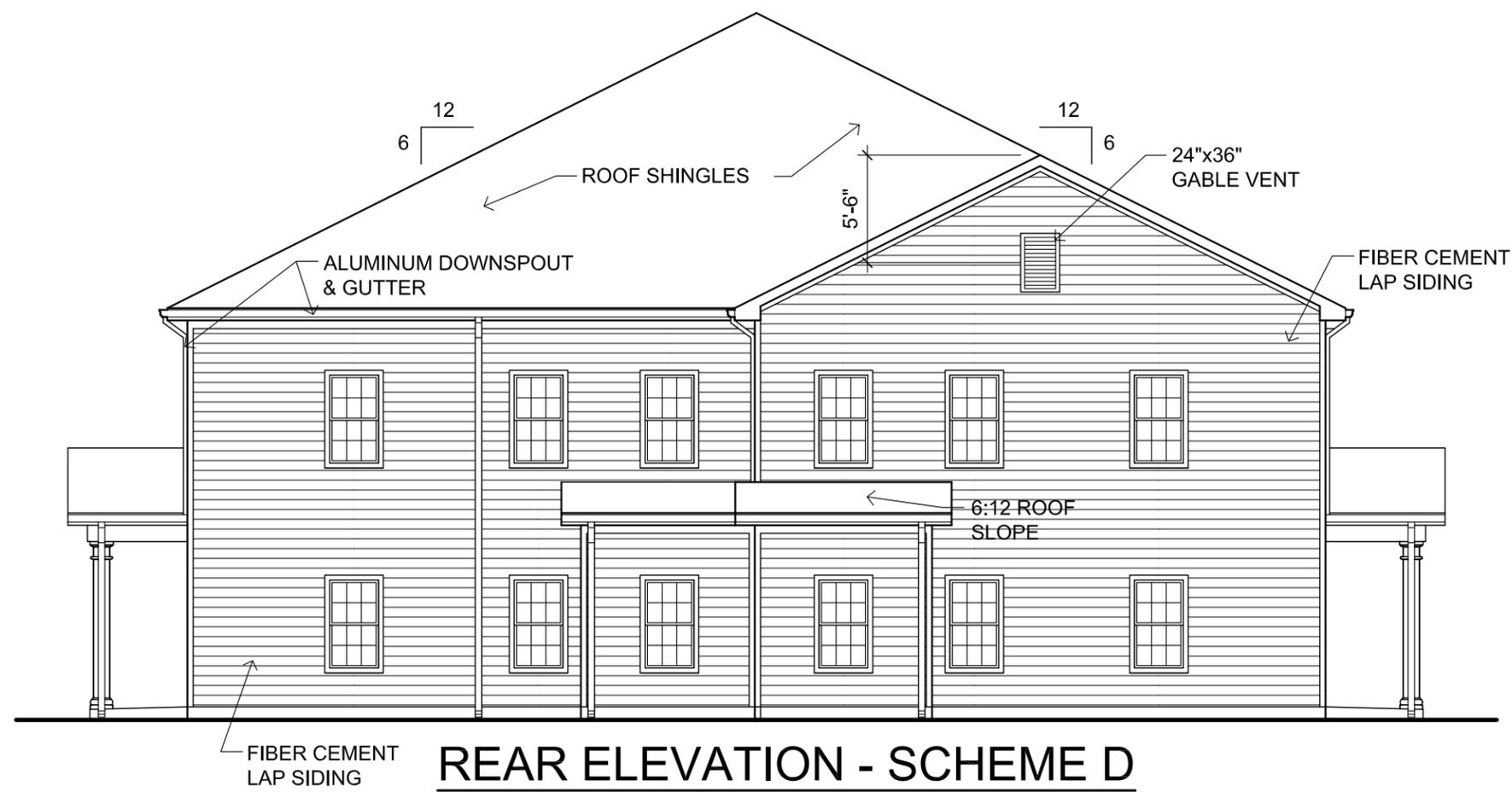
- NOTES:**
- 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0
  - 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.
  - 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

10-12-16

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BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

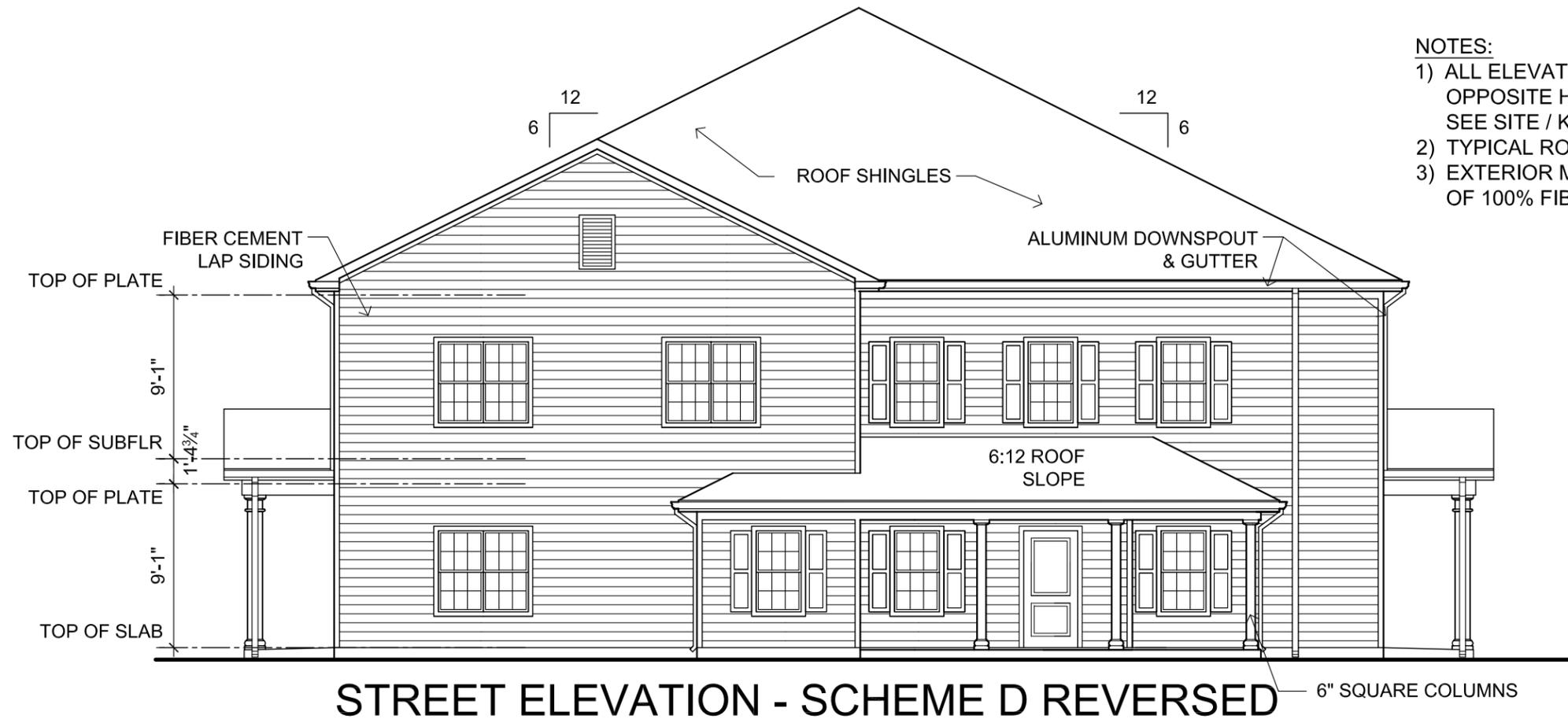
SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152



**STREET ELEVATION - SCHEME D**

**REAR ELEVATION - SCHEME D**

**A4.4**  
 BISHOP COURT  
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**NOTES:**

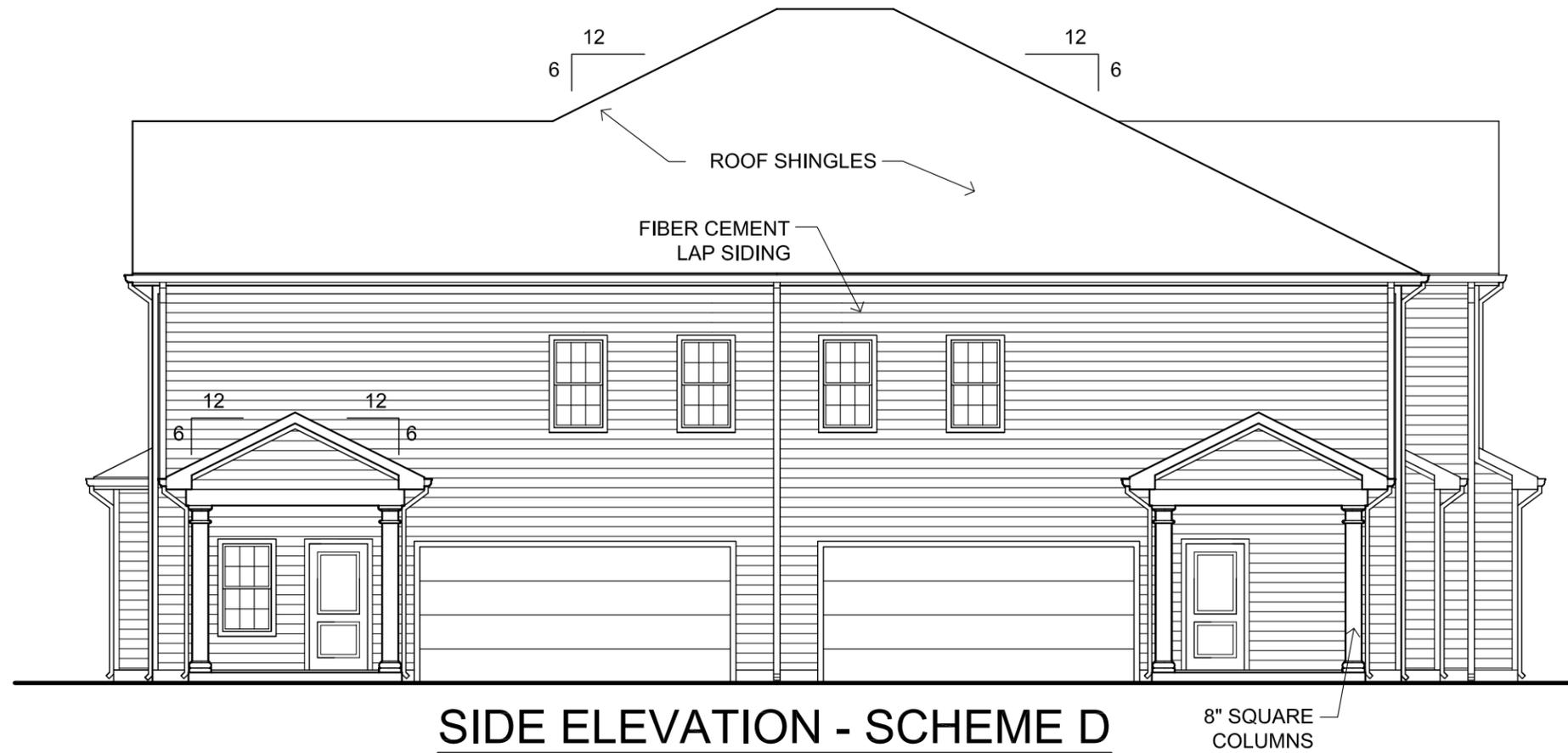
- 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0
- 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.
- 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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FAX (615) 352-7151

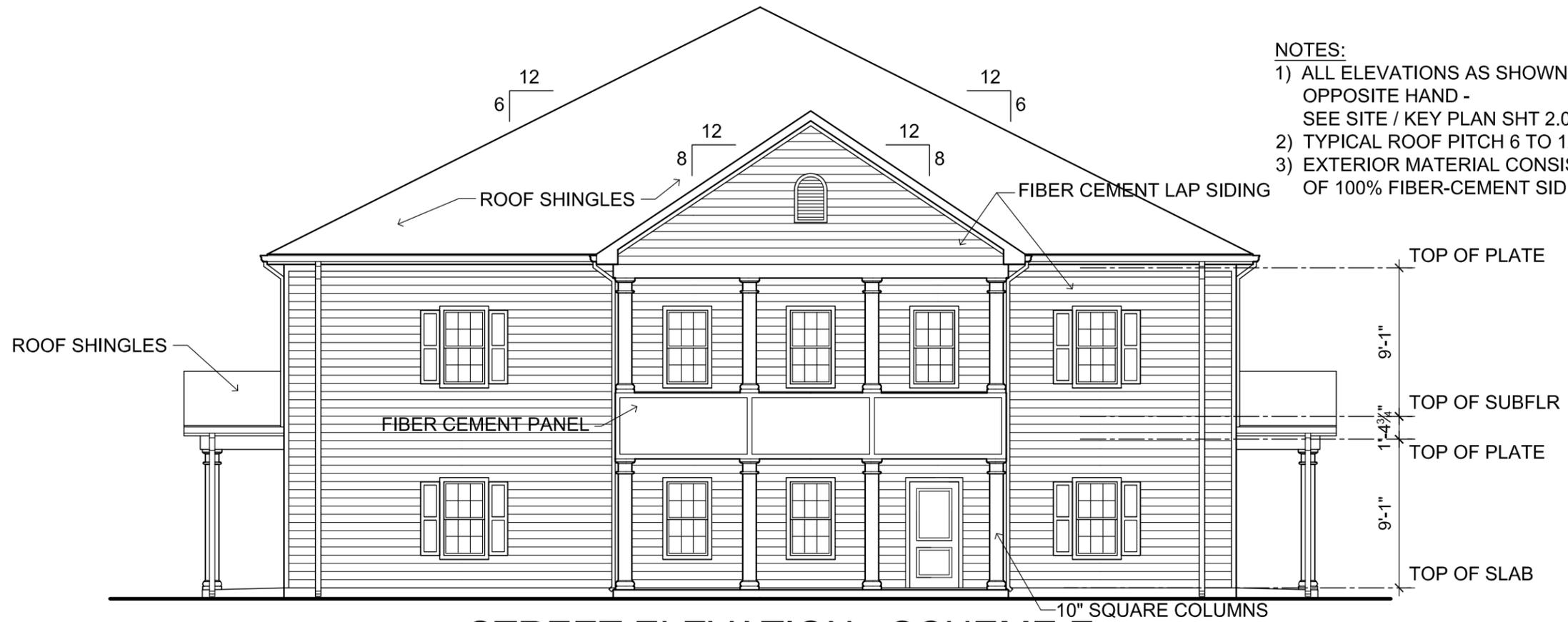
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SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152

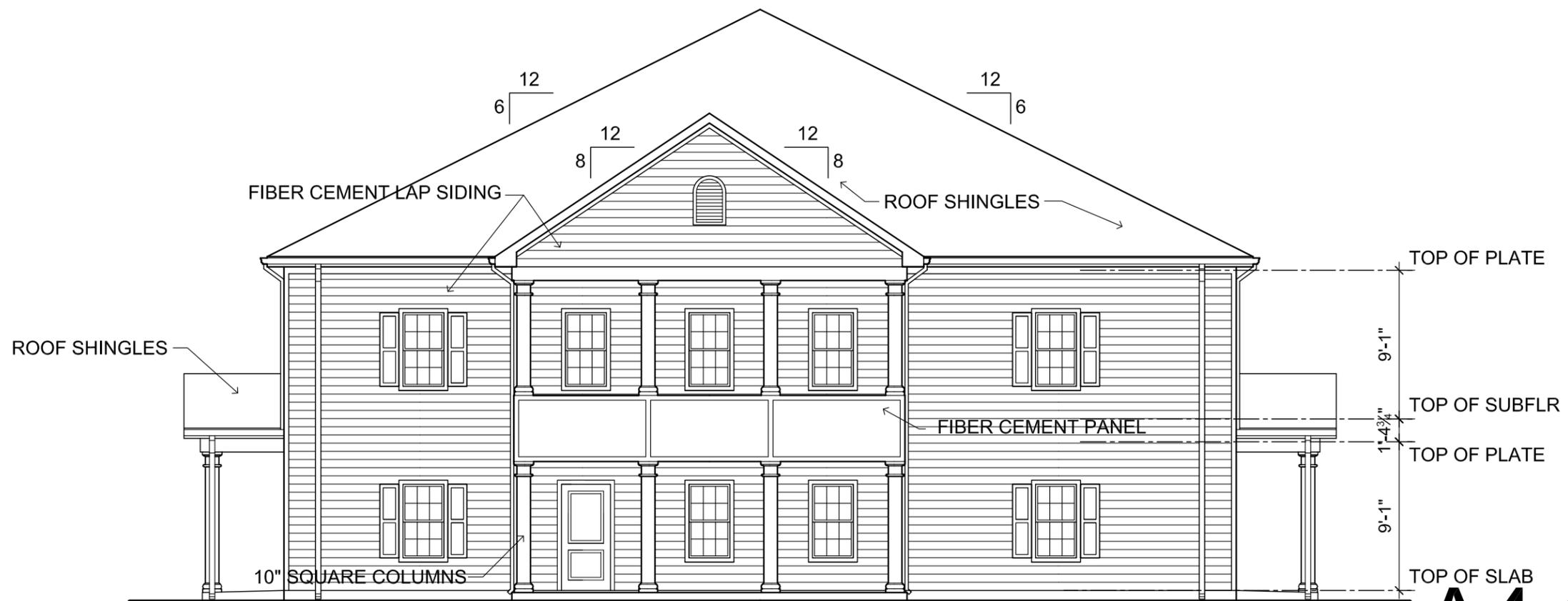


**A4.5**

BISHOP COURT  
BISHOP, TX



**STREET ELEVATION - SCHEME E**



**STREET ELEVATION - SCHEME E REVERSED**

**NOTES:**

- 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0
- 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.
- 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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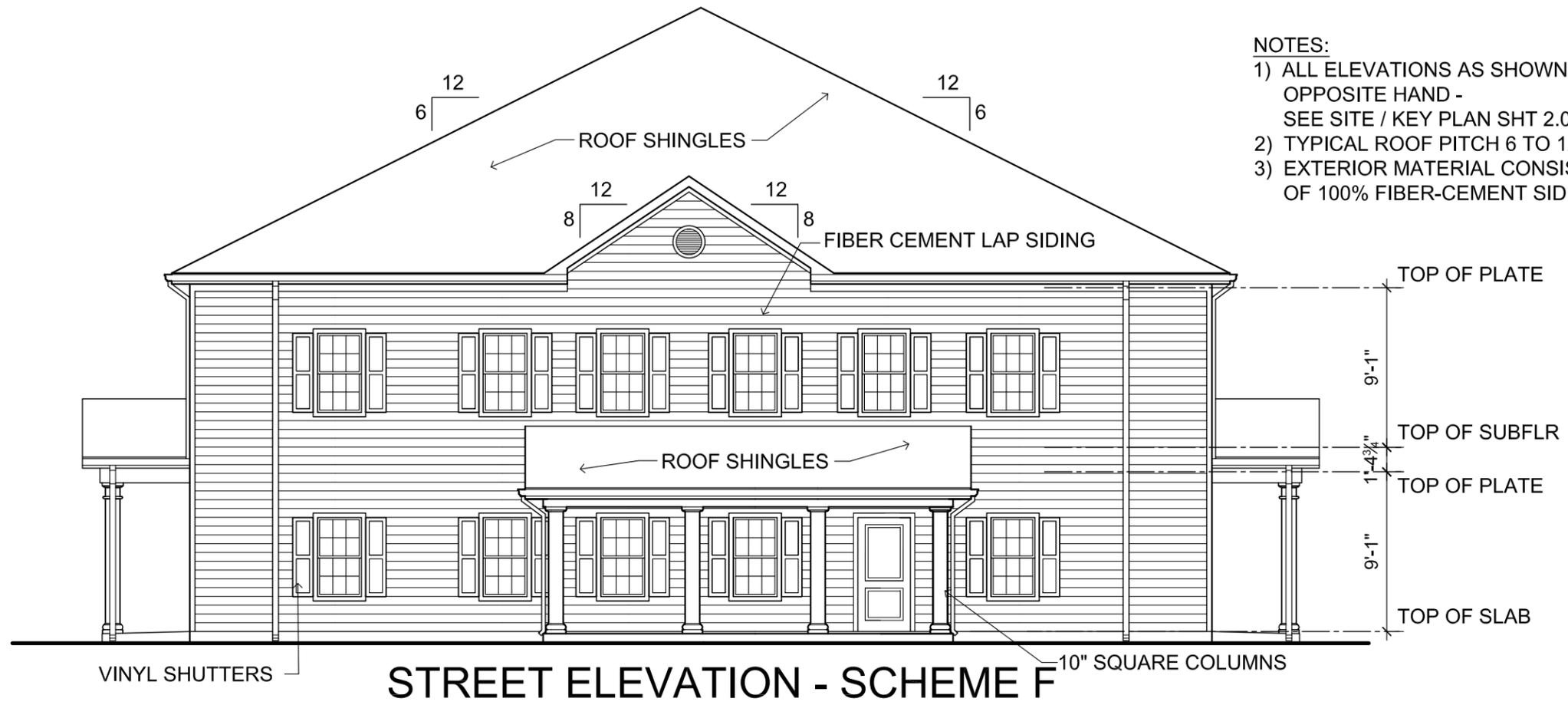
FAX (615) 352-7151

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SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 –(615)352-7152

**A4.6**

BISHOP COURT  
BISHOP, TX



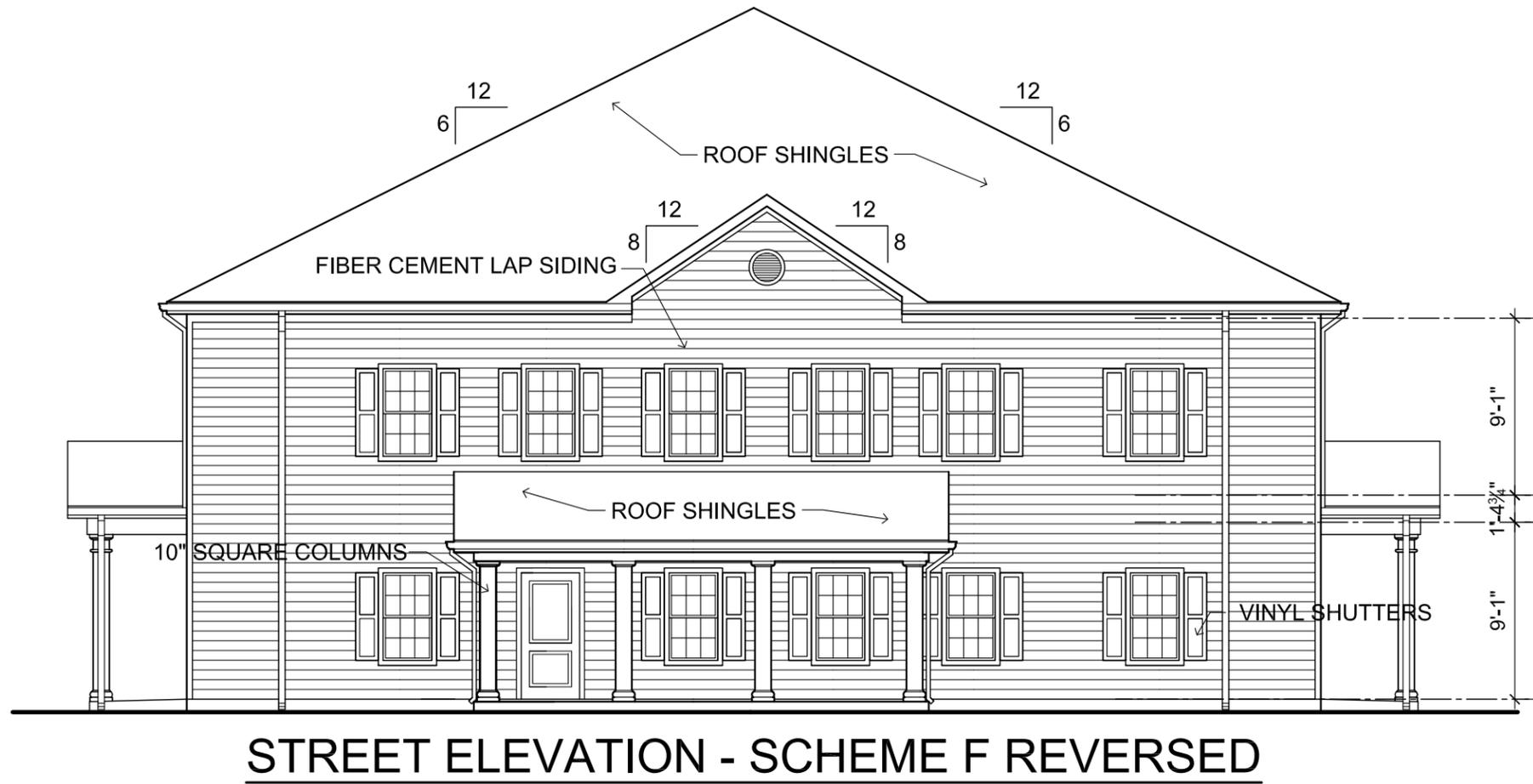
- NOTES:  
 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0  
 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.  
 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

10-12-16

FAX (615) 352-7151

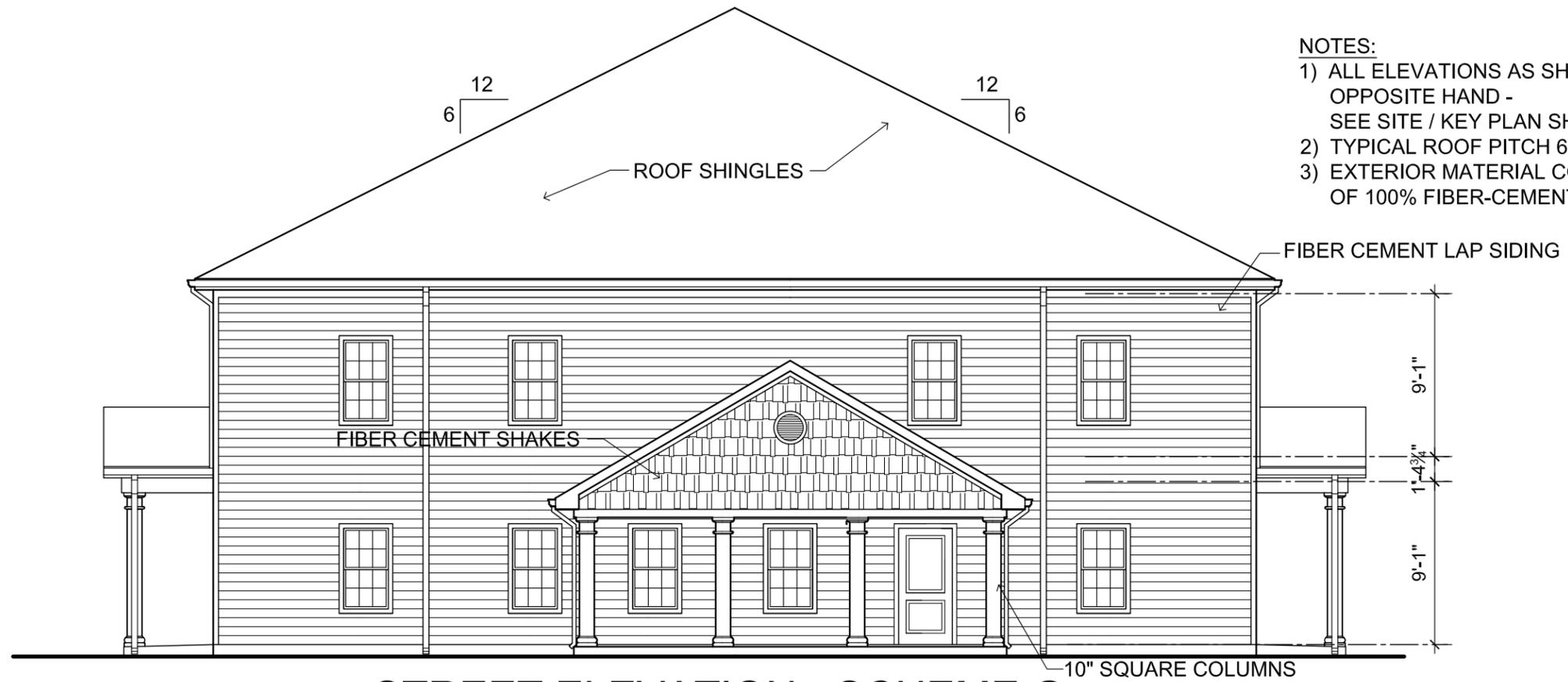
BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 –(615)352-7152



**A4.7**

BISHOP COURT  
 BISHOP, TX



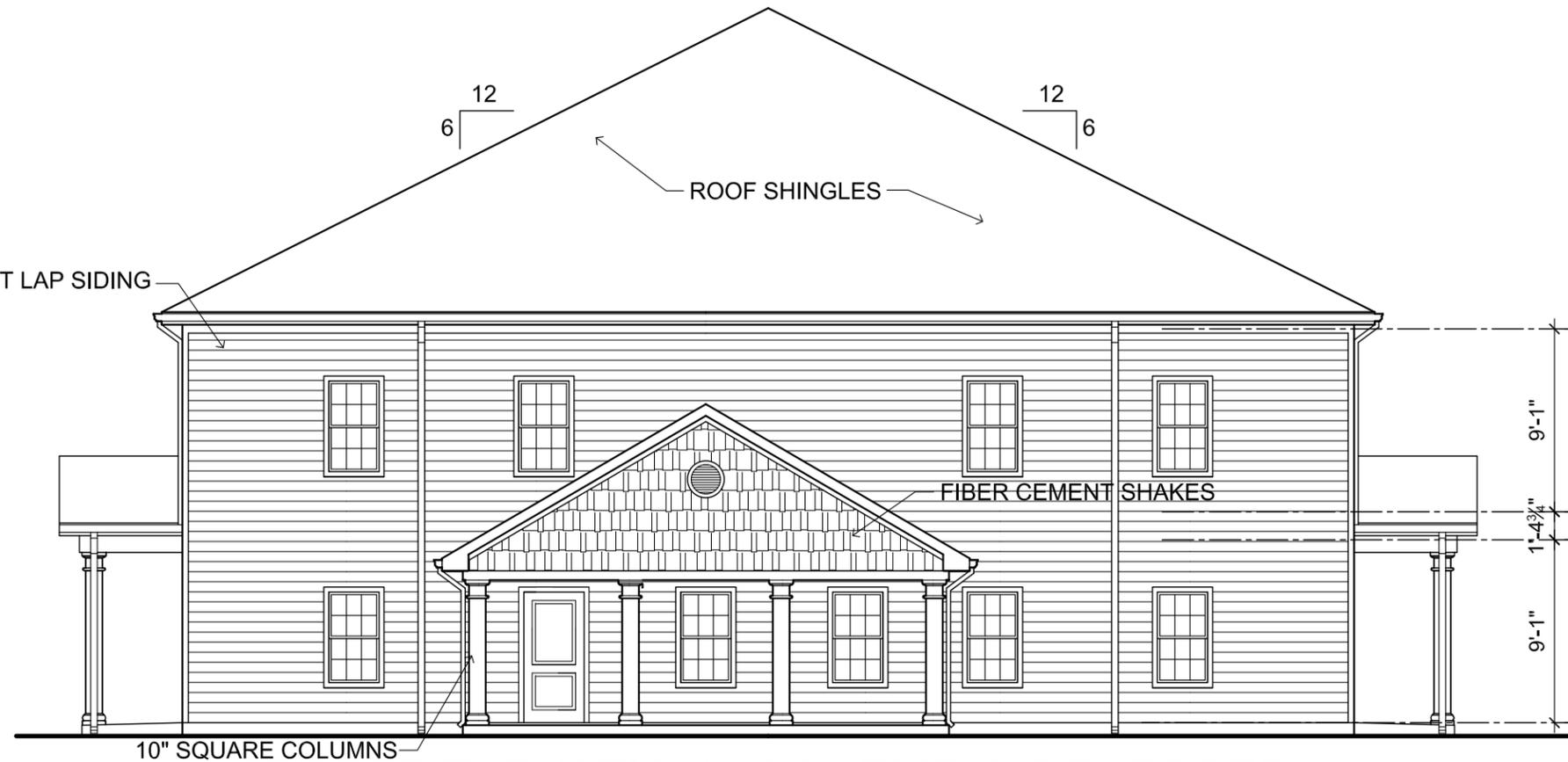
**STREET ELEVATION - SCHEME G**

**NOTES:**

- 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0
- 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.
- 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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FAX (615) 352-7151



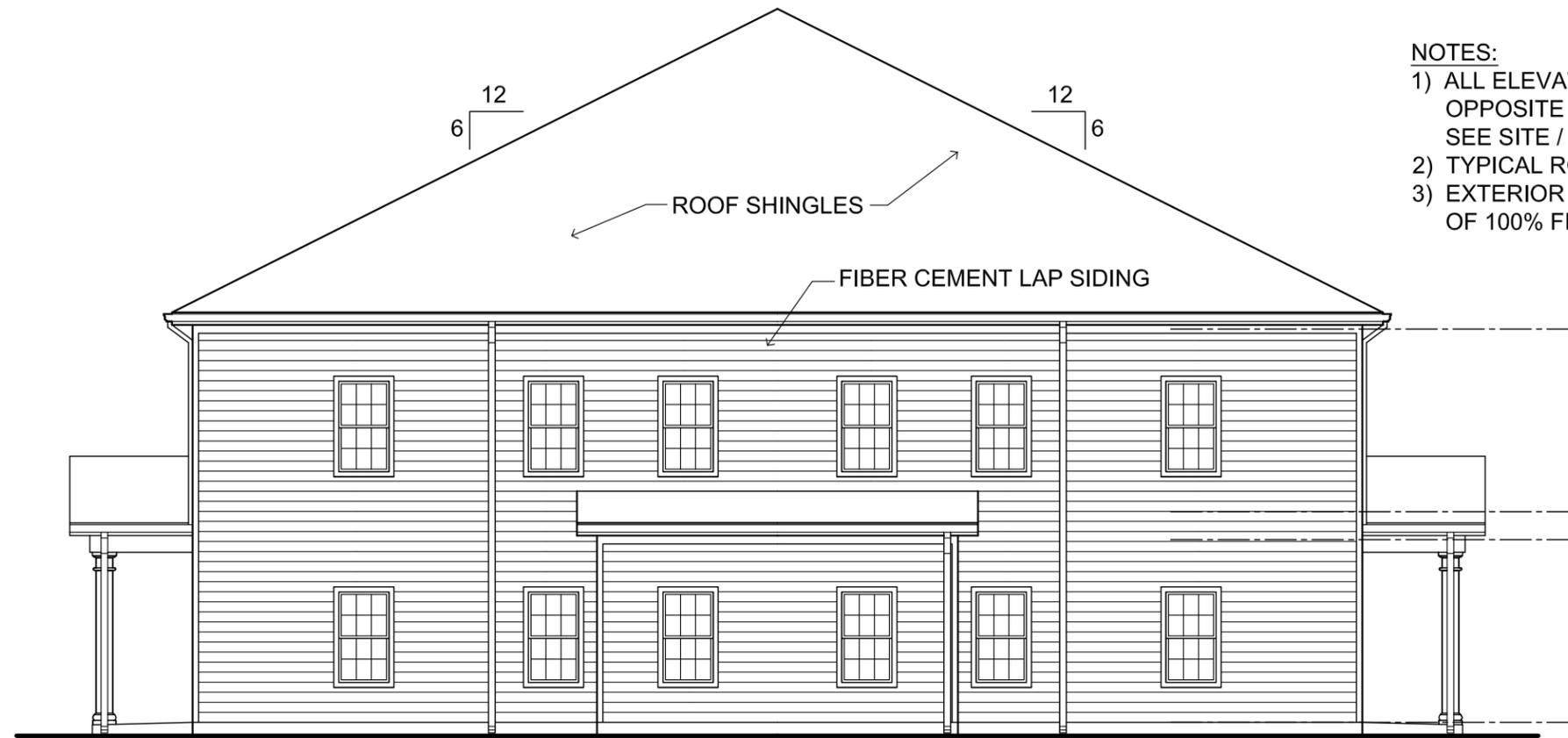
**STREET ELEVATION - SCHEME G REVERSED**

**A4.8**

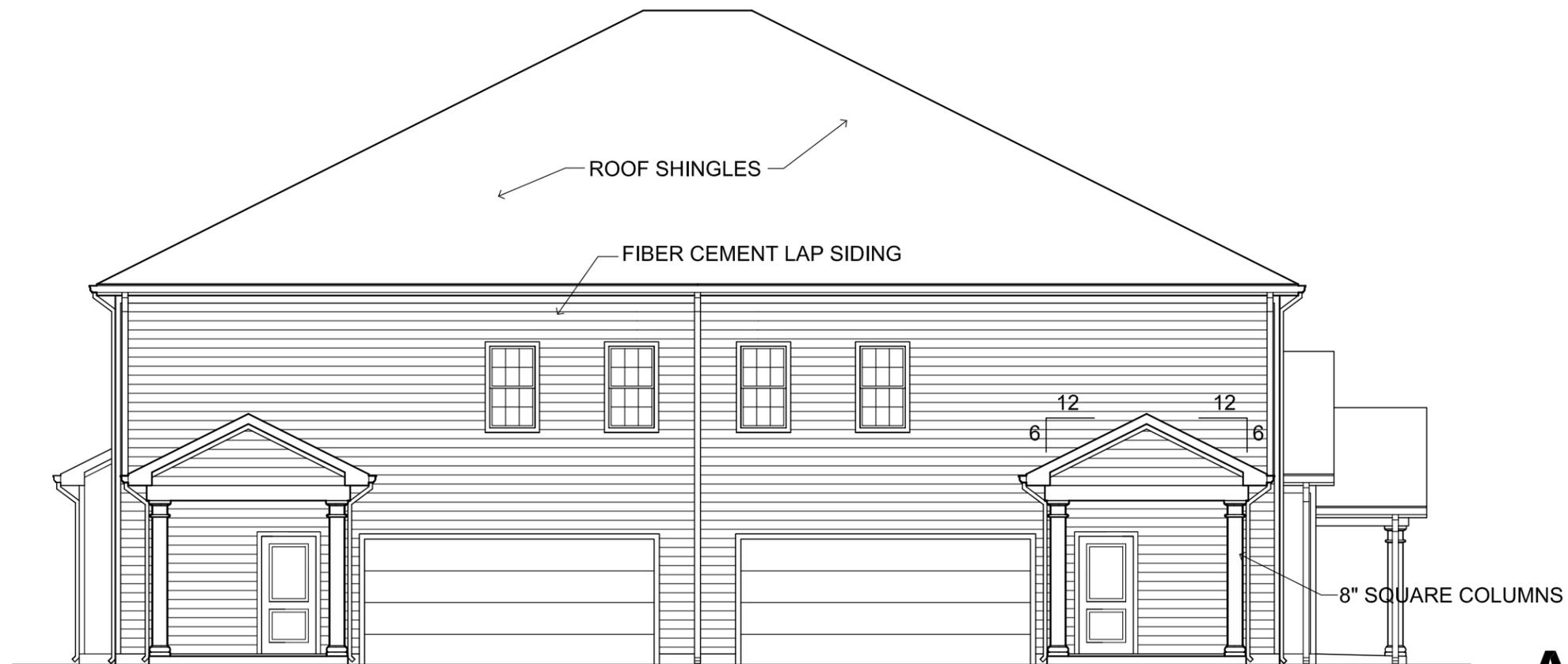
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**REAR ELEVATION STRUCTURES 1, 2, 4, 6, 8, 10, 12, 14 & 15**



**SIDE ELEVATION STRUCTURES 1, 2, 4, 6, 8, 10, 12, 14 & 15**

**NOTES:**

- 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0
- 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.
- 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

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BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS  
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BERNARD L. WEINSTEIN & ASSOCIATES – ARCHITECTS

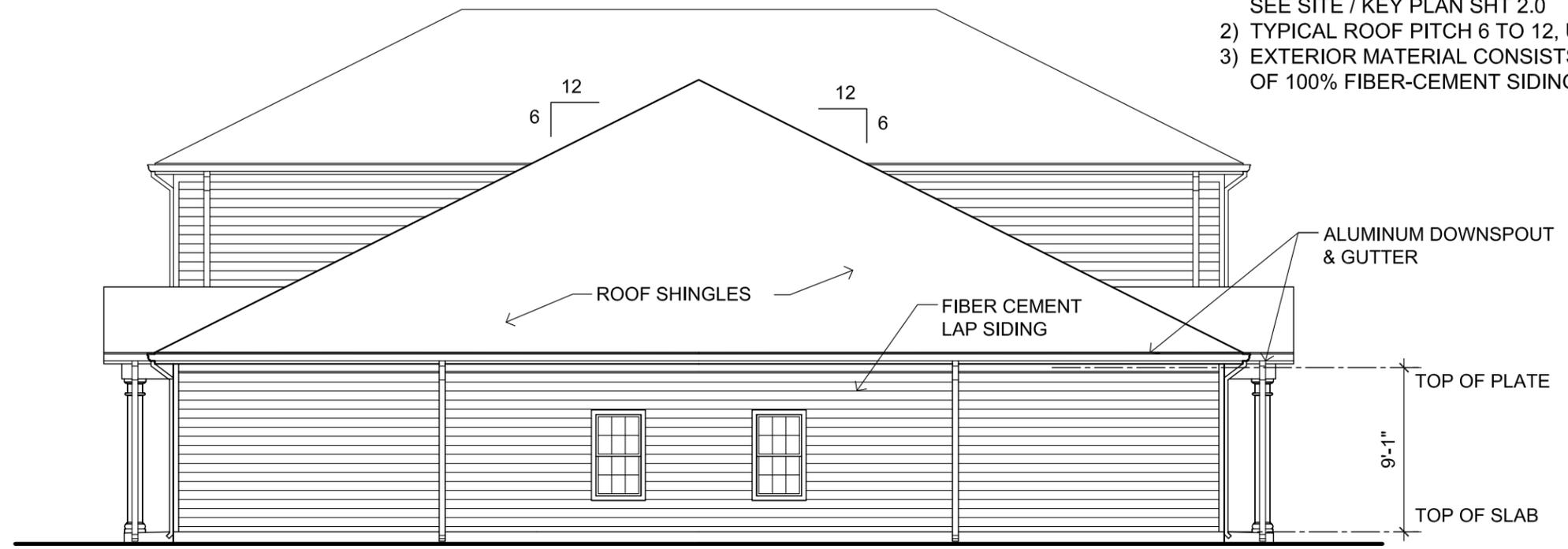
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**A4.9**

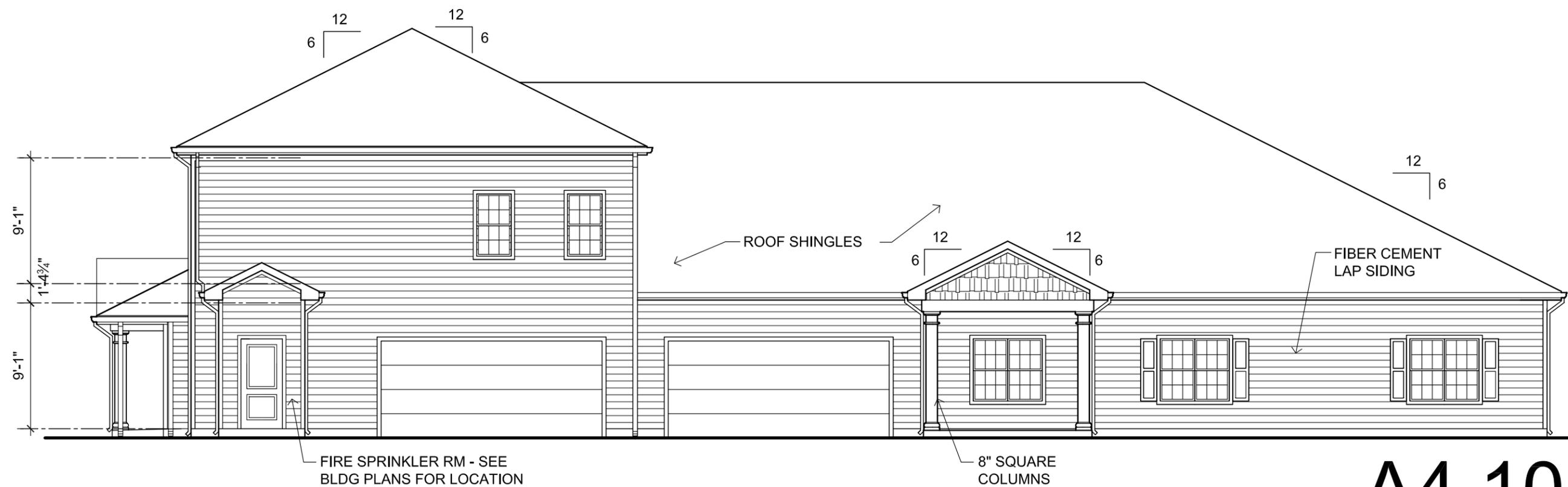
BISHOP COURT  
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- NOTES:  
 1) ALL ELEVATIONS AS SHOWN & OPPOSITE HAND - SEE SITE / KEY PLAN SHT 2.0  
 2) TYPICAL ROOF PITCH 6 TO 12, U.N.O.  
 3) EXTERIOR MATERIAL CONSISTS OF 100% FIBER-CEMENT SIDING

10-12-16



**REAR ELEVATION STRUCTURES 3, 5, 7, 9, 11 & 13**



**SIDE ELEVATION STRUCTURES 3, 5, 7, 9, 11 & 13**

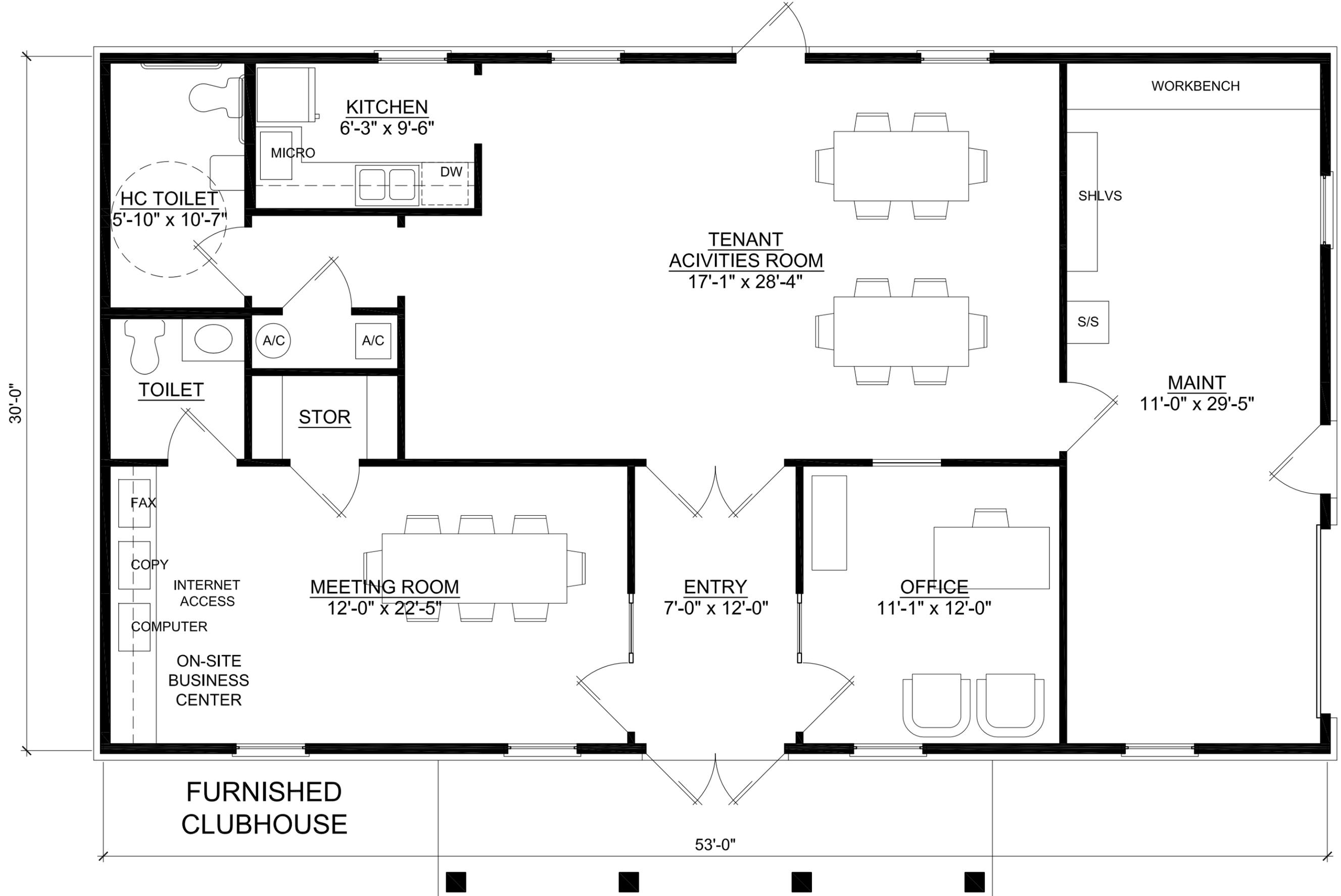
**A4.10**

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SUITE 200 – 95 WHITE BRIDGE ROAD – NASHVILLE, TENNESSEE 37205 – (615)352-7152

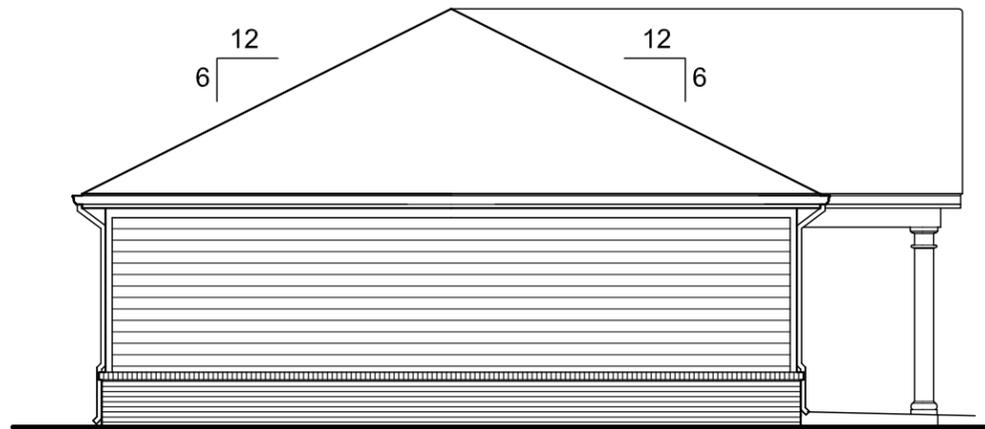
# CLUBHOUSE FLOOR PLAN

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

GROSS AREA: 1,590 S.F.

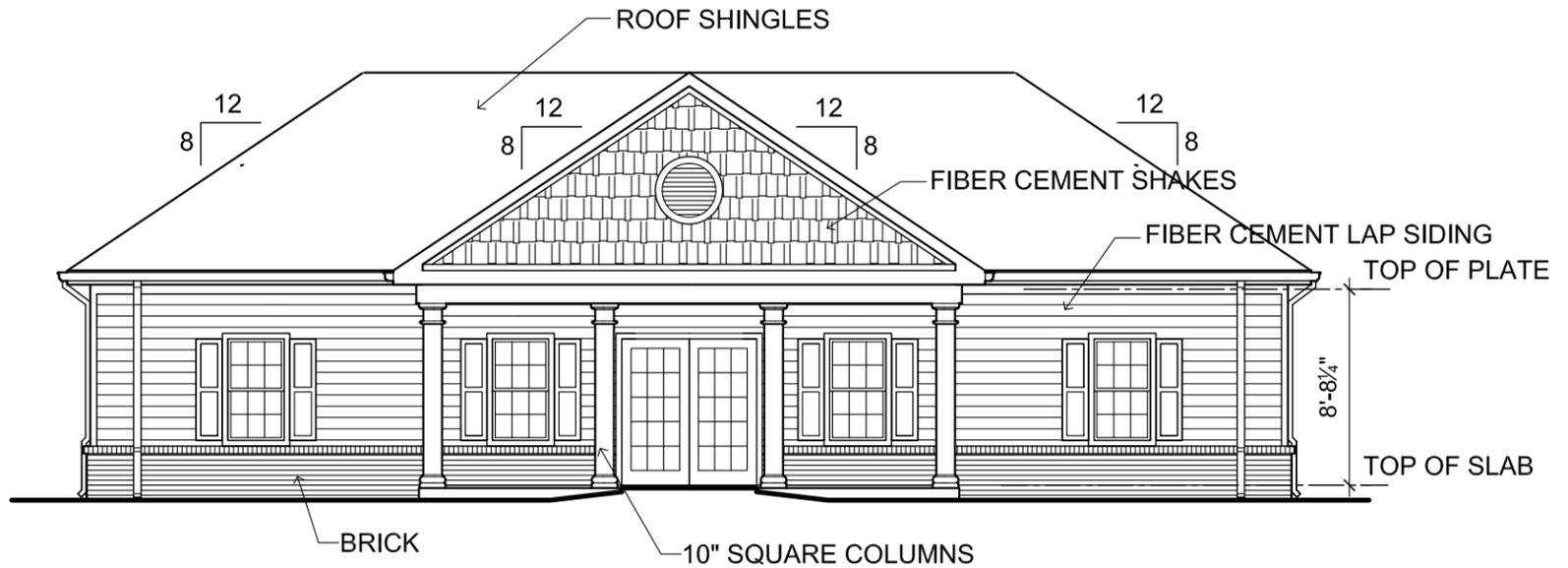
# A5.1

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**CLUBHOUSE  
LEFT ELEVATION**

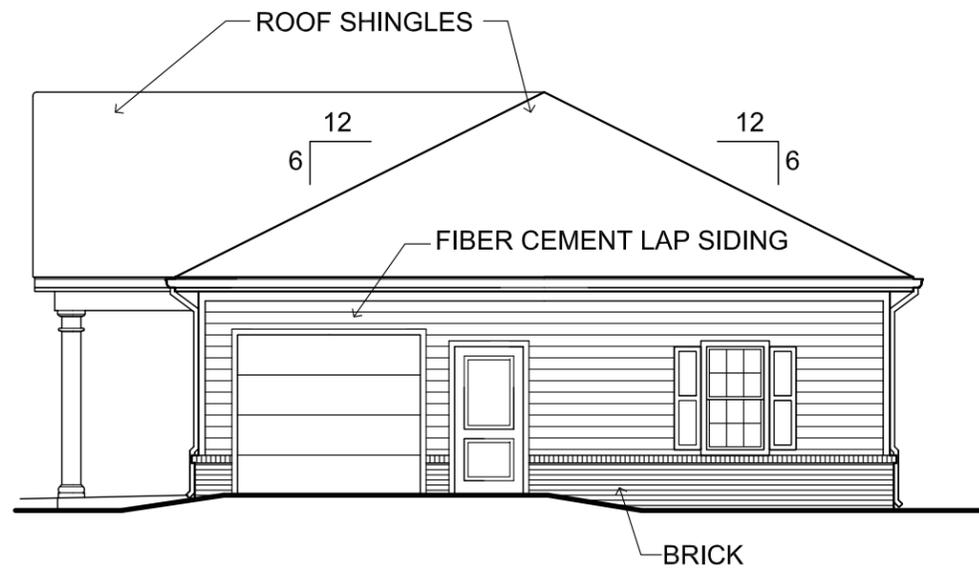
SCALE: 1/8" = 1'-0"



**CLUBHOUSE  
FRONT ELEVATION**

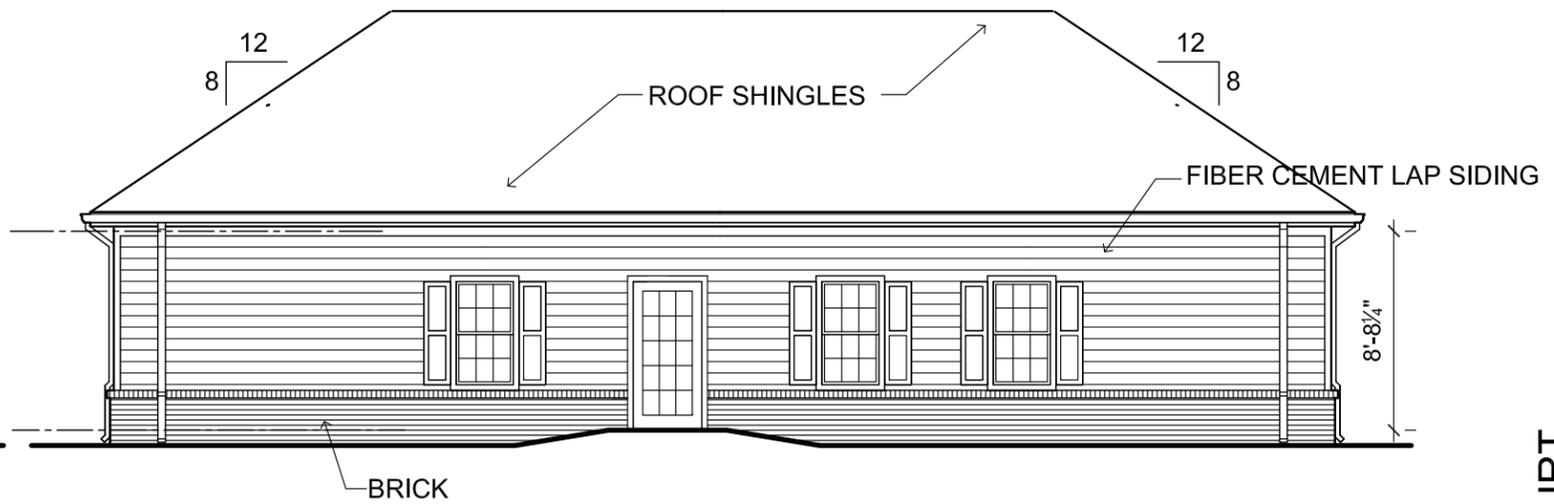
SCALE: 1/8" = 1'-0"

NOTE:  
EXTERIOR MATERIAL CONSISTS  
OF 70% FIBER-CEMENT SIDING &  
30% BRICK



**CLUBHOUSE  
RIGHT ELEVATION**

SCALE: 1/8" = 1'-0"



**CLUBHOUSE  
REAR ELEVATION**

SCALE: 1/8" = 1'-0"

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**A6.1**

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