



Balboa Retail Partners, LLC
Bell Plaza - State Density Bonus Law Request Letter
Revised November 7, 2024

The following letter constitutes BRFII Bell, LLC's (Applicant) formal statement pursuant to the State Density Bonus Law (SDBL) (Government (Govt.) Code Sections 65915 et. seq.)¹ and Zoning Code Section 19.18.025 for the 1040 E. El Camino Real housing development project. The Applicant reserves the right to identify, modify, and supplement its density bonus law requests as the application is refined and in response to feedback from City staff.

As discussed in the project description, dated 12/12/2023 (Project Description, Exhibit B to the Formal Application), the Applicant proposes a housing development project to redevelop approximately two contiguous acres at 1040 E. El Camino Real in Sunnyvale. The proposal includes 46 attached townhomes, seven of which would be affordable, in seven buildings.

The following identifies the requested density bonus, incentive/concession, waivers or reductions of development standards, and parking reduction.

The Applicant proposes to make 15% of the base allowable residential units available to moderate-income households. Under state law the provision of 15% moderate income households entitles the Project to a 10% density bonus. (Govt. Code, § 65915(f)(4)). A 10% density bonus is ***not*** requested at this time. It is also noted that a bonus under the SDBL is consistent with the El Camino Specific Plan vision and guiding principles to promote housing opportunities that meet the needs of the community.

Incentive/Concession – Density bonus law grants one incentive/concession for the provision of 15% moderate-income units. (Govt. Code § 65915(d)(2)(A)). One incentive/concession is being requested to allow for a residential-only development as a permitted use, thereby waiving the requirement for commercial uses as part of the project per SMC 19.36.0608, Footnote [7]. This incentive/concession is necessary to cost effectively and logically construct the townhomes as designed. A requirement for ground floor commercial would require the construction of multifamily stacked flats, which is a different product type that is more expensive product type to construct and insure.² Not providing ground floor commercial would produce identifiable and actual cost reductions because construction of stacked flats

¹ Pursuant to the SDBL, cities shall approve incentives/concessions and waivers or reductions of development standards unless a city makes a written finding supported by substantial evidence of any of the following: (A) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs or (B) The concession or incentive would have a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households. (Govt. Code § 65915(d)(A), (e)(1); Zoning Code § 32.19(F)(6), (G)).

² As discussed in footnote 1, a local government shall grant a requested incentive or concession unless the agency makes a finding, based on substantial evidence, that it would have a specific, adverse impact upon health, safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; if the waiver would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or if the waiver would be contrary to state or federal law. (Govt. Code §65915(d)(1)). The applicant is not required to prove that cost reductions will result. *Schreiber v. City of Los Angeles*, 69 Cal.App.5th 549, 555-56 (2021).



instead of townhouses require a more costly concrete podium level for the commercial use. Stacked flats would also require a costly elevator that is not required in townhouse construction. In addition, there are higher construction costs for a stacked flat product because fewer contractors are willing to build such units due to California's condominium liability laws, and those same concerns result in higher insurance costs. Please refer to Exhibit B2.1 of the Formal Application for further detail on this cost analysis.

The SDBL defines a concession or incentive to include: "...(1) a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards; (3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs..." (Govt. Code § 65915(k)).

Waivers/Reductions – The SDBL allows for unlimited waivers or reductions of development standards, which are defined as "including but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement..." (Govt. Code 65915(o)(2)). The applicant proposes the following design standard waivers and has provided Exhibits A-F that illustrate the loss of units due to each design standard:

- **Reduction of Minimum Ground Floor Commercial** (SMC 19.36.090). The minimum required commercial area for the project is 12,300 square feet (75% of El Camino Real frontage x 50ft). Providing any amount of commercial area would physically preclude the ability of the Project to construct the proposed number of units in a horizontal mixed-use scenario and make the project economically infeasible with the requirement of the construction of stacked flats in a vertical mixed-use scenario. (Govt. Code 65915(e)(1)) (See Exhibit A).
- **Distance between buildings** (SMC 19.48.030). The required distance between buildings under this code would be 26 feet. The imposition of this development standard would result in fewer units constructed. (Govt. Code 65915(e)(1)) (See Exhibit B). As shown Sheet A1.0.0 there is a distance of 15 feet at the ground level and 14 feet at the upper levels between Buildings 1 and 2, 20 feet at the ground level and 19 feet at the upper levels between Buildings 4 and 5, and 20 feet and 19 feet at the upper levels between Buildings 6 and 7.
- **Minimum Landscape Buffer** (SMC 19.37.040.b.1). The minimum 10-foot landscape buffer along the rear of the property cannot be met. Requiring the required buffer would result in fewer units constructed due to the necessity to shift the circulation road away from the rear property line which would impact the site layout. (Govt. Code 65915(e)(1)) (See Exhibit C).
- **Parking Shading Requirement** (SMC 19.46.120). The requirement for shading of all surfaces that can be driven on requires the incorporation of planting strips to allow for trees. Doing so would expand the area needed for roadway and reduce the necessary building footprint required to construct the proposed number of units (See Exhibit D).
- **Minimum Residential Ground Floor Plate of 10'** (SMC 19.36.100B(F2)) – This standard cannot be met due to the provision of ground ladder access to roof areas for the Fire Department. To meet this standard would result in the loss of density across the site as it would require aerial apparatus access roads that are wider than the proposed roads. (See Exhibit E).



- **Minimum Garage Size of 450sf to Accommodate Waste Bin Storage** – Storage of waste bins has been accommodated within garages, however the requirement for each garage to be 450sf will require the project to lose units due as it will require the expansion of the ground floor of each building (See Exhibit F).
- **Loading Spaces** – The requirement for loading spaces described in SMC Section 19.46.160 cannot be accommodated. Accommodating a location for moving trucks and parcel delivery vehicles could only be placed on the perimeter of the site which would require the internal roadways to widen and reduce the proposed number of units. As these are ownership units, it is not expected that unit turnover will be as frequent as a rental property and both moving trucks and parcel delivery vehicles will park temporarily in front of the units (See Exhibit G).
- **Light Pole Height on Southern Property Line** – The requirement of 8-foot tall light poles along the southern property line would require the light poles to encroach into the loop in order to project adequate light onto the roadway. This would require widening the road to avoid conflicts with passing delivery, fire and waste trucks and result in the loss of units. Light poles at 12 feet in height can be set back into the existing landscape strip to avoid conflicts with the roadway and still provide adequate lighting.

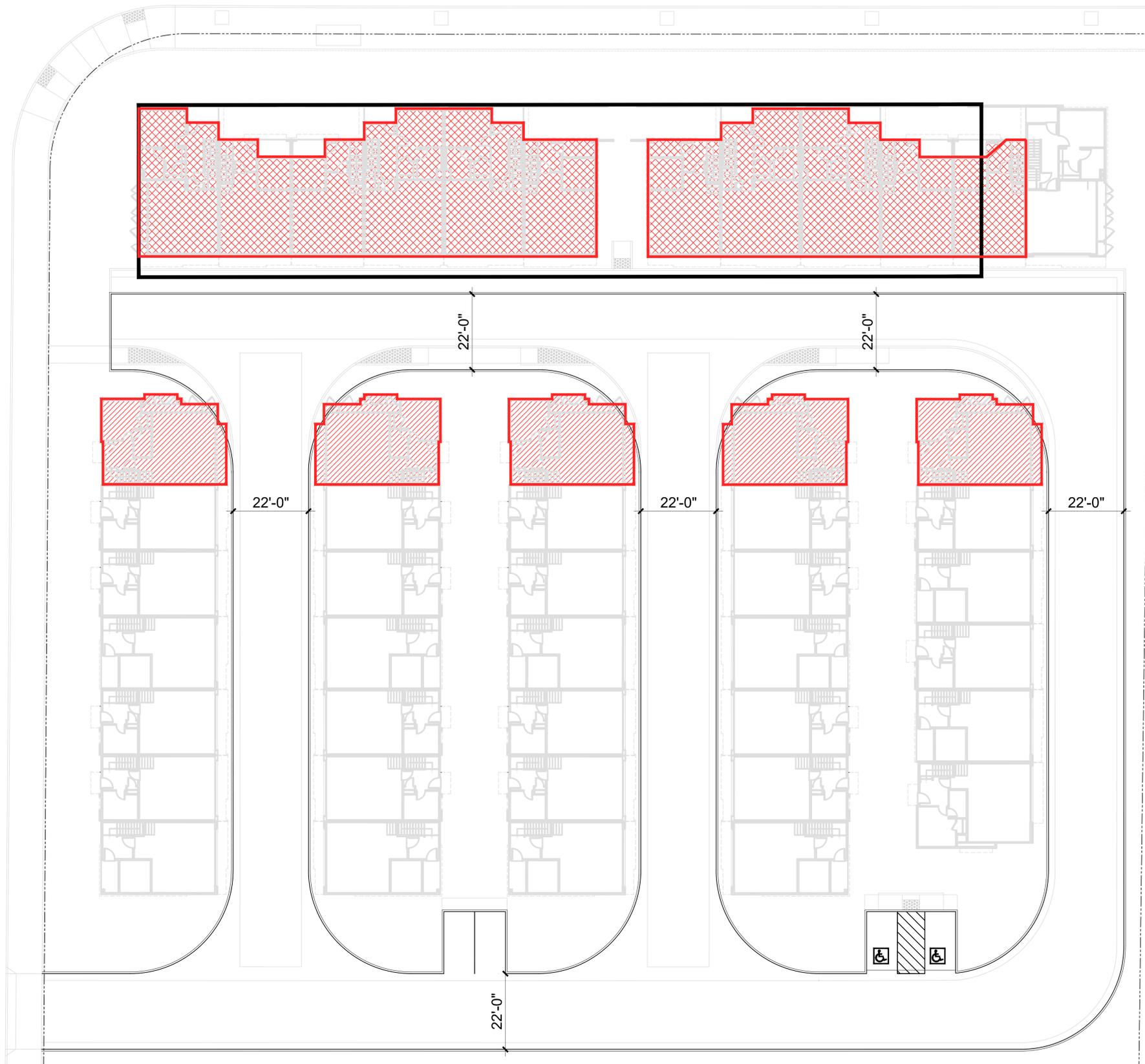
Reduced Parking - The SDBL states that upon the request of the developer, no city shall require a vehicular parking ratio, inclusive of parking for persons with disabilities and guests, that exceeds the following ratios (Section 65915(p)(1)):

- Zero to one bedroom: one onsite parking space
- Two to three bedrooms: one and one-half parking spaces
- Four or more bedrooms: two and one-half parking spaces

The Project exceeds the minimum percentage of moderate-income units pursuant to Government Code Section 65915(f)(4). Per the table below, 81 parking spaces (including guest and disabled) would be required, 96 spaces are provided.

Unit Type	Number	SDBL Ratio	Required	Provided*
2BR	18	1.5	27	37
3BR	16	1.5	24	33
4BR	12	2.5	30	26
TOTAL	46		81	96

**Includes unassigned units (4 total)*



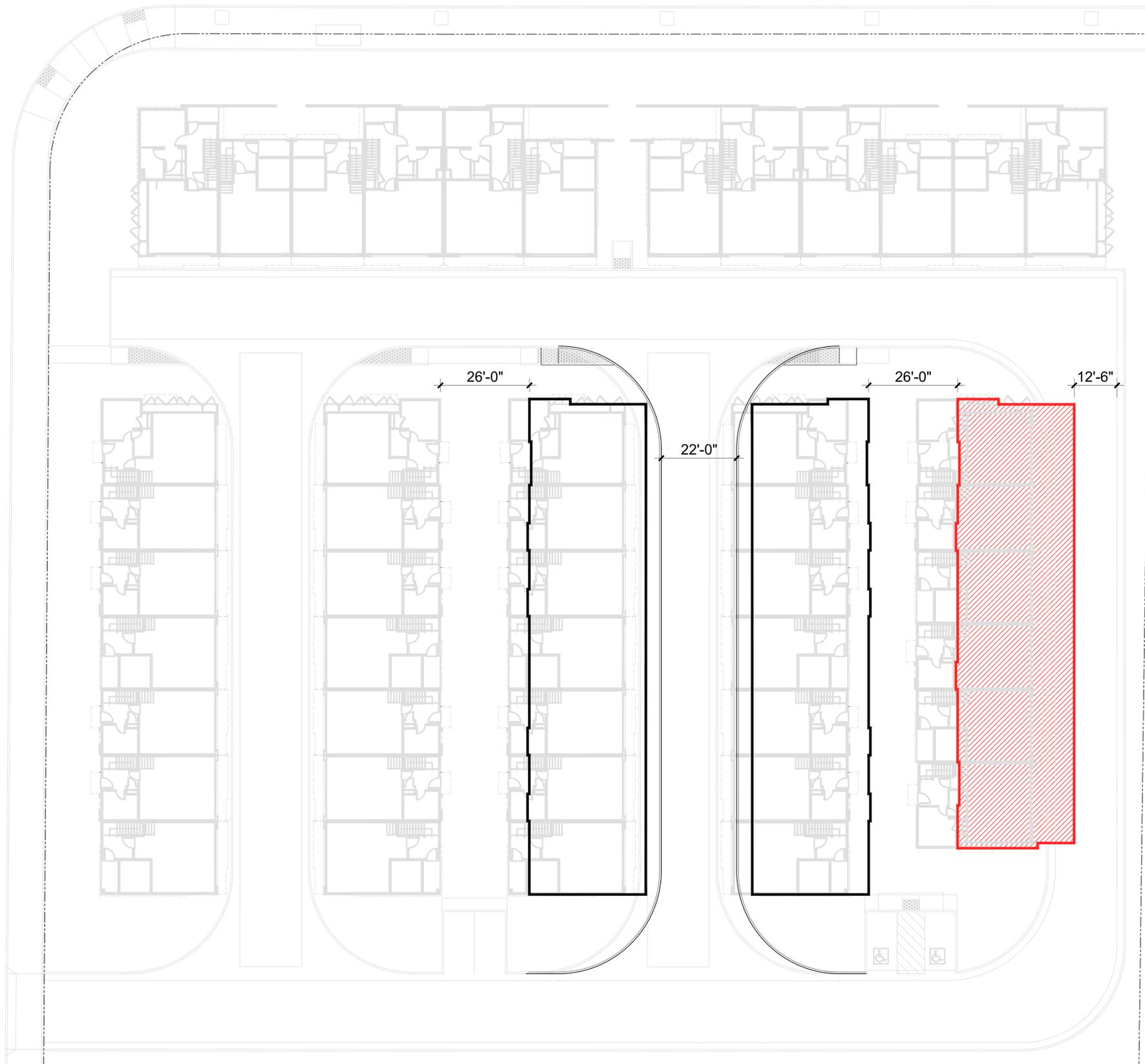
 12,300 SF COMMERCIAL BUILDING

 LOSE 11 UNITS DUE TO COMMERCIAL BUILDING

 LOSE 5 UNITS DUE TO CONFLICT WITH DRIVE AISLE

TOTAL LOSE 16 UNITS

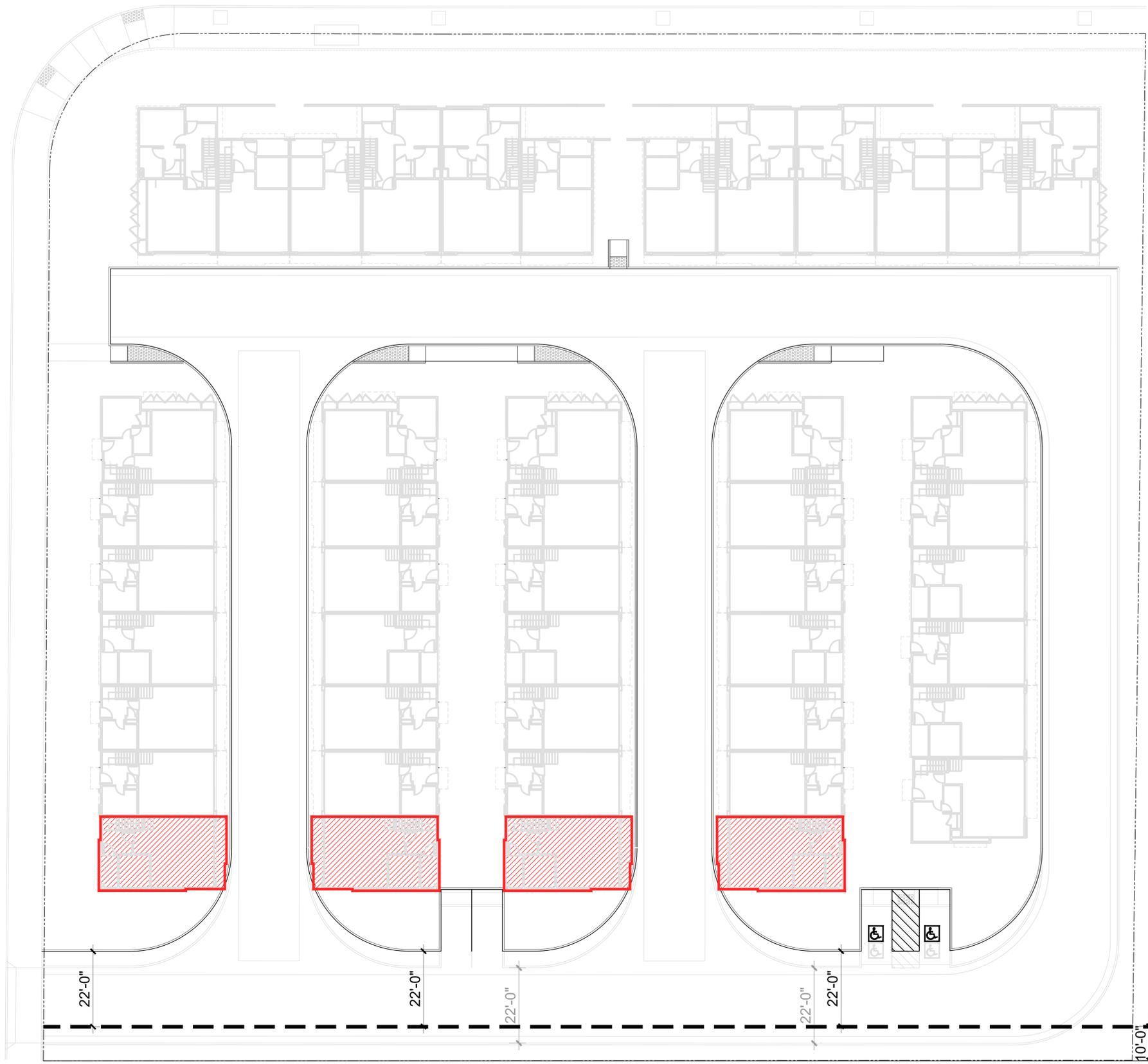
- **Reduction of Minimum Ground Floor Commercial** (SMC 19.36.090). The minimum required commercial area for the project is 12,300 square feet (75% of El Camino Real frontage x 50ft). Providing any amount of commercial area would physically preclude the ability of the Project to construct the proposed number of units in a horizontal mixed-use scenario and make the project economically infeasible with the requirement of the construction of stacked flats in a vertical mixed-use scenario. (Govt. Code 65915(e)(1)).



..... 26' Between Buildings

 LOSE 6 UNITS DUE TO INADEQUATE DRIVE AISLE

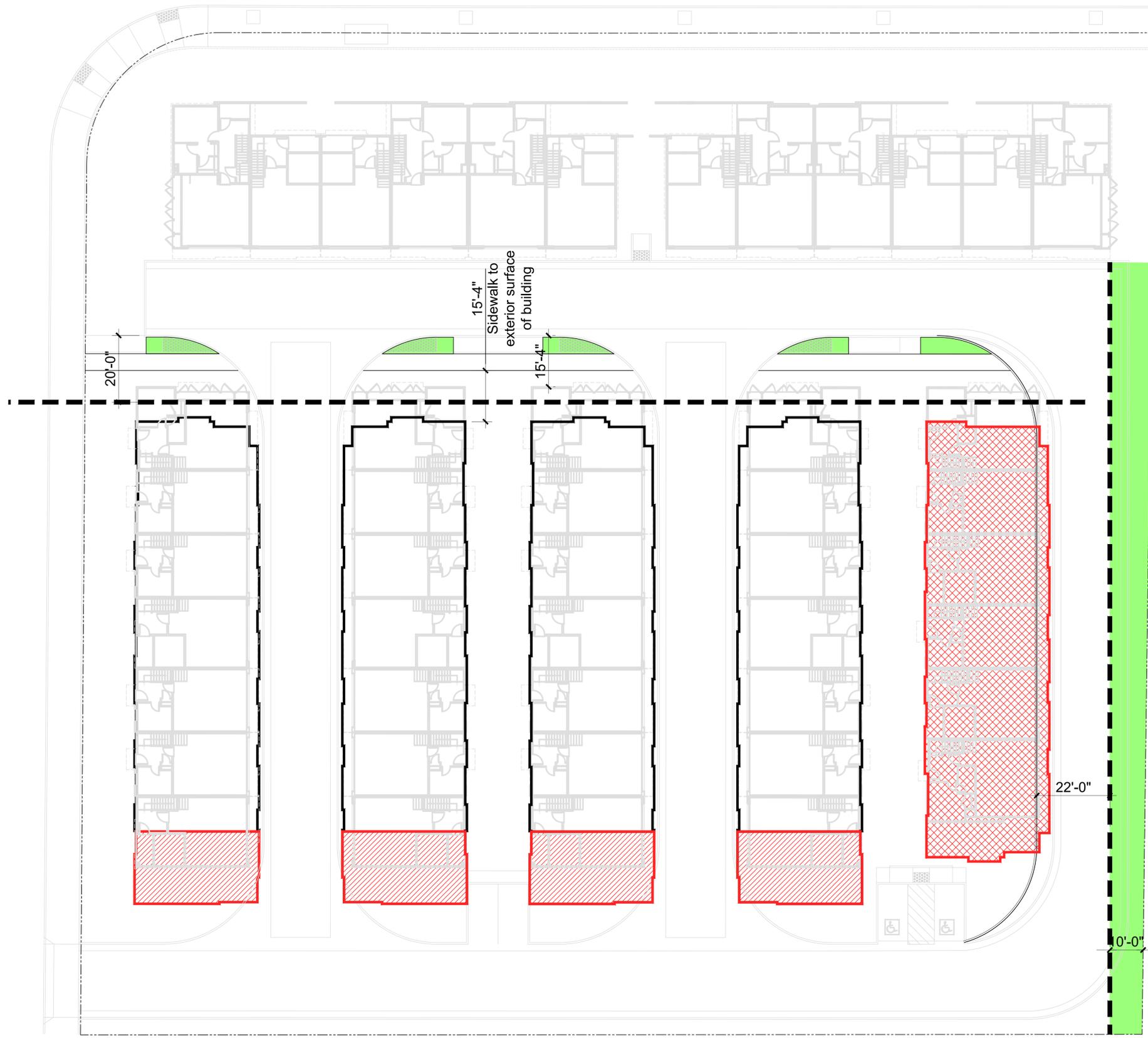
- **Distance between buildings** (SMC 19.48.030). The required distance between buildings under this code would be 26 feet. The imposition of this development standard would result in fewer units constructed. (Govt. Code 65915(e)(1)).



..... 10' Landscape Buffer

 LOSE 4 UNITS DUE TO CONFLICT WITH DRIVE AISLE

- **Minimum Landscape Area and usable common open space (SMC 19.37.040).** The minimum 10 foot landscape buffer along the rear of the property cannot be met. Requiring the required buffer would result in fewer units constructed due to the necessity to shift the circulation road away from the rear property line which would impact the site layout. (Govt. Code 65915(e)(1)).



 Shaded area for trees

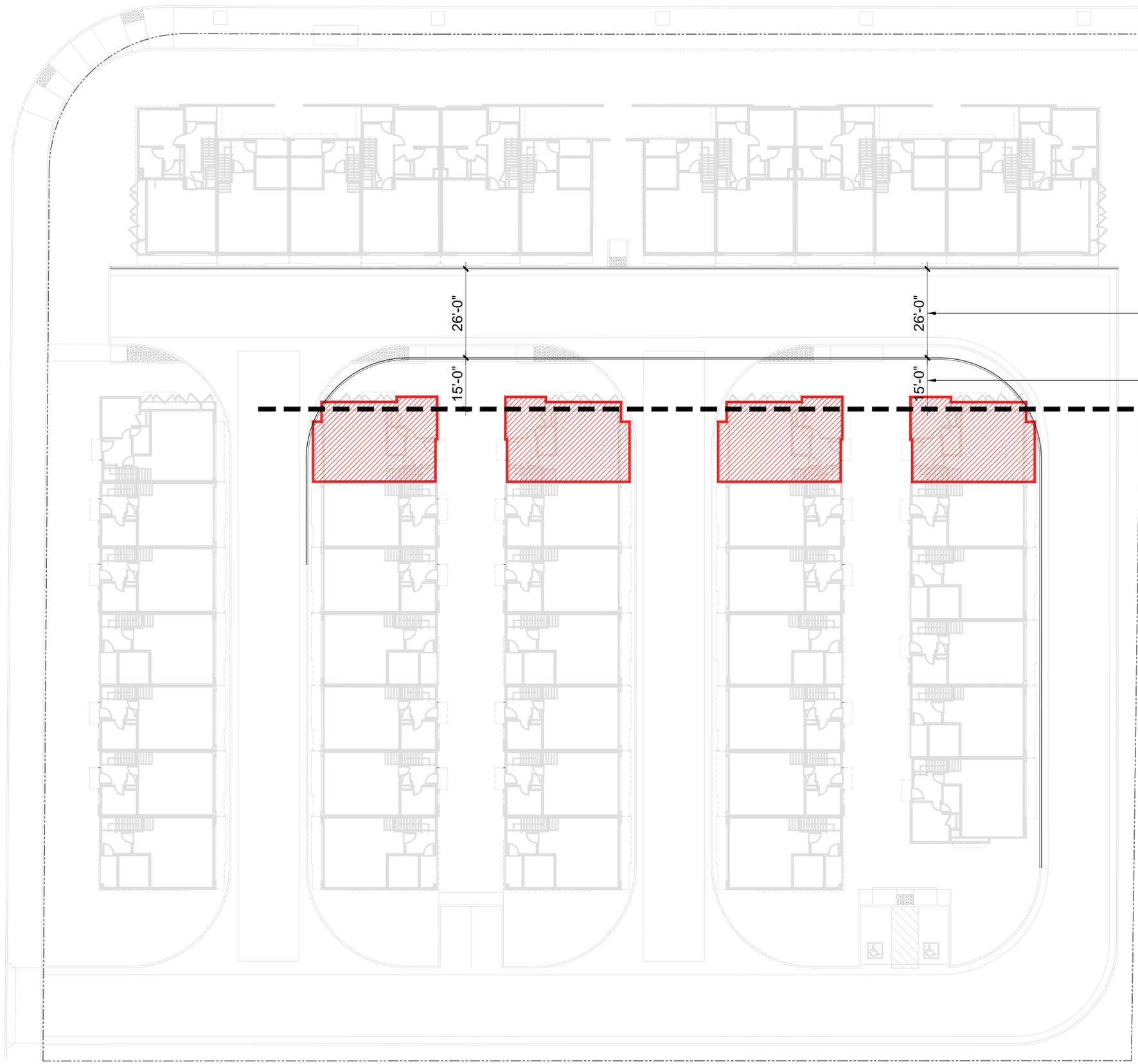
 Additional space needed for larger trees to achieve required shading

 LOSE 6 UNITS DUE TO INADEQUATE DRIVE AISLE

 LOSE 4 UNITS DUE TO CONFLICT WITH DRIVE AISLE

TOTAL LOSE 10 UNITS

- **Parking Shading Requirement (SMC 19.46.120).** The requirement for shading of all surfaces that can be driven on requires the incorporation of planting strips to allow for trees.

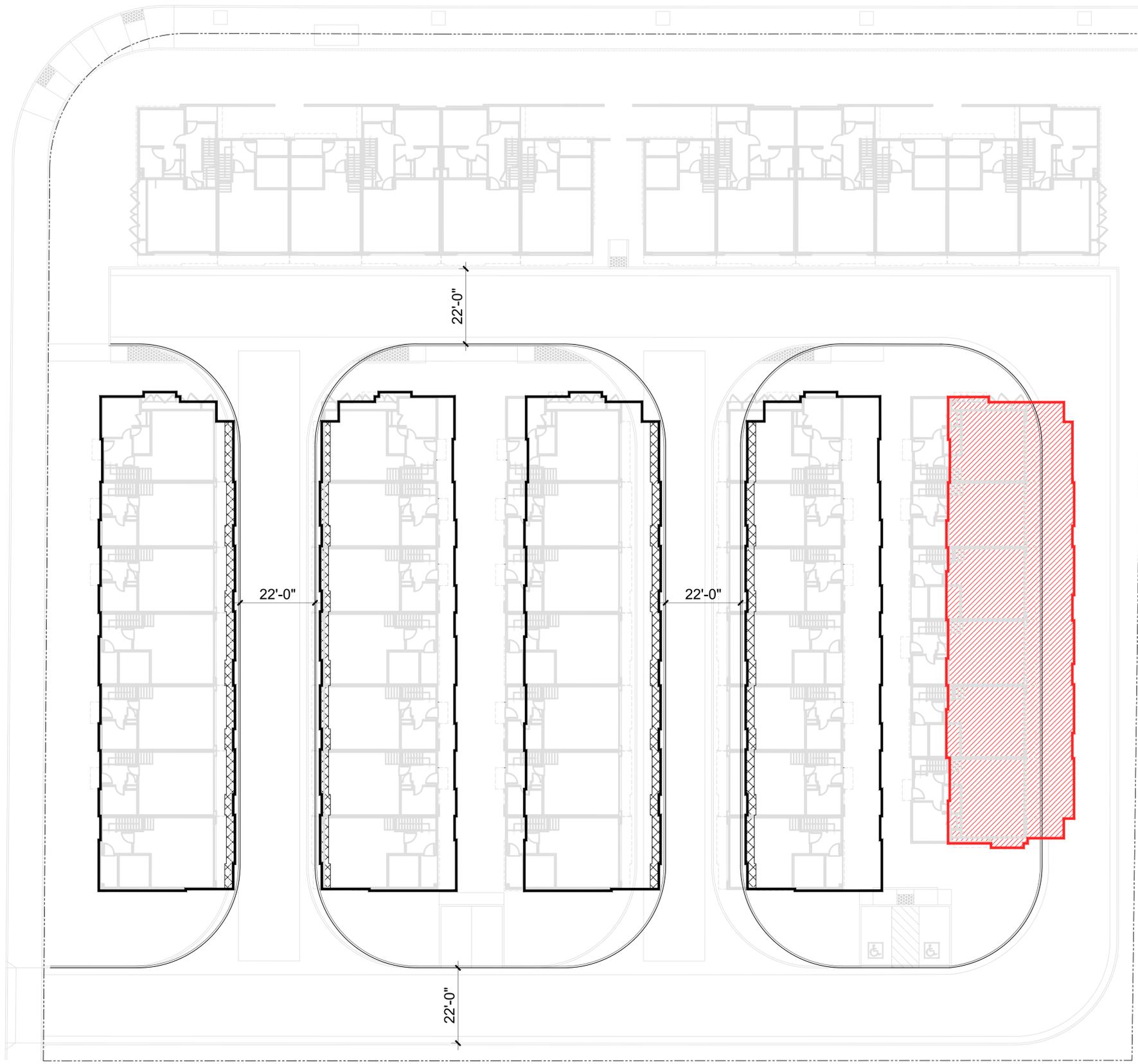


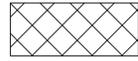
Fire apparatus access roads serving buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall have a minimum unobstructed width of 26 feet

Proximity to building. Minimum 15 feet to Maximum 30 feet

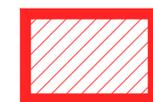
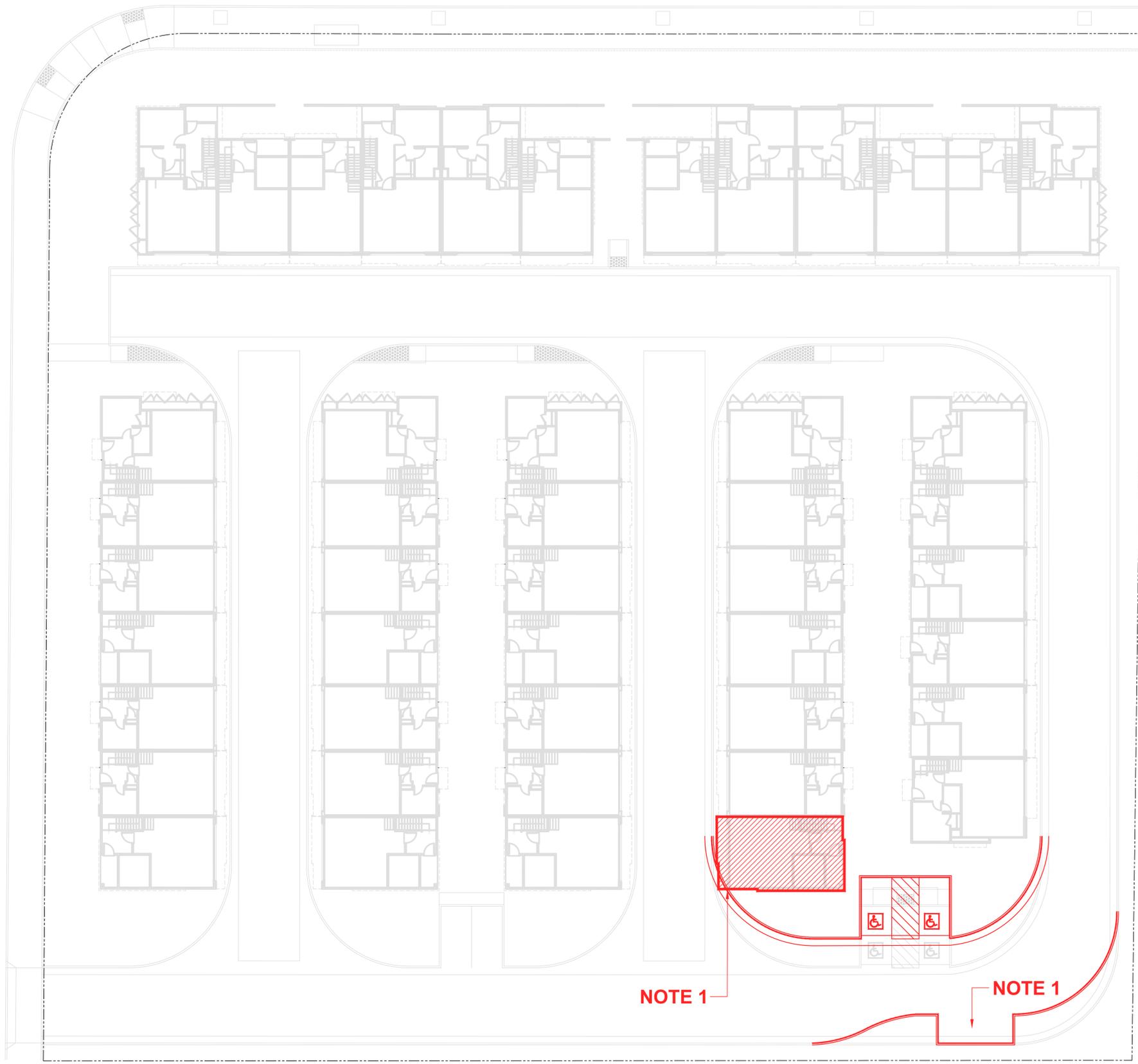
 LOSE 4 UNITS

- **Minimum Residential Ground Floor Plate of 10'** (SMC 19.36.100B(F2)) - This standard cannot be met due to the provision of ground ladder access to roof areas for the Fire Department. To meet this standard would result in the loss of density across the site as it would require aerial apparatus access roads that are wider than the proposed roads.



-  Adjusted building footprint to meet Min. 450 s.f garage
-  Expanded area to accommodate 450 s.f. garage
-  LOSE 6 UNITS DUE TO INADEQUATE DRIVE AISLE

- **Minimum Garage Size of 450sf to Accommodate Waste Bin Storage**
- Storage of waste bins has been accommodated within garages, however the requirement for each garage to be 450sf will require the project to lose units due as it will require the expansion of the ground floor of each unit.



LOSE 1 UNIT DUE TO CONFLICT WITH DRIVE AISLE

1. Loading Space, if provided, will need to be along perimeter drive. This requires diverting the drive, which impinges on building footprint.

NOTE 1

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