

186982

**CITY ENGINEER'S REPORT TO CITY COUNCIL
FOR AN ABOVE-GRADE ARCADE PROJECTION
OVER E BURNSIDE**

Applicant: Erik Winter, Architect
Robert Boileau, Architect
Myhre Group Architects
620 SW 5th Ave Suite 500
Portland, OR 97204

Owner: Jack Paauw and Allison Finn
Trinsic Acquisition Company, Llc
605 First Ave #100
Seattle, WA 98104

RH Burnside LLC, Owner
2250 NW Flanders St #G02
Portland, OR 97210-3475

Central City Concern, Owner
232 NW 6th Ave
Portland, OR 97209-3609

Site Address: 419 E BURNSIDE ST & 20 NE MARTIN LUTHER KING JR BLVD

Legal Description: BLOCK 107 LOT 1 EXC PT IN ST LOT 2 LOT 7&8, EAST
PORTLAND; BLOCK 107 LOT 3 LOT 4 EXC PT IN ST, EAST
PORTLAND; BLOCK 107 LOT 5 EXC PT IN ST & LOT 6, EAST
PORTLAND

Tax Account No.: R226507220, R226507240, R226507260, R226507220, R226507220
State ID No.: 1N1E35CB 08800, 1N1E35CB 08900, 1N1E35CB 08700,
1N1E35CB 08800, 1N1E35CB 08800

Quarter Section: 3031

Neighborhood: Kerns, contact Steve Russell at 503-784-8785.
Business District: Central Eastside Industrial Council, contact Peter Fry at 503-274-1415.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Plan District: Central City - Central Eastside

Zoning: EXd – Central Employment with Design overlay

Case Type: Major Encroachment Review

DEFINITION OF ENCROACHMENT

All privately owned and maintained above-grade, at-grade and below-grade encroachments in the public right-of-way are subject to Encroachment Review based on the City Policy ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY (adopted 1982).

REQUEST

Approval is requested of City Council for an Encroachment in the Public Right-of-Way for an arcade structure over the E Burnside right-of-way.

SITE

The proposal is on a ¼ block site bounded by E Burnside, NE Grand, NE Couch, and NE Martin Luther King Jr Blvd. The proposed arcade is part of a recently approved 6-story, mixed-use building with 157 residential units, 2 live/work units, ground floor commercial space, as well as shared and private rooftop terraces. The proposed arcade along E Burnside includes living area above the public right-of-way. Parking is provided within the building for 50 residential vehicles, including 11 tandem spaces, and 12 parking spaces for the adjacent building to be accessed from NE Couch. Exterior materials include cast-in-place concrete, metal panel, operable storefront systems, fiberglass doors, and vinyl windows. The existing 2-story building at the north-west corner of the block is proposed to remain.

ENCROACHMENT REQUEST

The recently approved 419 E Burnside Building (LUR 14-169513 DZ M AD) includes an arcade element that will project over the site's E Burnside right-of-way (r.o.w.) extending 16'-6" from the façade of the building. There will be 15,385 sf (3,077 sf/floor) of total building floor area between floors 2-6 that will form the projection. Due to the slope of the sidewalk, the minimum clearance of the projections varies from 13'-8" to more than 17'-4", with an average clearance of 15'-6". As such the applicant is requesting an Exception to the 17'-6" clearance requirement (to be discussed further, below).

The applicant requests approval for an Encroachment in the Public Right-of-Way in the Central Eastside sub-district of the Central City Plan District for an arcade structure that will project over the E Burnside r.o.w.

Requested Exception to Encroachment Standards: Standards for Sky-structures, Section VIII of Encroachments in the Public-Right-of-Way, establishes that "a sky-structure's clearance over the street shall be 17'-8" (with the exception that a lower clearance, but in no case lower than 17-ft, may be allowed where the applicant establishes to the City's satisfaction that extraordinary conditions would not require a higher clearance". It should be noted here that the City Policy ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY does not have a "standard" for clearances associated with the proposed arcade. Further, there is no clear definition of an "arcade" as proposed, in the

City Policy ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY, but the arcade is definitely not considered a "sky-structure". Though there is no standard clearance height for arcades, there is a general policy related "building projections" that said clearance should be 17'-6". The applicant is proposing an arcade with an average clearance of 15'-6".

ENCROACHMENT REVIEW PROCESS

The City Engineer manages Encroachment Reviews. Notification for the Review was sent to utility providers on August 20, 2014. The City Engineer considered all comments received in preparing this report and recommendation to City Council; there were no comments received from any of the interested parties voicing objections to the proposed building arcade.

Agency Review: A "Notice of an Encroachment Review Request" was mailed on August 20, 2014. Several potential concerns were raised by the Bureau of Environmental Services related to the existing public stormwater management facility located at the western end of the E Burnside frontage. The applicant has been engaged with the project's design/build team and City multi-bureau staff since before and during this Encroachment Permit process, in relation to the Public Works Permitting process associated with the required r.o.w. improvements. Detailed engineering plans have been under review for the required r.o.w elements of the project, including the supporting columns for the arcade structure and a redesigned (public) stormwater management facility. BES staff have recently indicated their support for the most recently submitted Public Works-related engineering plans.)

Utility Review: A "Notice of an Encroachment Review Request" was sent to potentially impacted utilities. No concerns were expressed by those notified.

ENCROACHMENT REVIEW APPROVAL CRITERIA

The structure is an above-grade encroachment located in a portion of the City covered by City-Wide District Policies (Section VII. B). Pursuant to "Encroachments in the Public Right-of-Way" (1982), such encroachments may be permitted if the Applicant demonstrates to the City's satisfaction that the encroachment meets the policies of Chapter One, Sections III and VII, and the Standards of Chapter VIII of the Encroachments Policy.

Section III, GENERAL POLICIES

- A. *The public right-of-way is an important resource and the utility of the right-of-way shall not be impaired. The City shall discourage private ownership or use in the public right-of-way.*

1. *The public right-of-way provides for the movement of pedestrians and vehicles, for open space, landscaping, light, air, and vistas. As an important public resource, the public right-of-way should not be easily given up for private ownership or use.*
2. *The street-level sidewalks are the primary pedestrian circulation system and encroachments should not be permitted which adversely affect this system.*

Findings: The proposed design continues the historic character of E Burnside St which is a unique part of town resulting from a road-widening project in 1931 where the first 13-ft of the ground floors of existing buildings were removed to allow for a public sidewalk beneath the upper floors of the buildings. Arcades along E Burnside St are encouraged in the 1991 Council adopted *Special Design Guidelines for the Design Zone of the Central Eastside District of the Central City Plan*. The proposal still allows for the movement of pedestrians and the arcade is open on the south side, allowing light to penetrate the sidewalk area. The proposed encroachments will not adversely affect the pedestrian system, but rather enhance the system by providing shelter and enhancing the character of this district. *These policies are met.*

- B. *As a public resource, encroachments shall only be permitted as a part of the project fulfilling a significant public goal of the comprehensive plan, the downtown plan, or other adopted plans or policies. Encroachments must be in conformance with the City objectives for promoting the "Portland Character" as defined by the rivers, parks, vistas, buildings of architectural significance, and other important visual images, as defined by the Comprehensive Plan, Downtown Plan, development regulations, and design guidelines, or their neighborhood or area plans or guidelines.*

Findings: The proposed arcades support the intentions of Central Eastside Design Guideline A5-1, which was implemented in order to reinforce the character of the existing arcaded buildings in the district. The arcades will provide opportunities for vistas not normally attained and will reinforce the arcaded vista of the E Burnside streetscape. *This policy is met.*

- C. *In order to receive City approval for encroachments, an applicant must demonstrate a public benefit which cannot be achieved without the encroachment.*

Findings: The design of the proposal fulfills the goals of Guideline A5-1 of the *Special Design Guidelines for the Design Zone of the Central Eastside District of the Central City Plan*. The nature of this public benefit is the reinforcement of the unique character established by the extant arcaded sidewalks along E Burnside St and is entirely dependent on the allowance of an encroachment into the public right-of-way. The proposed encroachment is an exciting aspect of the proposal which helps establish the building as a significant contribution to the Burnside

Bridgehead area, which is rapidly accumulating interesting works of architecture that will soon define the neighborhood. The proposed building is a quieter building in this dynamic area and the proposed encroachments help the building establish its own dynamic character while maintaining a grounding character for the rest of the district. *This policy is met.*

- D. *Final approval of encroachments in the public right-of-way rests with the City Council. The management of encroachments is currently assigned to and should remain with the City Engineer.*
1. *The Planning Commission, Hearing Office, Design Committee or Historical Landmarks Commission reviews proposed encroachments and advises the City Engineer on issues regarding design, aesthetics, views, and interpretation of City Policies. This review process will be based on the guidelines and standards contained in this Section and the appropriate district section of this policy.*
 2. *The revised and conditions for approval of encroachments are described in Chapter Two of this policy.*
 3. *Encroachments approved under this policy must also meet the requirements of all applicable City Codes.*

Findings: The applicant has worked with the City Engineer to meet all of the applicable City Codes and requirements for an above-ground encroachment over the r.o.w. The construction of the proposed arcade will be built to requirements of all pertinent City bureaus and other associated agencies. This policy is met.

Section VII, CITY-WIDE POLICIES

A. General Policies

1. *The intent of any permitted encroachment located in the City, and not in the Downtown, Pedestrian Districts, and the Downtown Retail Core, shall be to preserve and reinforce the stability of the City's neighborhoods, industrial areas and institutional uses, in order to ensure the City's economic vitality and livability, and provide for the public safety. Improvements not substantially consistent with the intent of these goals should be accommodated outside the public right-of-way so as to not adversely impact the sidewalk as the primary pedestrian system.*

Findings: This project adds residential and retail space to Portland's Central Eastside. The introduction of more residential units in this area will increase the overall stability as it will then be home to many people rather than just a place to

occasionally visit, and will therefore inspire greater stewardship. As the projections respond to a specific requirement for this part of E Burnside St, they implicitly reinforce the character of that neighborhood. The arcade columns serve as a visual and physical buffer between vehicles and pedestrians along E Burnside, thus adding to pedestrian safety. *This policy is met.*

2. *In the City-wide district, the City engineer's review of encroachments will require the advice of the following citizen's review committees to ensure that a proposed encroachment meets the goals of the Comprehensive Plan and other adopted City policies and Area Plans, as well as Chapter One, Sections III and VII and the standards in VIII of this policy.*

a. *Design Committee shall review all Type II and Type III sky-structures and building projections*

Findings: The encroachment, related to a new mixed-use building on the subject site, is subject to Design Committee (Design Commission) review. The Design Commission approved LU 14-169513 DZ M AD for the proposed building. The decision of the Design Commission included specific findings in support of the arcade element of the building. The findings adopted in the Design Commission's decision did not authorize the construction of the arcade element. Instead, the Major Encroachment Permit-related findings relay the Design Commission's support of the requested Major Encroachment Permit to the City Council. This policy is met.

B. *Policies for Above-Grade Encroachments*

4. *Building projections are discouraged and can only be permitted if the following additional conditions are met:*

a. *The applicant must demonstrate to the City's satisfaction that the building projection is needed for the economic feasibility or function of the project, and that other alternatives were explored and could not meet the project's needs.*

Findings: The project's economic feasibility depends on the additional square footage provided through the use of the proposed arcade. Additionally, the Design Commission and Bureau of Development Services staff, during earlier Design Advise Request (D.A.R.) meetings, strongly recommended that the applicant pursue the inclusion of an arcade along E Burnside St as it helps knit the project into the existing neighborhood fabric. To remove the arcade and associated floor area at this point would be extremely detrimental to the project given the time and resources spent by City staff and the Design Commission. *This policy is met.*

- b. *The building's projected clearance over the public right-of-way shall be 17'-6". A higher clearance can be required by the City, depending on the width and length of the project, in order to accommodate the following sidewalk uses:*
- 1) *clearance for street trees;*
 - 2) *clearance for maintenance equipment to repair utilities located under the sidewalk.*

Findings: Due to the slope of the sidewalk, the minimum clearance of the building projection varies from 13'-8" to more than 17'-4", for an average clearance of 15'-6". As such the applicant is requesting an Exception to the 17'-6" clearance requirement. Coasters are also proposed in order to provide the sense of additional height when under the projection. Staff notes that the proposed height allows for maintenance of the water utility vault located beneath the projection and that the electric utility vault is located near the corner of E Burnside and NE Grand, away from the arcade feature. Staff notes that no trees are proposed along E Burnside; however, it may be possible to locate one tree in the area between the two arcades if the canopy is removed. At a Design Advise Request meeting, the Design Commission pondered what the appropriate length of arcade projections might be. Staff notes that many of the extant arcades are found on half-block frontages, resulting in 100-ft long arcades. One of the original arcaded buildings, the Burkhard Building, occupied the full frontage on the subject block, however it was demolished three years after the widening of E Burnside. History has shown a precedent for a full-block arcade on this site. It should be noted, however, that the proposal includes a break at the center resulting in two 83-foot-long arcades of varying relative clearance.

The applicant provided graphic analysis of existing arcades in the district to assist the Design Commission in its deliberation of the proposed arcade clearance. BDS Design-team Staff also visited the area and noted that the most comfortable existing arcade along E Burnside was the one under the Bossanova Ballroom, which has an average height of 14'-11" with an additional 8" coffer. At the September 4, 2014 Design Commission hearing, the Commission felt comfortable with the proposed clearance. *This policy is met.*

- c. *The projection shall avoid excessive blockage of natural sunlight for pedestrians on the sidewalk and avoid a dark, tunnel-like appearance.*

Findings: The arcades along the north side of E Burnside St are more successful than the arcades along the opposite side of the street due to the availability of direct sunlight. As noted above, the proposed arcade varies

in height from 13'-8" to more than 17'-4". Staff visited the district in the height of summer and noticed that substantial amounts of light still managed to penetrate the sidewalks even at the lowest arcaded structures, with a clearance of only 10'-6". Design-team staff found, and the Design Commission agreed, in its decision, that the proposed arcade will provide opportunity for both sun and shade, as is appropriate depending on the season. *This policy is met.*

- d. *Columns in the public right-of-way to support the building projection shall be discouraged.*

Findings: Staff notes that this policy document does not specifically define arcades (as proposed) as an encroachment type. There are definitions of various types of sky-structures, skywalk, building projection and a through-building arcade ("a concourse or corridor through a building which connects skywalks; normally to be used in conjunction with a network of skywalks"). Accordingly, this *specific policy* seems to contradict other policy and guidelines which encourage arcades which, by (architectural) definition, include columns. The proposed columns are located out of the sidewalk corridor's through pedestrian zone and as far out to curb as possible, in order to allow free movement of people along this sidewalk. The columns help reinforce the arcaded character of the district. While other types of building projections supported by columns should be discouraged, in its decision to support the proposed building, the Design Commission determined that the proposed columns are entirely appropriate in this case. *This policy is met.*

CONCLUSION

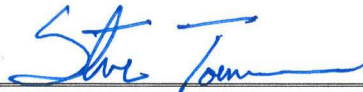
The 419 E Burnside Building is a development project for a new mixed use 6-story, mixed-use building with 157 residential units, 2 live/work units, ground floor commercial space, shared and private rooftop terraces, and mostly below-grade on-site parking. The proposed arcade along E. Burnside includes living area above the public right-of-way.

As reflected in the previous sections of this report, the proposed arcade is generally consistent with the applicable policies as outlined in the City Policy ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY (adopted 1982), subject to the following conditions:

1. The property owner shall enter into a lease agreement with the City for use of space in the public right-of-way. The lease agreement shall be completed prior to release of the Building Permit for the new building.

2. The arcade shall be constructed in substantial compliance with preliminary plans that have been submitted by the applicant and reviewed by the City.
3. The applicant shall construct the arcade in relation to the public right-of-way improvements and in a manner acceptable to the City of Portland Bureau of Transportation.
4. All areas underneath the arcade shall be open to the public.
5. This encroachment approval is specific to the adjacent land use and is voided if the adjacent approved developments are not constructed. This encroachment approval will expire five years from the date of the approval ordinance if the mixed use building has not been constructed.

The City Engineer finds that the proposed arcade satisfies the applicable policies contained in the CITY POLICY ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY (ADOPTED 1982), and therefore recommends approval of said arcade.



Steve Townsen, P.E.
City Engineer



Date

Kurt Krueger, P.E.
01/05/15

EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Maps

1. Site plan (attached)
2. Encroachment area (attached)

B. Drawings

- 1 Building/arcade plans
- 2 Building/arcade elevations

E Burnside Mixed-Use

Major Encroachment Review Exhibits
LU# 14-169513 DZM

December 18, 2014
Myhre Group Architects
Trinsic Acquisition Company, LLC



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Project Team

Owner:	Trinsic Acquisition Company, LLC 605 First Avenue Suite 100 Seattle, WA 98104 Jack Paauw Project Contact
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Landscape:	Harper Houf Peterson Righellis, Inc. 205 SE Spokane Street Suite 200 Portland, OR 97202 Jeffery Creel, RLA Landscape Architect
Structural:	Catena Consulting Engineering 1111 NE Flanders Suite 206 Portland, OR 97232 Jason Thompson, P.E. Principal
MEP:	MKE and Associates 6915 SW Macadam Avenue Suite 200 Portland, OR 97219 Steve Lockhart, P.E. Principal

Please direct all questions, in writing, to:

Robert Boileau at robertb@myhregroup.com
Erik Winter at erikw@myhregroup.com

Burnside Arcade Precedence

Exhibit A



Our project is proposing the allowed use of an arcade along E Burnside Street to respond to the unique and historical character already present within this neighborhood.

Currently, there are eight historical and modern examples that have an arcade along E Burnside Street. The current arcade buildings are typically half or quarter block structures.

Archival photos confirm that an existing full-block arcade once existed on the proposed project site. To respond to this typology and the historical context, our project proposes to employ a historical arcade application along the full E Burnside Street frontage.

The following pages will illustrate the existing arcade conditions in more detail.



Historic Photo - Project Site

Myhre Group Architects, Inc.



1 524 E Burnside Street



5 811 E Burnside Street

620 SW 5th Avenue

Suite 500



2 612-616 E Burnside Street



6 930-938 E Burnside Street

Portland, Oregon 97204



3 722-738 E Burnside Street



7 1040 E Burnside Street

503.236.6000



4 723-737 E Burnside Street



8 1111 E Burnside Street

www.myhregroup.com

Average Height - Lowest to Highest

Site 6	12'-11"
Site 2	13'-10"
Site 3	14'-11"
Site 8	15'-2"

E Burnside Mixed-Use ~16'-0'

Site 4	16'-0"
Site 1	16'-4"
Site 7	18'-1"

Civil Plan - Site Utility Plan

Exhibit B

Note: Basement plan shown for reference only.

Legend

- 1 Proposed domestic water service.
- 2 Proposed fire water service.
- 3 Proposed sanitary lateral.
- 4 Proposed storm drainage lateral.
- 5 Relocate twin ornamental fixtures.
- 6 Existing public stormwater facility to be reconstructed to accommodate proposed building arcade, overall stormwater facility area to remain the same.

Stormwater narrative:

Private stormwater management will be a combination of stormwater planters located on the second level terrace and green roof. The planters on the second level will be recessed to allow the runoff from the terrace to drain into the planter.

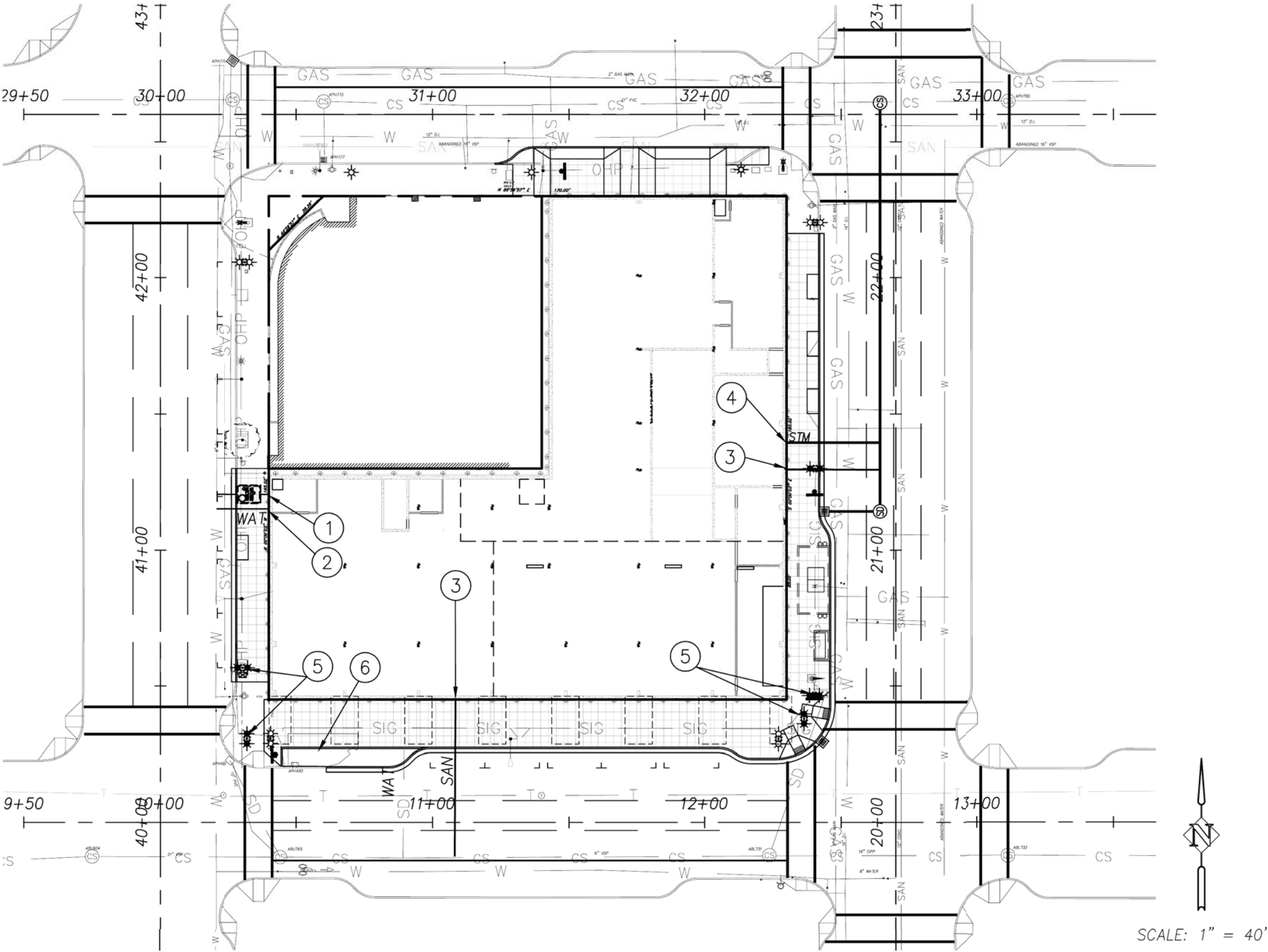
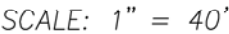


Exhibit C

Note: Ground floor plan shown for reference only.



ne couch street



- 1 Standard parking stall
(8'-6"x16'-0"), typical.
- 2 Tandem parking stall
(8'-6"x 32'-0"), typical.
- 3 Vehicle Ramp.
- 4 Elevator lobby.
- 5 Mechanical room.
- 6 Electrical room.
- 7 Water and fire control room.
- 8 Resident storage.
- 9 Building maintenance.



Floor Plan - First Floor

Exhibit E

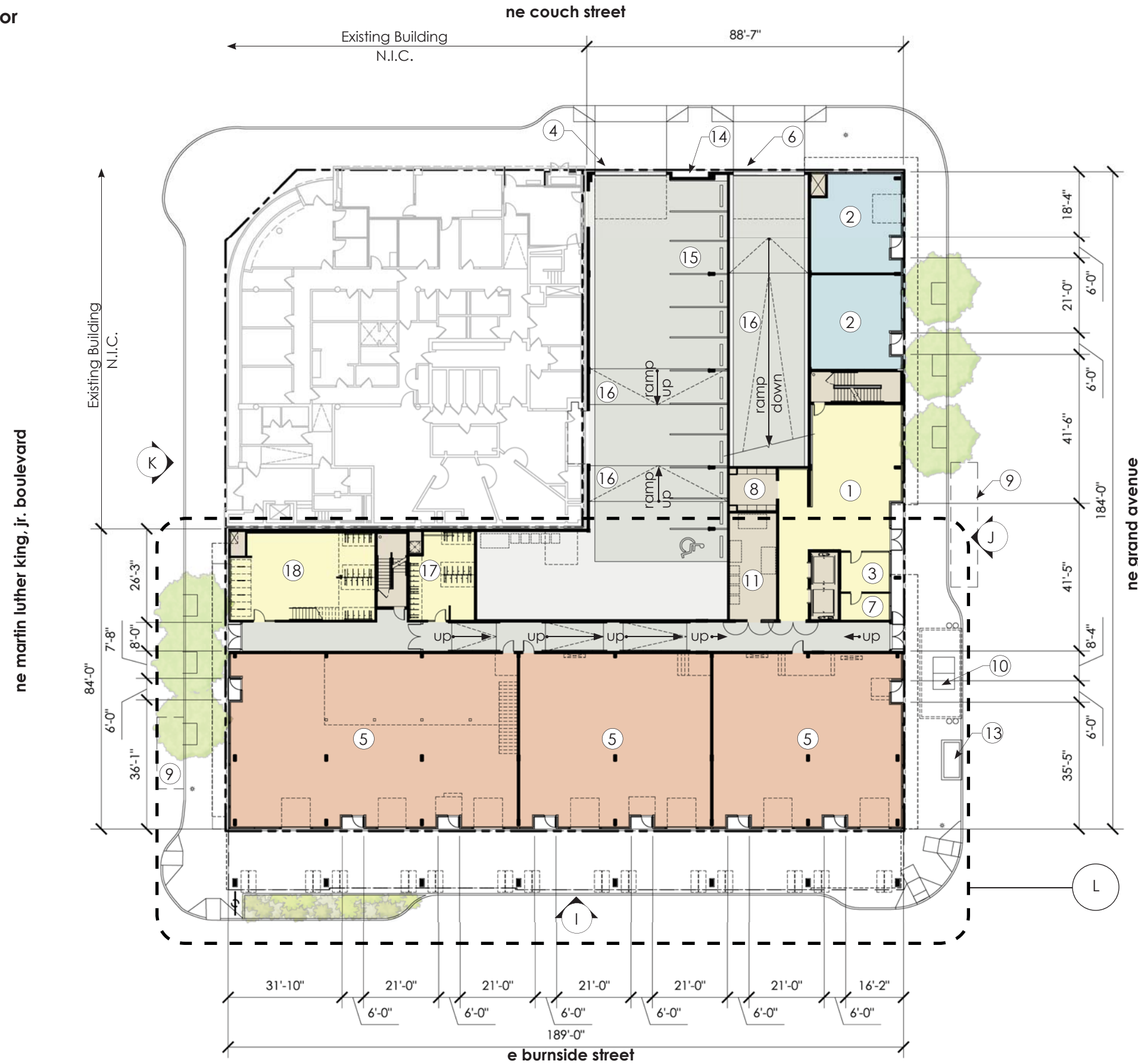



Exhibit F

Floor Plan - Second Floor



 In-unit bike parking.

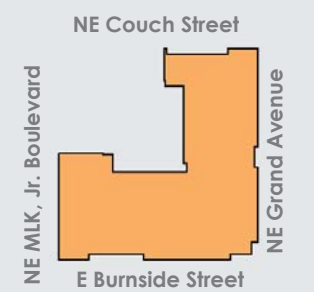
Legend

- 1 Dwelling unit, typical.
- 2 Club room.
- 3 Club room patio.
- 4 Private patio.
- 5 Private CCC terrace.
- 6 Not used.
- 7 Residence storage/bike room.
- 8 Trash/recycle room.
- 9 Storage.
- 10 Dwelling unit deck(s). Refer to Section 4 for enlarged deck plan.



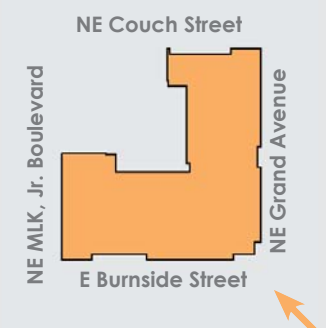
Exterior Perspective - View from Southwest

Exhibit G



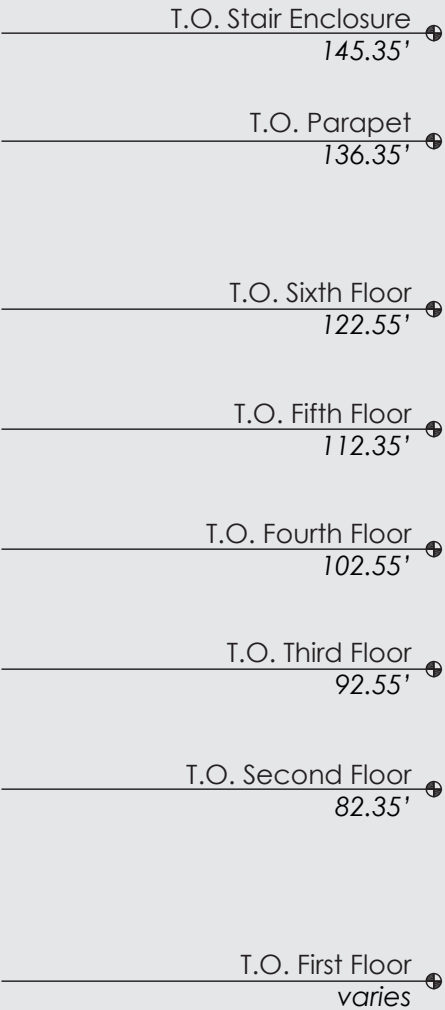
Exterior Perspective - View from Southeast

Exhibit H



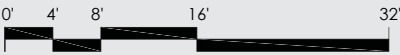
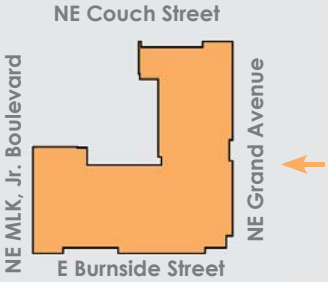
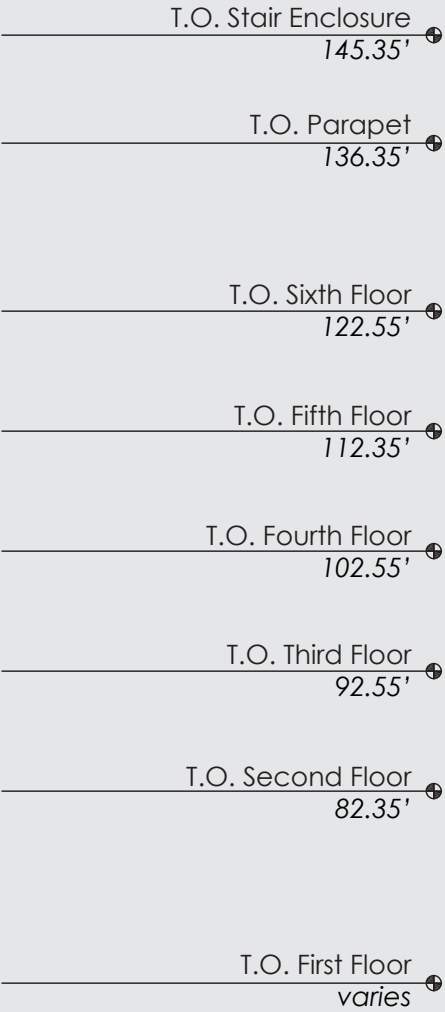
Exterior Elevation - South (E Burnside Street)

Exhibit I



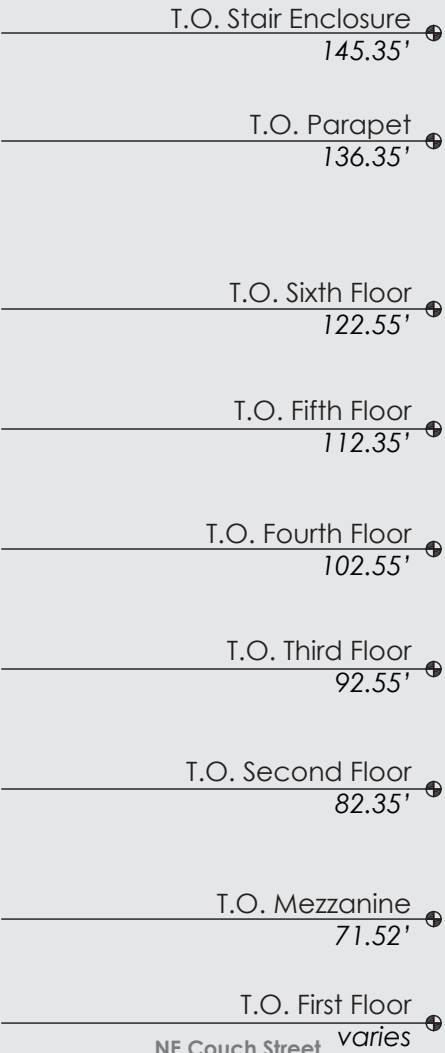
Exterior Elevation - East (NE Grand Avenue)

Exhibit J



Exterior Elevation - West (NE MLK Jr. Boulevard)

Exhibit K



Enlarged Plan - Ground Floor Arcade

Exhibit L

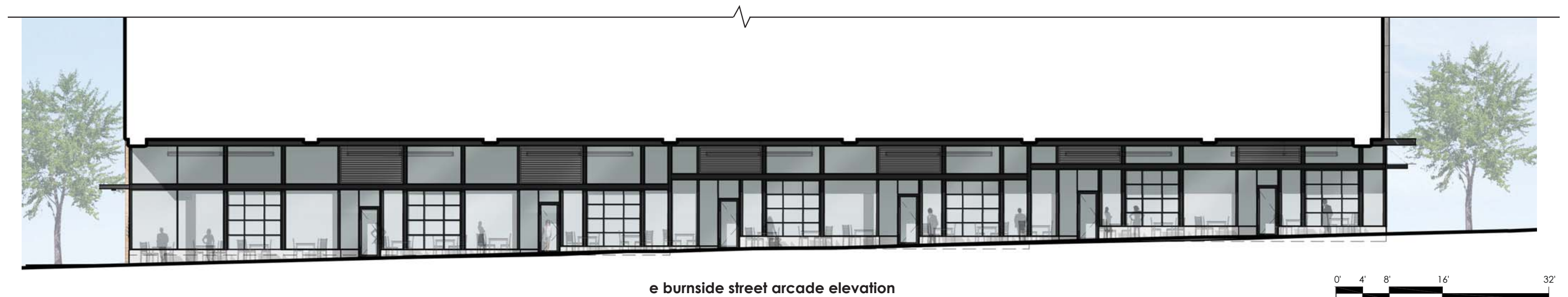
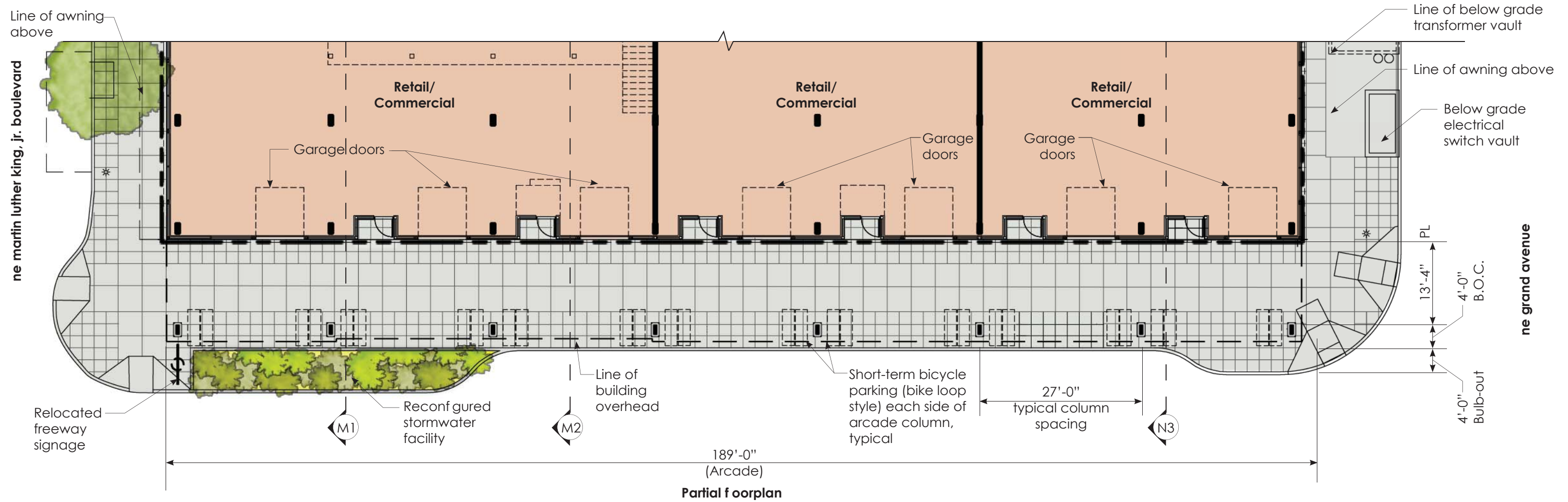
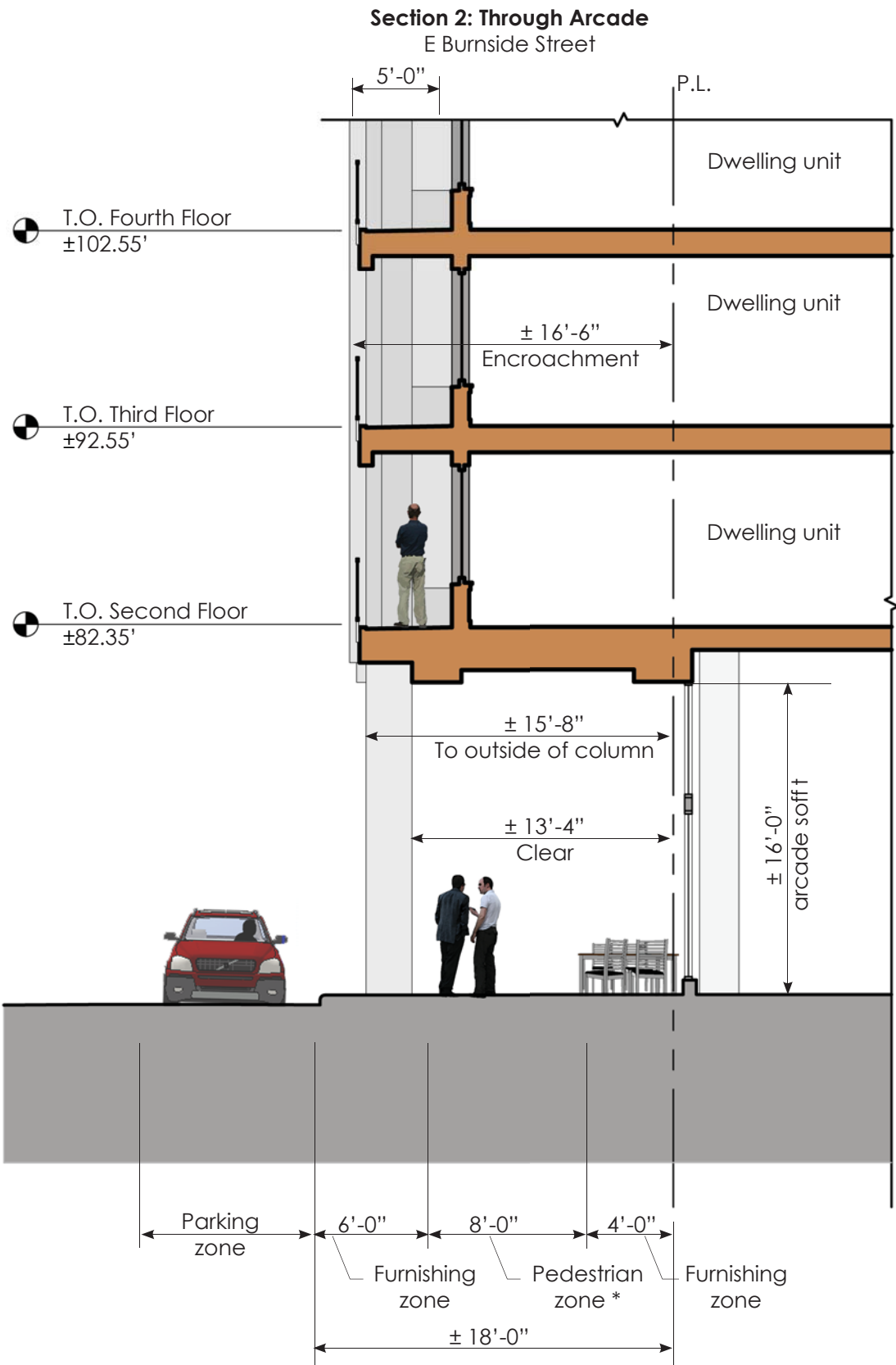
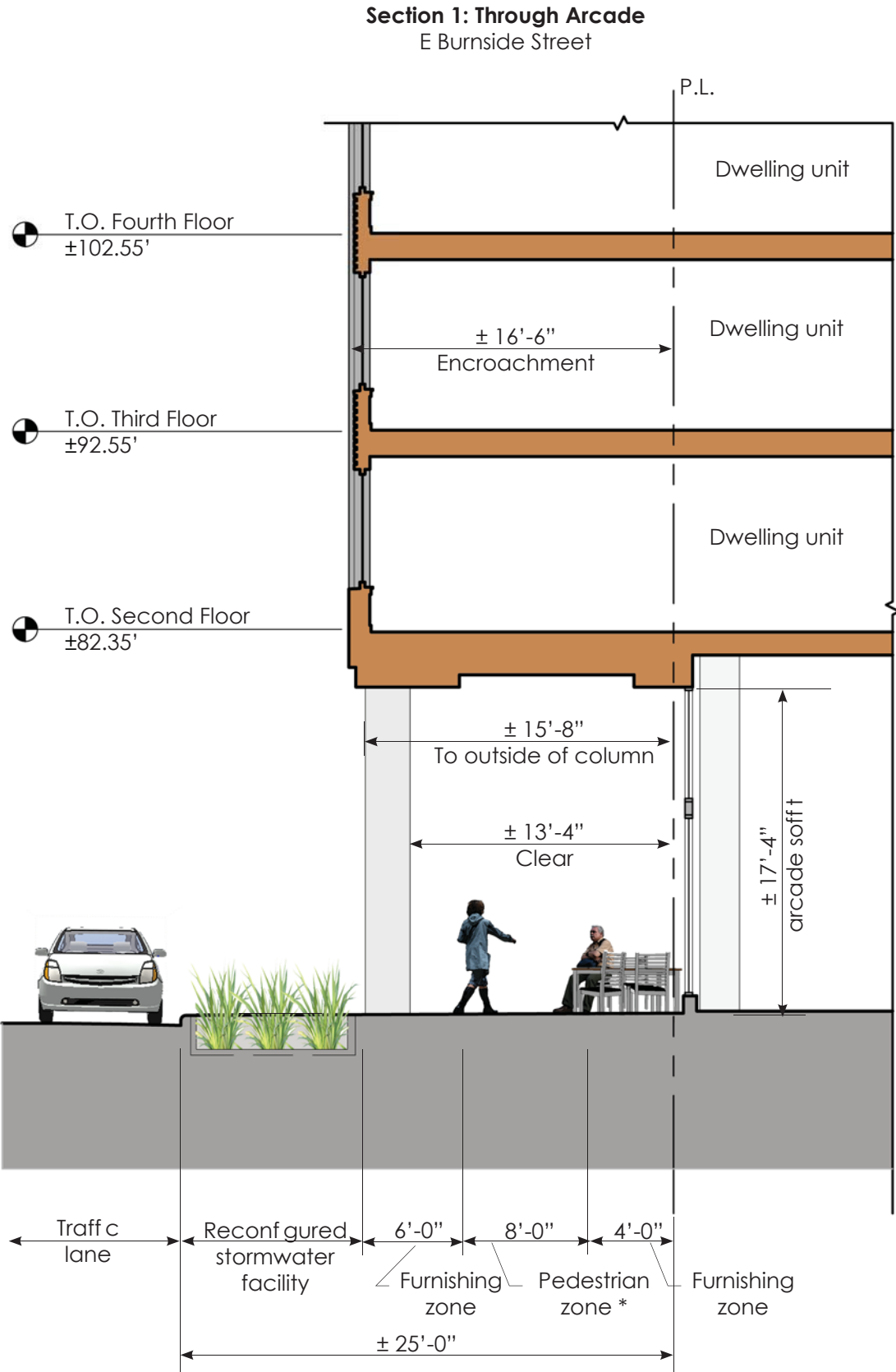


Exhibit M

Section Diagrams - Ground Floor



* Pedestrian zone: 8'-0" min. requirement.

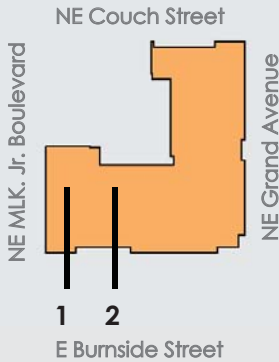
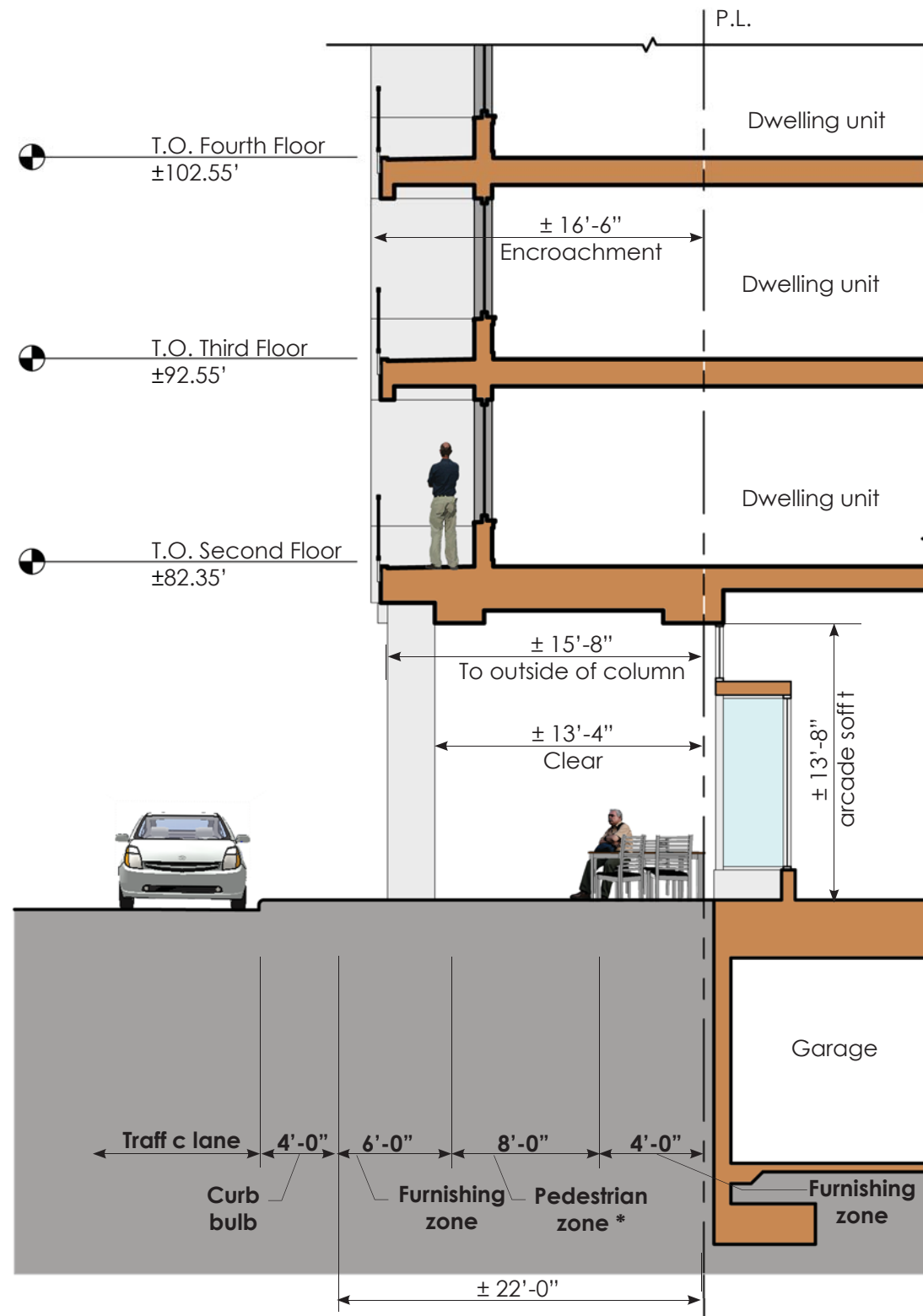


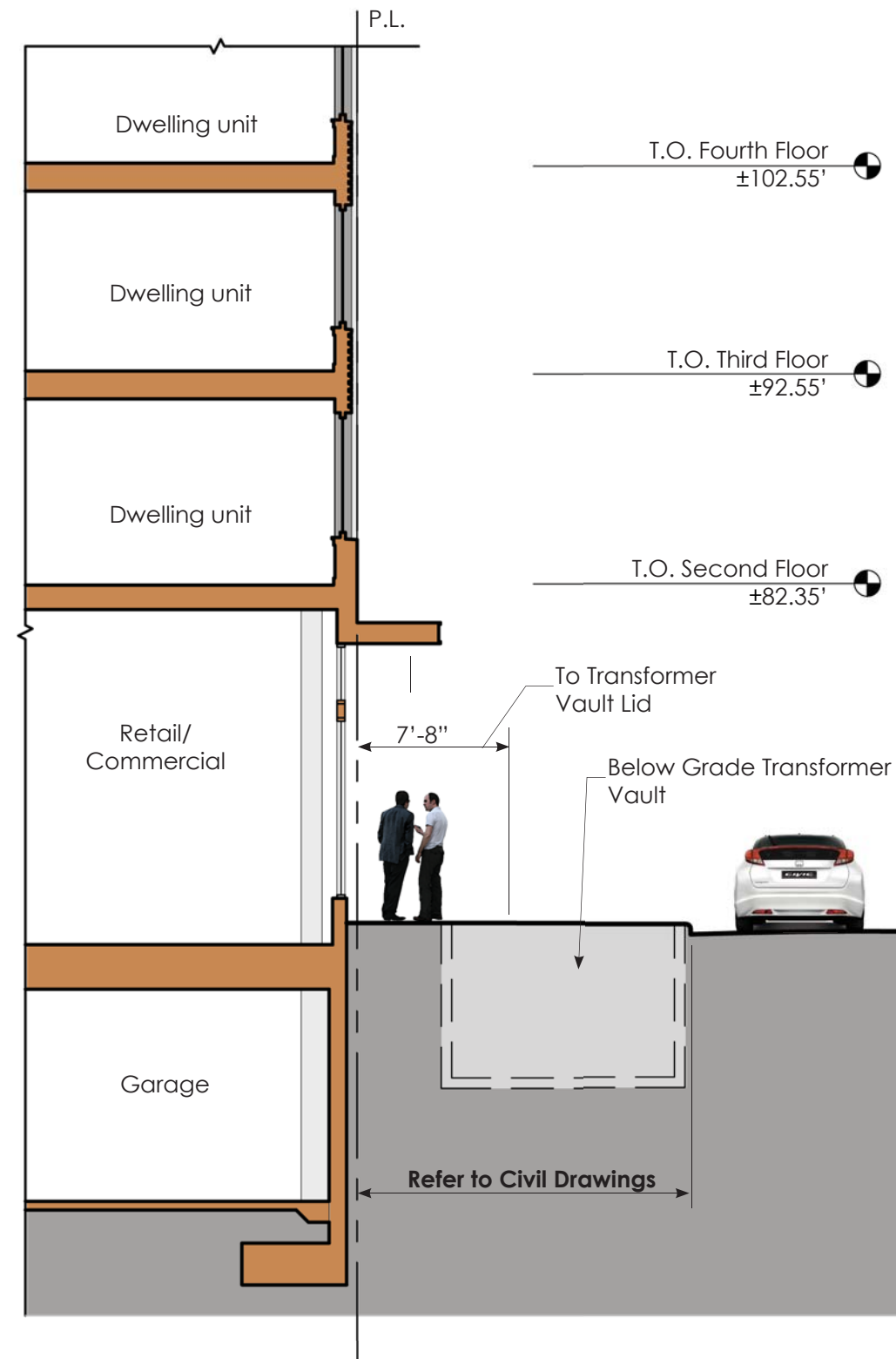
Exhibit N

Section Diagrams - Ground Floor

Section 3: Through Arcade
E Burnside Street



Section 4:
NE Grand Avenue



* Pedestrian zone: 8'-0" min. requirement.

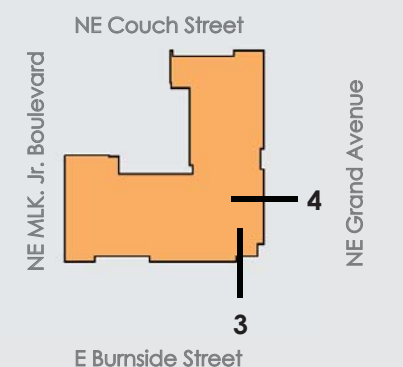


Exhibit O

Exterior Cutaway / Arcade Perspectives



Arcade View From West



Arcade View From East



Cutaway Perspective - Arcade