



# STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: October 21, 2021

**PLANNER:** Stephanie Roxas, Senior Planner

**SUBJECT:** **Short Term Apartment Rental 21-162 – Bennett STAR**, a request to establish a short-term apartment rental within an existing three-unit multi-family building. The proposal would convert Unit A and Unit B into short-term rentals for overnight accommodations less than 30 days. Unit C would be occupied by a full-time, on-site property manager.

**LOCATION:** 119 E. Mariposa

**ZONING:** Residential Medium (RM) Zoning District

**PROJECT SUMMARY:**

- The site is a 4,470 square-foot lot with a 3,192 square-foot multi-family structure built in 1972. The site is located within the Residential Medium (RM) zoning district, outside of the permitted zone for Short-Term Lodging Units (STLU). The site is developed with a two-story, three-unit apartment building. The property includes three one-car garages with a tandem driveway space corresponding to each garage. Figure 1 illustrates the existing site conditions. The neighborhood contains a mixture of multi-family and single-family residences ranging in height from one- to two-story structures. The property abuts a historic resource located at the rear at 126 E Escalones.

**Figure 1 – Existing Site Conditions**



- The Zoning Ordinance defines a short-term apartment rental (“STAR”) as a type of STLU that is a multi-family-dwelling structure on a single parcel, under single ownership, where some or all individual units are rented as STLUs and where the STAR owner [or the owner’s property manager] lives on-site in one of the other units not being rented short term. Furthermore, Zoning Ordinance Chapter 17.32 permits a STAR to be located in all residential zones where general STLUs are not permitted, subject to approval of a STAR Permit processed in accordance with Section 17.16.146.
- The property owner, Jordan Bennett, requests a STAR Permit to convert an existing three-unit multi-family building into two short-term rental units (Unit A and Unit B) for rentals less than 30 days, and a manager’s unit (Unit C) to house the full-time, on-site property manager.
- One of the proposed STARs (Unit A) is located on the ground floor and contains three bedrooms, two bathrooms, and a private outdoor patio. The applicant states the maximum occupancy would be six adults and two children. The second proposed STAR (Unit B) is located on the upper floor facing the street and contains two bedrooms, one bathroom, and a small balcony. The maximum occupancy would be four adults and two children.
- Staff believes the required findings can be made to approve the project, as set forth in the Findings of the attached Resolution, because:
  - The proposed STAR units are well-situated near several of the City’s main attractions. The property is located approximately 600 feet west of the Downtown district boundaries (as defined by the Zoning Ordinance). The closest beach access trail off West Mariposa is located within a 12-minute walking distance from the property. The property is also located within a 5-minute driving distance from both the Casa Romantica Cultural Center and Ole Hanson Beach Club. The proposed STARs support the City’s visitor-serving land use and development policies in that it would expand the City’s inventory of overnight accommodations and convert a private residential development into a visitor-serving commercial use. Additionally, the proposed STAR units would provide diverse lodging options to families seeking larger overnight accommodations than typical hotel rooms. Therefore, the project is consistent with the City’s General Plan and Local Coastal Program (LCP) Land Use Plan (LUP).
  - Zoning Ordinance Section 17.28.292.(D) provides additional operating standards for STARs. It states: “A STAR owner or the owner’s trained and qualified property manager must operate the STAR and must sleep within a habitable room in a unit on the property every night that a unit in the STAR is rented for short-term lodging purposes.” In Attachment 2, the applicant provides a narrative letter summarizing the on-site manager’s qualifications and how the proposed STAR units would be managed to address issues should they arise, such as noise or parking. The owner is a local resident with property management experience.
  - The property is located in a neighborhood appropriate for short-term lodging units. The existing triplex is consistent with the density of the RM zoning district. East Mariposa is a two-way street with easy vehicle access to El Camino Real and the I-5 freeway. Two parking spaces are allocated to each unit (one garage and one uncovered space) to sufficiently accommodate the anticipated parking demand.

- Zoning Ordinance Section 17.28.292.(F), requires the following location setback: “A STAR must be located at least 300 feet from every other STAR or STLU. This distance shall be measured by following a straight line without regard to intervening buildings from the nearest point of the parcel on which the proposed STAR is to be located to the nearest point of the parcel from which the proposed STAR is to be separated.” The existing STLUs located closest to the project site are at the following addresses: 132 Avenida Miramar (approx. 1,057 feet from property), 127 W Mariposa (approx. 1,135 feet from property), and 128 W Escalones (approx. 1,249 feet from property). These STLUs were legally established prior to the adoption of the City’s STLU Ordinance and are located outside of the allowed STLU zones; the City granted an amortization extension to these STLUs to continue operating through the year 2026. The proposed STAR units complies with the City’s location setback requirements and will not create a concentration of short-term rentals in a given area. A map illustrating the nearby STLUs and allowed STLU zones is provided as Attachment 3.
- The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) because the project involves the establishment of a short-term apartment rental within an existing three-unit building.

### **RECOMMENDATION**

Staff recommends that the Zoning Administrator:

1. Determine the project is Categorically Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution ZA 21-027, approving Short Term Apartment Rental 21-162, Bennett STAR, subject to attached conditions of approval.

### ***Attachments:***

1. Resolution ZA 21-027  
Exhibit A - Conditions of Approval
2. Applicant’s Project Narrative
3. Location Map
4. Plans
5. Site Photos

RESOLUTION NO. ZA 21-027

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING SHORT-TERM APARTMENT RENTAL (STAR) 21-162, BENNETT STAR, TO ESTABLISH A SHORT-TERM APARTMENT RENTAL, COMPRISED OF TWO SHORT-TERM RENTALS (UNITS A & B) AND ONE MANAGER'S UNIT (UNIT C) LOCATED AT AT 119 E. MARIPOSA

WHEREAS, on July 8, 2021, an application was submitted by Jordan Bennett, 119 E Mariposa, San Clemente, CA 92672, for Short Term Apartment Rental (STAR) 21-162, and deemed complete on September 13, 2021; a request to establish a short-term apartment rental within an existing three-unit multi-family building. Unit A and Unit B would be converted into short-term rentals for overnight accommodations less than 30 days, and Unit C would be occupied by an on-site property manager. The site is addressed at 119 East Mariposa (APN 057-156-29). The site's legal description is N TR 793 BLK 4 LOT 16; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). This is recommended because the project involves the conversion of three existing long-term apartment units into two short-term rentals and one manager's unit; and

WHEREAS, in accordance with City and State requirements, notice of the public hearing was published in the *San Clemente Times* newspaper on October 7, 2021, posted at the project site, and mailed to all property owners within 300 feet of the subject parcel; and

WHEREAS, on October 21, 2021, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

## Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This exemption covers, but is not limited to, interior or exterior alterations, additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. Here, the proposed project involves the conversion of three existing long-term apartment units into two short-term rentals and one manager's unit, within a developed residential neighborhood, and will not increase the floor area of the structure by more than 50 percent of the existing floor area, or more than 2,500 square feet. The project does not increase or otherwise change the existing use of the site. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonably possibility of a significant effect on the environment. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. Thus, the Class 1 exemption applies, and no further environmental review is required.

## Section 3. Short-Term Apartment Rental Permit Findings

With respect to Short-Term Apartment Rental Permit (STAR) 21-162, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a STAR permit and complies with all the applicable provisions of this title, the San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed.
  1. The proposed STAR units are well-situated near several of the City's main attractions. The property is located approximately 600 feet west of the Downtown district boundaries (as defined by the Zoning Ordinance). The closest beach access trail off West Mariposa is located within a 12-minute walking distance from the property. The property is also located within a 5-

minute driving distance from both the Casa Romantica Cultural Center and Ole Hanson Beach Club. The proposed STARs support the City's visitor-serving land use and development policies in that it would expand the City's inventory of overnight accommodations and convert a private residential development into a visitor-serving commercial use. Additionally, the proposed STAR units would provide diverse lodging options to families seeking larger overnight accommodations than typical hotel rooms. Therefore, the project is consistent with the City's General Plan and Local Coastal Program (LCP) Land Use Plan (LUP).

- B. The site is suitable for the type and intensity of use that is proposed.
  - 1. The property is located in a neighborhood appropriate for short-term lodging units. The existing triplex is consistent with the density of the RM zoning district. The neighborhood contains a mixture of multi-family and single-family residences ranging in height from one- to two-story structures.
  - 2. The proposed STAR units are well-situated near several of the City's main attractions, including the beach, Downtown, Ole Hanson Beach Club and Casa Romantica. Visitors staying at the proposed STARs would be located in close proximity to these sites, thereby encouraging alternate modes of transportation (i.e., walking and biking).
- C. The proposed use will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity.
  - 1. As required by the Zoning Ordinance, Unit C would be occupied by a full-time, on-site property manager. The manager would be responsible for maintaining the premises and addressing any concerns raised by the short-term tenants or neighbors, such as noise, parking, and trash. A condition is included requiring the property manager to be adequately trained to address tenant issues. Furthermore, a condition is included requiring the property manager to resolve issues directly, to the greatest extent feasible, in order to minimize expending City staff resources. As conditioned, the proposed STAR units would not be detrimental to the public health, safety, or welfare.
  - 2. East Mariposa is a two-way street with easy vehicle access to El Camino Real and the I-5 freeway. Two parking spaces are allocated to each unit (one garage and one uncovered space) to sufficiently accommodate the anticipated parking demand.
- D. The proposed use will not negatively impact surrounding land uses.
  - 1. Zoning Ordinance Section 17.28.292.(F), requires the following location setback: "A STAR must be located at least 300 feet from every other STAR or STLU. This distance shall be measured by following a straight line without

regard to intervening buildings from the nearest point of the parcel on which the proposed STAR is to be located to the nearest point of the parcel from which the proposed STAR is to be separated.” The existing STLUs located closest to the project site are at the following addresses: 132 Avenida Miramar (approx. 1,057 feet from property), 127 W Mariposa (approx. 1,135 feet from property), and 128 W Escalones (approx. 1,249 feet from property). These STLUs were legally established prior to the adoption of the City’s STLU Ordinance and are located outside of the allowed STLU zones; the City granted an amortization extension to these STLUs to continue operating through the year 2026. The proposed STAR units complies with the City’s location setback requirements and will not create a concentration of short-term rentals in a given area.

2. The property is located in a neighborhood appropriate for short-term lodging units. The existing triplex is consistent with the density of the RM zoning district. The neighborhood contains a mixture of multi-family and single-family residences ranging in height from one- to two-story structures.
- E. The use meets the minimum operating and development standards of Subsections 17.28.292.E. and F.
1. Zoning Ordinance Section 17.28.292.(D) states: “A STAR owner or the owner’s trained and qualified property manager must operate the STAR and must sleep within a habitable room in a unit on the property every night that a unit in the STAR is rented for short-term lodging purposes.” The applicant provided a narrative letter, attached to the staff report, summarizing the on-site manager’s qualifications and how the proposed STAR units would be managed to address issues should they arise, such as noise or parking. The owner is a local resident with property management experience.
  2. The applicant submitted application materials demonstrating compliance with all operating standards for STLUs, as well as additional standards for STARs. This includes maintaining vacation rental insurance, prohibiting parties, and setting a maximum occupancy limit.
- F. The STAR qualifies for an STLU operating license pursuant to Chapter 3.24.
1. A condition of approval is included requiring the owner to obtain a STLU operating license prior to use of the property for short-term lodging.

#### Section 4. Zoning Administrator Approval

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Short-Term Apartment Rental (STAR) 21-162, Bennett STAR, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on October 21, 2021.

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Cecilia Gallardo-Daly, Zoning Administrator



CONDITIONS OF APPROVAL  
SHORT-TERM APARTMENT RENTAL 21-162  
BENNETT STAR

**1.0 GENERAL CONDITIONS OF APPROVAL**

- |     |   |                   |
|-----|---|-------------------|
| 1.1 | Within 30 days of receipt of the signed conditions of approval, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City, unless an extension is granted by the City Planner.  | Planning          |
| 1.2 | The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning          |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180.  | Planning          |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws.  | All               |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. The STAR owner shall post a copy of the house rules (including maximum number of guests and parking rules) in a conspicuous place in the STAR units.  | Code<br>Comp<br>* |
| 1.6 | STAR 21-162 shall become null and void if:<br>a) there is a change of ownership as defined in the Municipal   | Planning<br>*     |

Code for STAR units; or

- b) the STAR use is not commenced within one (1) year from the later of: 1) the date of the approval thereof. Since the use itself does not require the issuance of a building permit, the use shall not be deemed to have commenced until the date the use becomes operational. [Citation - Section 17.12.150.A.1 of the SCMC]

- 1.8 Prior to operating the short-term rentals, the owner shall obtain a Short-Term Lodging Unit (STLU) Operating License through the Business License Division. License issuance and renewals shall occur pursuant to Municipal Code Chapter 3.24. Finance  
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- 1.9 Prior to initiating any improvements to the exterior building or site, the applicant shall submit, and obtain approval for, a Staff Waiver of a Minor Cultural Heritage Permit (SW MCHP). The application shall be reviewed to ensure the improvements would not adversely impact the adjacent historic resource at 126 E Escalones. Planning  
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- 1.10 Parking for any STAR Unit is limited to the available parking on site. Each of the two units has been allocated one garage space and one driveway parking space. The owner and property manager shall work to ensure that guests bring a maximum of two vehicles to the property, which may include informing guests of the parking limitation on advertising materials. Planning  
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**7.0 OPERATIONAL CONDITIONS OF APPROVAL**

- 7.17 The owner shall prepare and submit to the City a quarterly tax return, on forms provided by the Finance and Administrative Services Department, stating the total rents charged and received and the amount of the transient occupancy tax (TOT) collected the previous quarter. Taxes shall be remitted within 30 calendar days of the end of each quarterly period as set forth in San Clemente Municipal Code 3.24.070. The owner shall timely submit the filing whether or not the STLU was rented during the reporting period and TOT was collected. Failure to file required quarterly tax returns may result in the revocation of STAR Permit No. 21-162. Finance  
\*\*
- 7.18 Unit C shall be occupied by a full-time on-site property manager, and shall not be rented to short-term tenants. The owner shall be responsible for ensuring the property manager is adequately trained and qualified to address tenant issues and any complaints raised from the neighbors. The property manager shall be the first point-of-contact for any complaints about the condition, operation, or conduct of short-term renters and their guests. Planning  
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- 7.19 The owner shall provide 24-hour contact information for the property manager to the City and all neighbors (including property owners and tenants) within 300 feet of the property. The notice shall inform individuals that any complaints should be directed to the property manager prior to contacting the City and/or OCSD. Planning  
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- 7.20 The STAR units shall only be used for overnight lodging. The units shall not be used for a wedding, bachelor or bachelorette party, other party conference, or any other similar event. Planning  
\*\*
- 7.21 The Owner shall use their best judgment and best management practices to ensure activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The owner shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Owner hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, "It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval," and any subsequent revision of this section of the code. *[Citation - Section 8.52.030(Y) of the SCMC]* Code  
Comp  
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- 7.22 The Owner acknowledges that the City reserves the right to request access to the STAR units, or to records related to the use and occupancy of the units, for the purpose of inspection or audit to determine that the objectives and conditions of this permit are being fulfilled. On such request, the Owner shall provide access to the City during normal business hours. Code  
Comp  
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### Project Narrative

The objective of the project is to convert two of the existing three units into short term rentals. The property manager will live in unit C, which is the back, upstairs unit (furthest from the street). This unit will monitor the activities of the other two units (the front unit and the downstairs unit). Both upstairs units (units B in the back and C in the front) are two bed, one bath units. The downstairs unit (unit A) is a three bed, two bath unit, with its own private patio. I live locally and would like to have use of the property as a short-term vacation location for my family and I as one of the primary benefits of the project. Also, since I live close by, I can carefully monitor the property and oversee its usage. Of course, with a property management in the upper back unit (unit C), the property will be carefully managed and maintained.

Per the zoning ordinance, the tenant in unit C (the upstairs back unit), has been prepared to be the manager of the vacation rental units once this process is formally approved by the city. I run a property management business myself, managing over 60 tenants, and as such, know what is required to successfully manage a building. The tenant also has some experience in addressing tenant issues as they come up and will be trained on the following: effective tenant communication, move in and move out requirements, noise restrictions, parking rules and regulations, capacity limits, coordination of repairs and maintenance, and assisting with the managing of bookings.

Specifically, the two units that are being converted into short term rentals are unit A, the lower unit in the building AND unit B, the upstairs, street facing unit. The occupant in unit C (upstairs back unit) that will be managing the other two units is Nayeli Pedraza and can be reached at [Pedraza\\_nayeli@yahoo.com](mailto:Pedraza_nayeli@yahoo.com).

The maximum occupancy for upstairs unit B would be four adults and two children, since there are two bedrooms. The maximum occupancy for downstairs unit A would be 6 adults and 2 children since it is a three-bedroom unit.

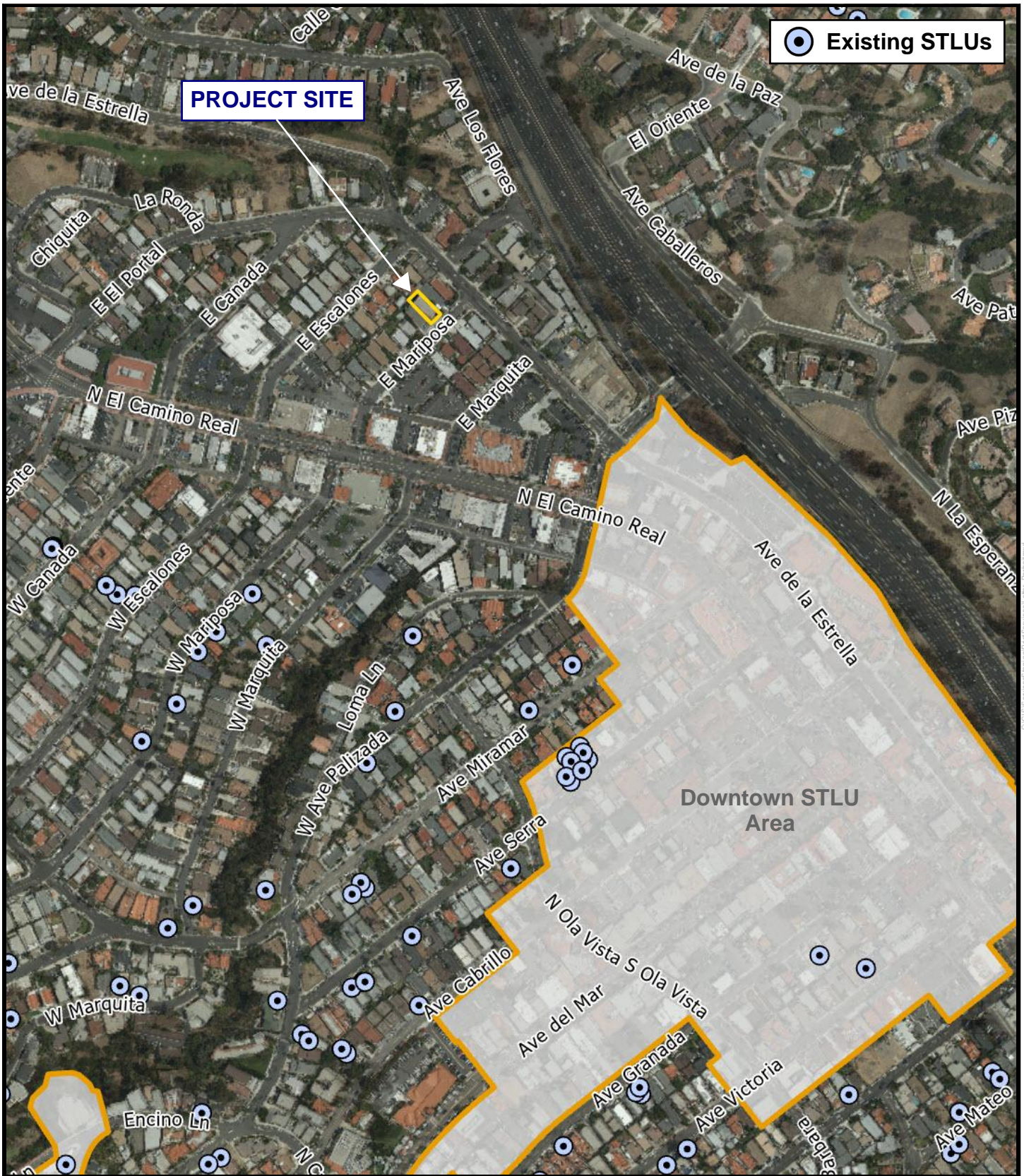
Regarding parking, guests will be allotted one parking space in the garage and another in the driveway. I've found from managing vacation rentals elsewhere that on these sized unit, we normally are only accommodating one vehicle or occasionally two. We do not intend to allow guests and additional parking.

Regarding the question about check-in/check-out, depending on the requirements of the city, we can facilitate either a contactless exchange using an electronic keypad OR we can facilitate an actual handoff of keys through the onsite property manager. At checkout, the same would be the case.

The house rules for the short-term units would follow what would be expected by the city, including, but not limited to the following:

- Parking per city regulation, one car in garage and one in driveway
- No smoking
- No storage outside the confines of the unit
- No noise or music after 10pm
- No parties
- No pets without previous approval
- No trash or debris to be left outside of the property (can be enforced with fines)

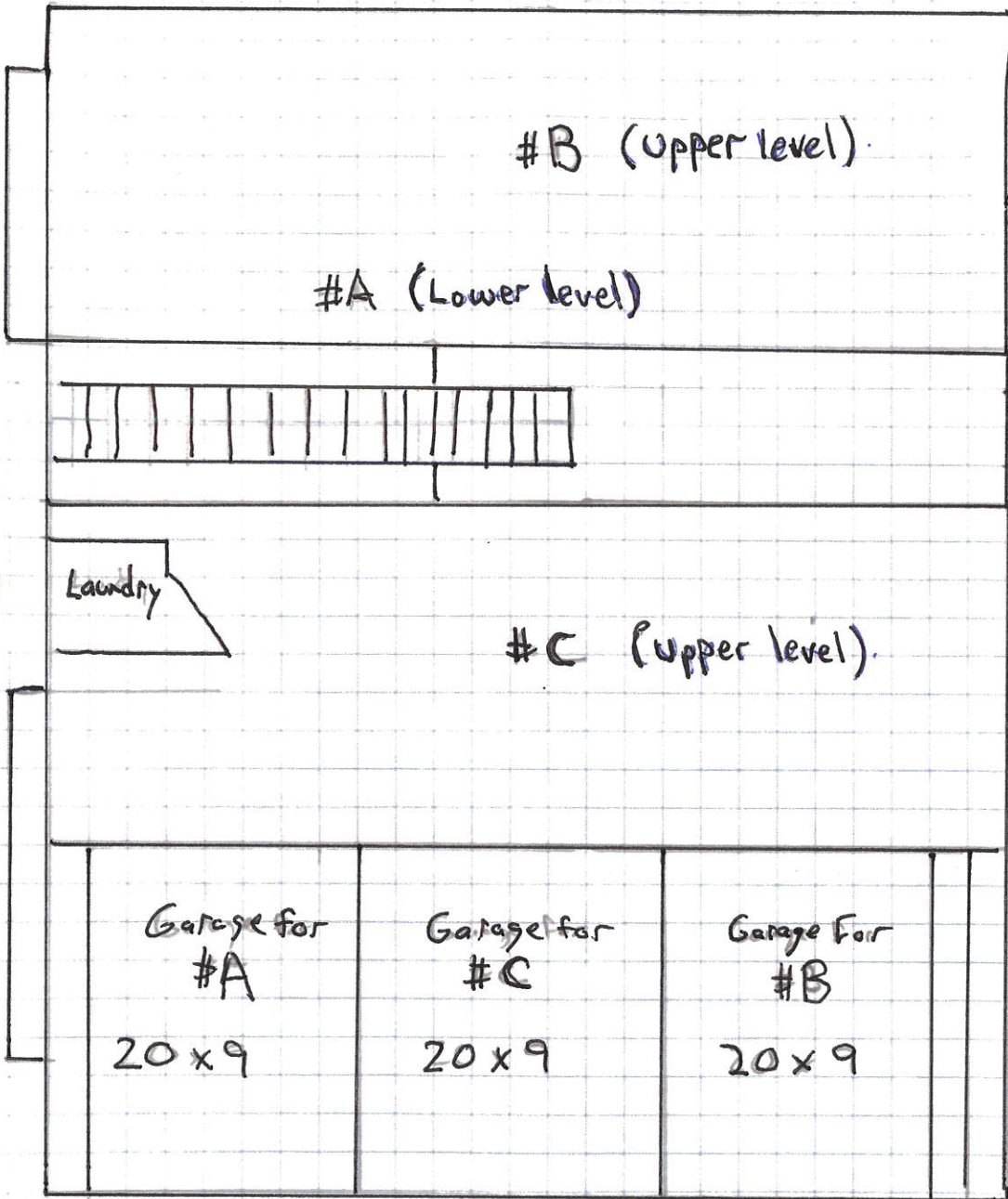
Any complaints will be made first to the onsite property manager that will then be passed on to my team and I to address personally. The onsite property manager is the first line of defense, but I also have staff that work on our personal property management team that can address anything that requires anything beyond what would be considered simple.



**Bennett STAR**  
**Short Term Apartment Rental**  
**Application No. STAR 21-162**

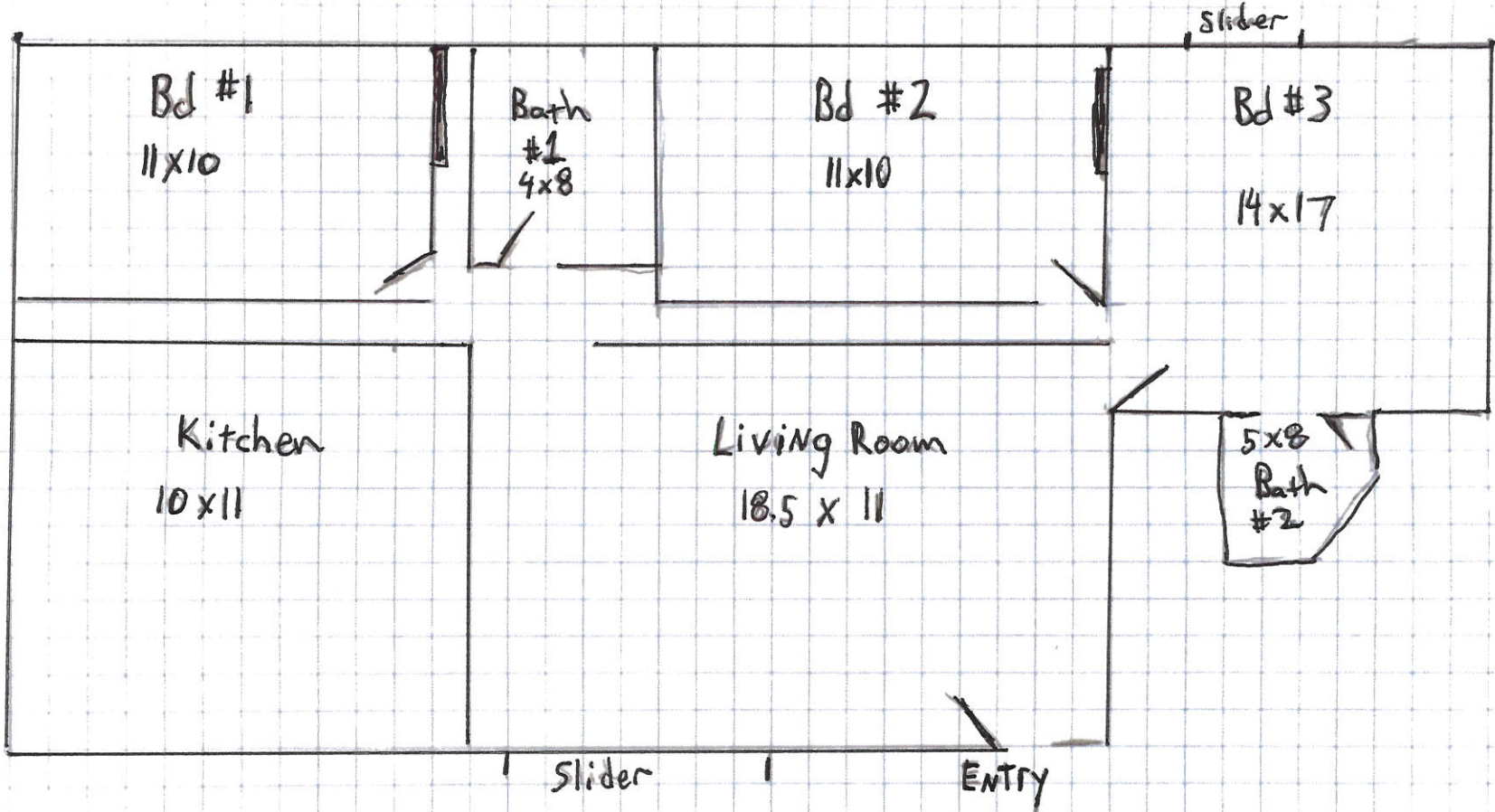
**119 E. Mariposa**  
**San Clemente, CA 92672**

119 E. Mariposa Overview  
Site Plan.



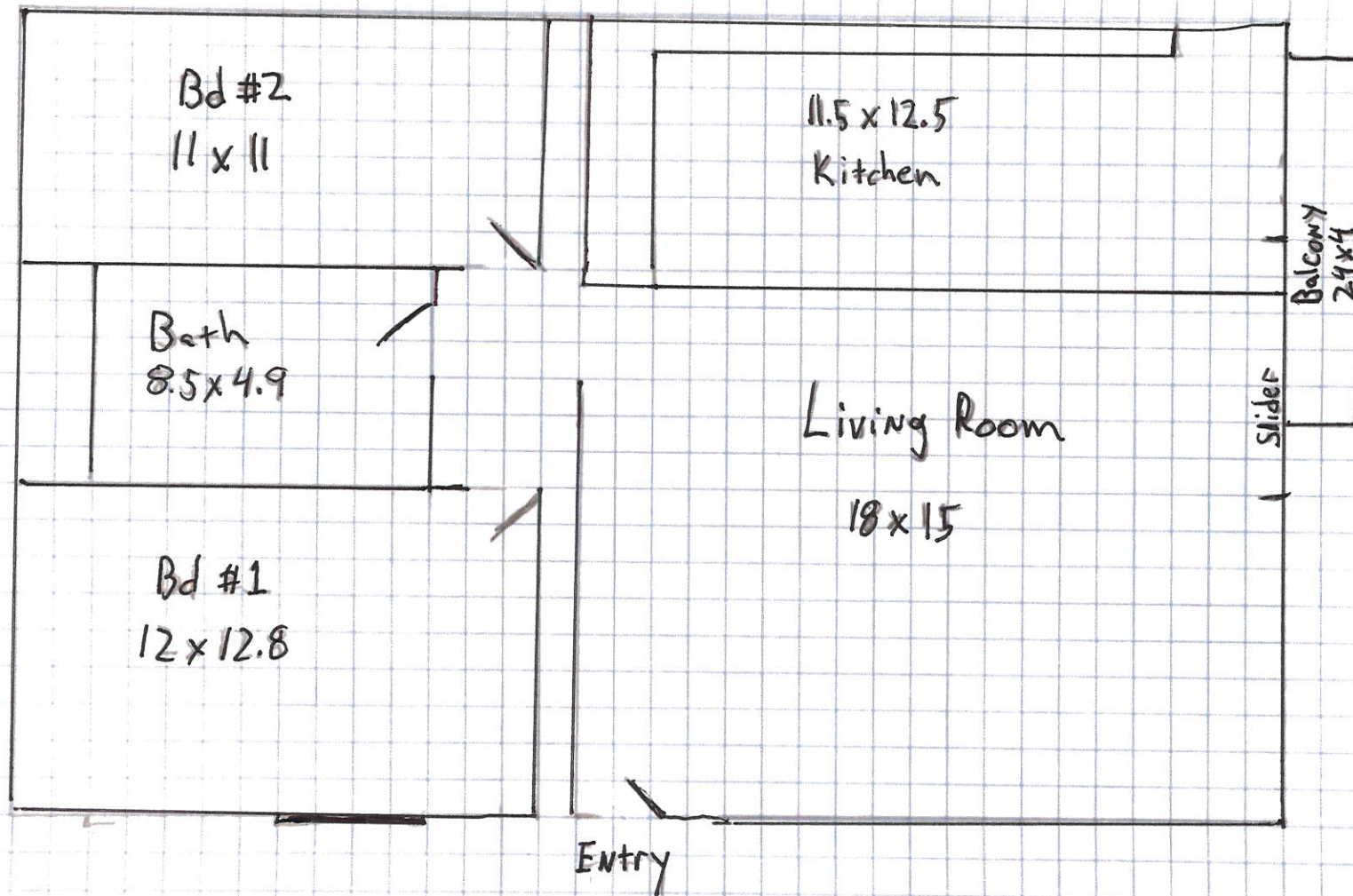
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# A

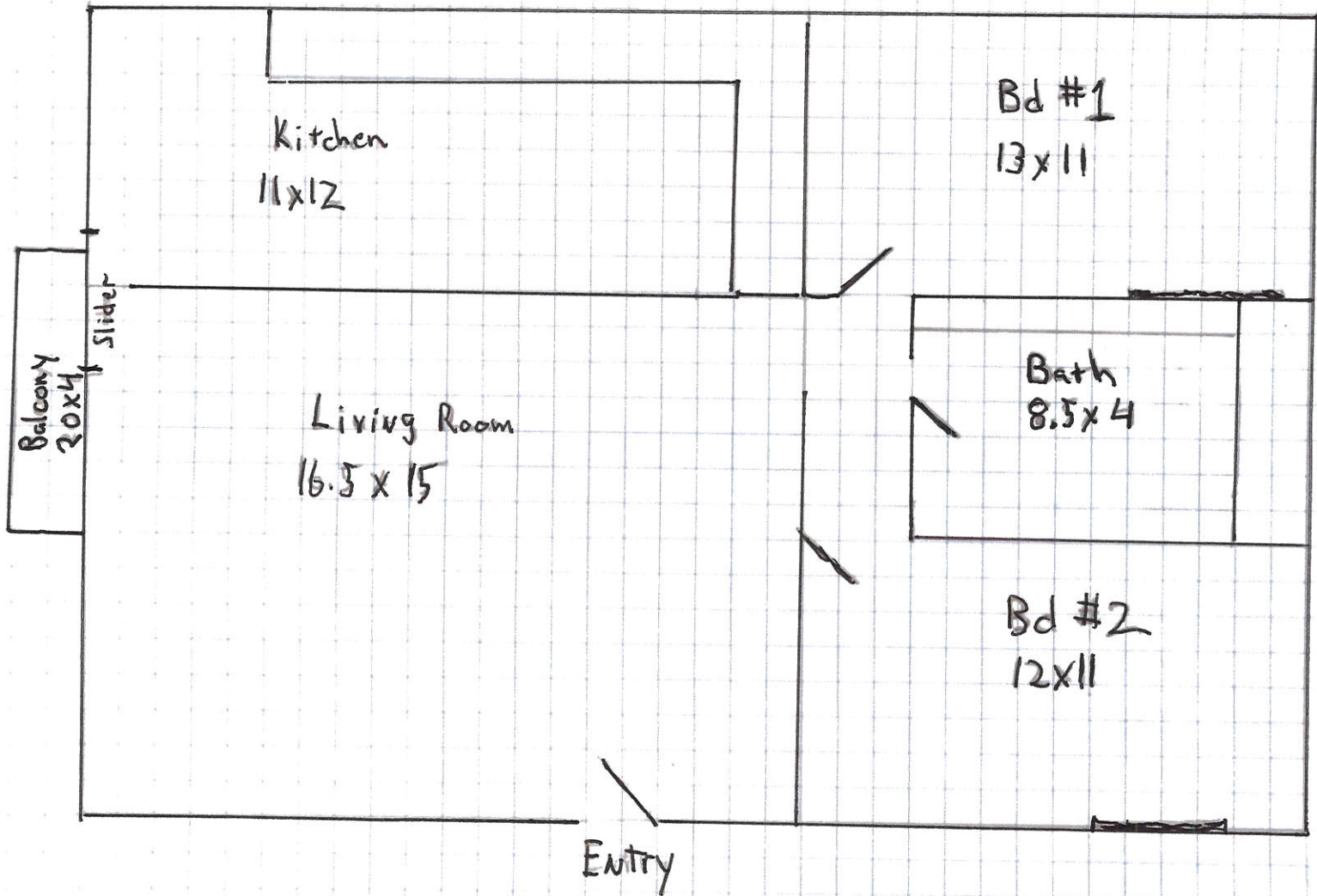




119 E Mariposa #B



119 E Mariposa # C

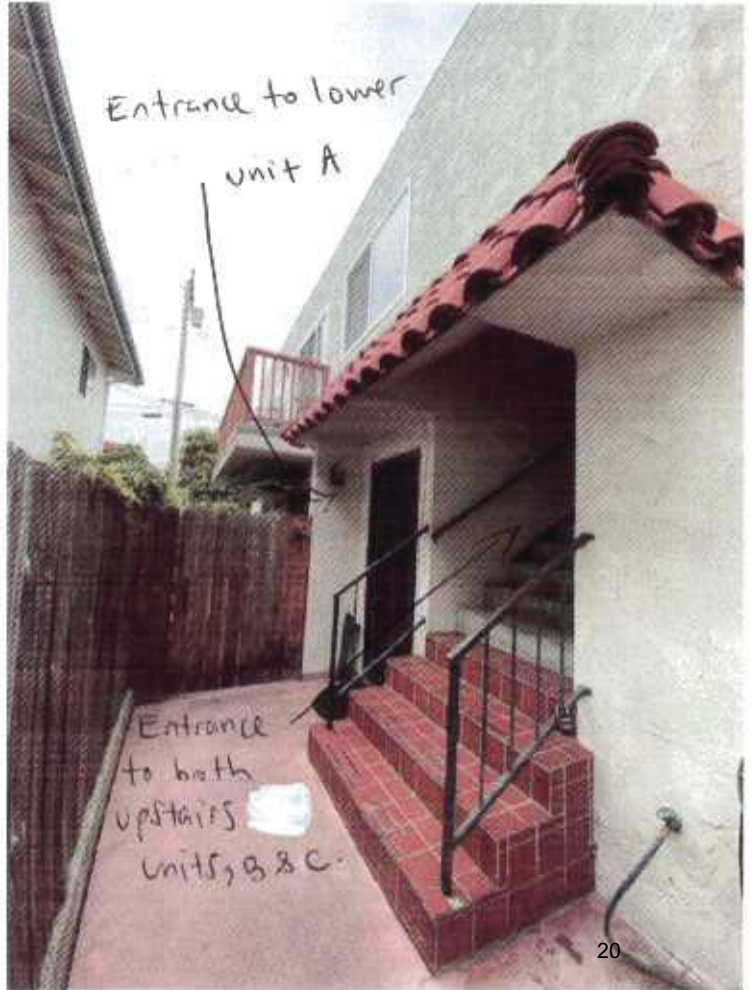


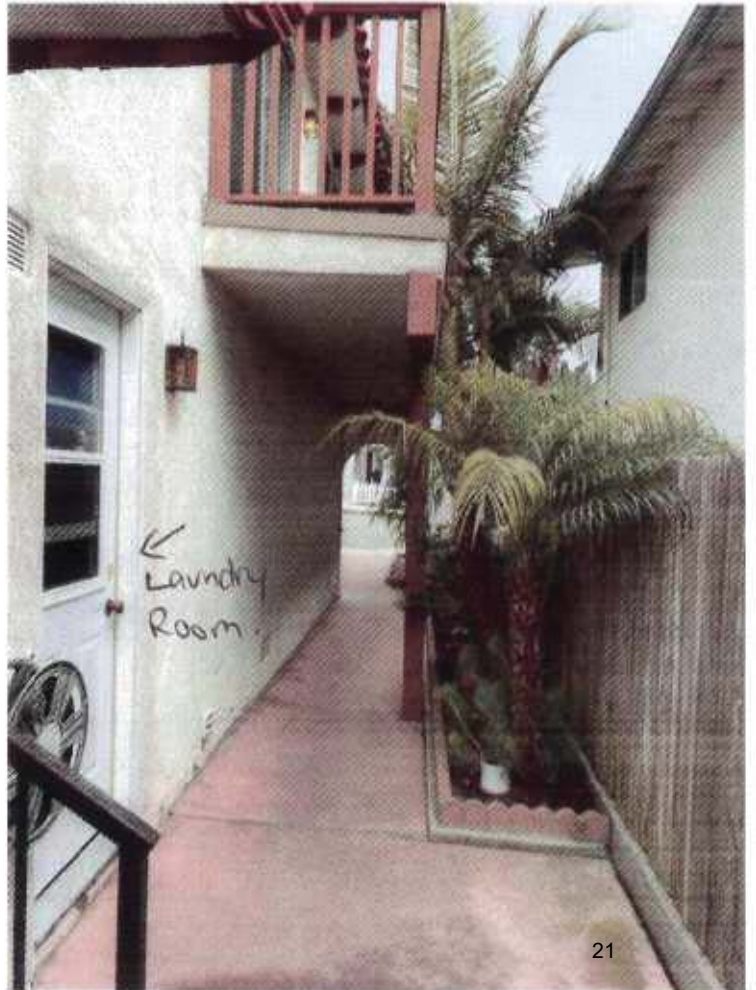
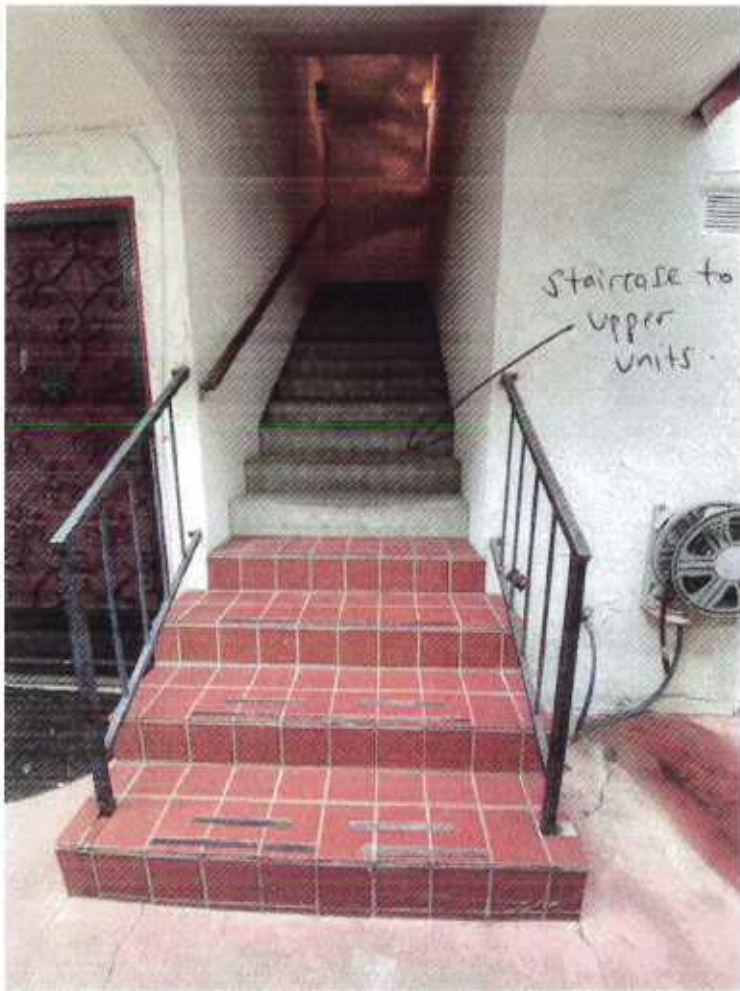
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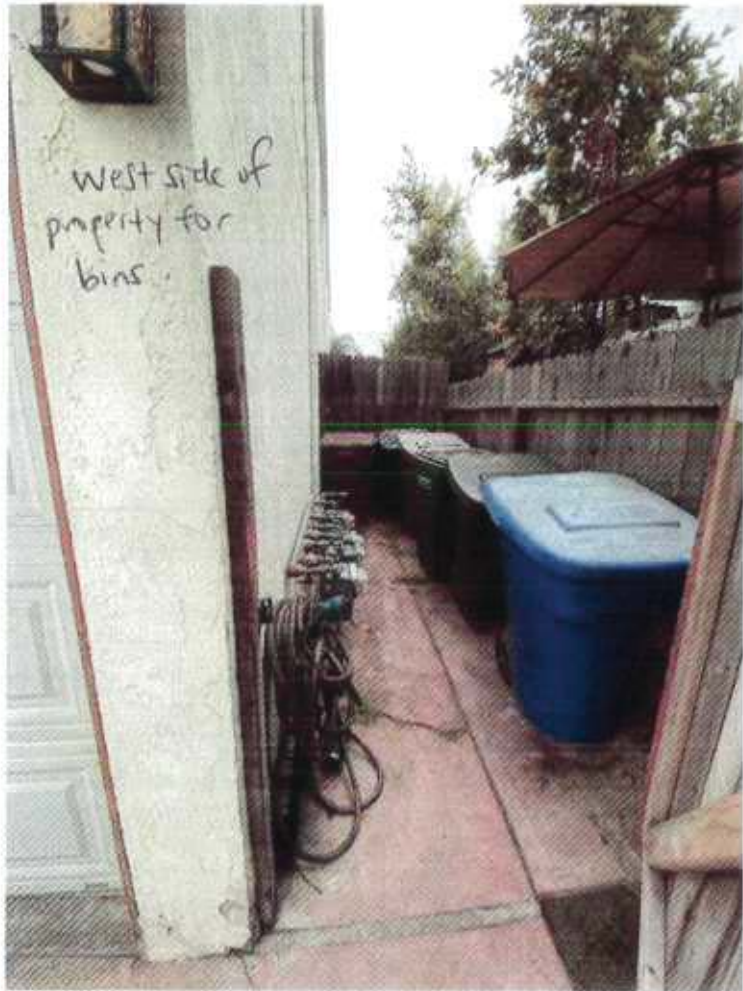


Front view













119 E Mariposa Unit C

UNIT C - MANAGER'S UNIT





119 E Mariposa Unit B.

UNIT B - SHORT-TERM RENTAL (2 BEDROOMS, 1 BATH)



UNIT A - SHORT-TERM RENTAL (3 BEDROOMS, 2 BATH)

119 E Mariposa Unit A



119 E Mariposa Unit A