



Planning and Zoning Board
Jarvis Hall 4505 N. Ocean Drive 33308

Planning and Zoning Board

Planning and Zoning Board

Wednesday, July 7, 2021, 6:00 PM
Jarvis Hall 4505 N. Ocean Drive 33308

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. APPROVAL OF MINUTES

3.a. Minutes 06.02.2021

[PZ 2021 06.02.21 \(JUNE\) - Minutes \(Nonapproved\).docx](#)

4. PUBLIC COMMENTS

5. TOWN PLANNER REPORT

6. NEW BUSINESS

- 6.a. REQUEST- 2021-CU-01-Pursuant to Town Code Section 30-126, "Conditional Uses Review," the Applicant has requested Level 2 Conditional Use approval to construct a single-family dwelling unit in the RM-25 zoning district. ADDRESS: 4112 EL MAR DRIVE
[2021-CU-01 Conditional Use 4112 El Mar Staff Report FINAL.pdf](#)
[Ex 1 2021-CU-01 Application and description of request.pdf](#)
[Ex 2 2021-CU-01 Plan Set and Renderings.pdf](#)
[Ex 3 Correspondence.pdf](#)
[Ex 4 Letter re Lot Area 4-23-21.pdf](#)
[Ex 5 2021-CU-01 Conditional Use Section.pdf](#)

7. OLD BUSINESS

8. UPDATES/BOARD MEMBER COMMENTS

9. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for

distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Wednesday, June 2, 2021

1. CALL TO ORDER

Planning Technician Sydney Ramirez called the Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at approximately 5:00PM.

ROLL CALL

Members present were Ron Piersante, Charles Wayne Dillistin, Vice Chair Christina Buerosse, 1st Alternate Patricia Omana, and 2nd Alternate Karen Sylvester. The absentee members were Chair David Chanon and Alan Bluestein. Also present were Acting Development Services Director Jhanelle Campbell, Planning Technician Sydney Ramirez, and Town Attorney Chanae Wood.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Previous Planning & Zoning (P&Z) Meeting Minutes – March 3, 2021

Vice Chair Christina Buerosse called this agenda item and without objection, the Board unanimously approved the minutes of the March 3, 2021 virtual meeting without any changes.

4. PUBLIC COMMENTS

As there were no members of the public who wished to speak or comment on anything not specific to the items on the agenda, the Vice Chair closed this portion of public comments.

5. TOWN PLANNER REPORT

a. Development Services Report

Acting Development Services Director Jhanelle Campbell explained that the report showed what was happening now and what was coming down the pipeline. Wayne Dillistin asked about RM-25 lots and Ms. Campbell explained that they were lots less than 60' in width and west of and fronting Bougainvillea Drive in the RM-25 zoning district. She further clarified that this was residential zoning and these lots could not rent short-term. She answered that there were multi-family properties incorporated in this zone. Mr. Dillistin also wanted to know about Marina/230 Basin Drive and Ms. Campbell explained about a submittal for redevelopment of the site. Part of the request was to vacate a portion of the right-a-way and also a request to allocate flex units. She explained what flex units were and that she would do research regarding if there could be short-term rental for these flex units. She would have this information available when this item would be on a future agenda. Acting Development Services Director Campbell answered Ron Piersante that putting in part of the canal that they owned was not in this application. She answered him that a traffic study would be part of this application as he voiced concern regarding one lane of traffic.

Mr. Dillistin asked about 4412/4416 W Tradewinds (zoning relief). This was a request to run just the residential component of a substance abuse and treatment facility which was operational now.

This property has changed ownership and the zoning relief previously obtained was not transferable. Vice Chair Christina Buerosse asked about license renewal, how many facilities were located in the Town, and what types of services were provided (e.g., special needs, etc.) in L-B-T-S. Ms. Campbell explained and spoke about the L-B-T-S Business Tax Receipt (BTR) process. She answered that part of the requirement for this application was that people within 300 feet of the property must be noticed. Vice Chair Christina Buerosse suggested listing things like this on the Town's website or placing helpful links on the website. They spoke about the items on the report that would go directly to the Town Commission. Discussion ensued about allowing dogs in parks. The Vice Chair opened public comments but no one requested to speak and there were no other board questions and/or comments. She closed this agenda item.

6. NEW BUSINESS

a. Historic Preservation – County Changes to its Ordinance

Acting Development Services Director Jhanelle Campbell explained that in its newest amendment, Broward County required municipalities to become Certified Local Governments (CLG) by November 15, 2021 in order to maintain their own historic preservation ordinance or the municipality would be subject to the county's historic preservation ordinance. Since becoming a CLG would be a big undertaking and required much of staff's time, the Town Commission directed staff to draft an ordinance (Ordinance 2021-04) to repeal the Town's Historic Preservation Ordinance. To facilitate this, applicable Town Code provisions would have to be changed and references to historic preservation would have to be removed. This would all be done prior to the first reading of Ordinance 2021-04 and staff recommended approval of this ordinance. Ms. Campbell answered the Vice Chair that she was unsure why the county required CLG designation, if we maintained our own historic preservation ordinance. She further answered that since we established our own ordinance, there were no applications for historic designation. Ron Piersante named two properties that he thought were historic. The Vice Chair opened public comments but no one requested to speak and there were no other board questions and/or comments. She closed this agenda item.

Ms. Sylvester made a motion to recommend approval of Ordinance 2021-04 to the Town Commission. The motion was seconded by Mr. Dillistin. The motion carried 5-0.

7. OLD BUSINESS

8. UPDATES/BOARD MEMBER COMMENT

Jhanelle Campbell said that the next meeting would be July 7, 2021 and she discussed what would be on the agenda.

9. ADJOURNMENT

Mr. Dillistin made a motion to adjourn at approximately 5:26PM. The motion was seconded by Mr. Piersante. The motion carried 5-0.

Vice Chair Christina Buerosse

ATTEST:

Acting Development Services Director Jhanelle Campbell

Date Accepted: _____



Town of Lauderdale-by-the-Sea
Development Services Department

To: Planning and Zoning Board
From: Jhanelle Campbell, Acting Development Services Director
Date: June 8, 2021
Meeting Date: July 7, 2021
Project: Case Number 2021-CU-01: Conditional Use 4112 El Mar Drive to construct a single-family home in the RM-25 zoning district

The purpose of this memorandum is to provide findings and recommendations regarding the Conditional Use application (**Exhibit 1**) submitted to the Town of Lauderdale-by-the-Sea (the "Town") for a proposed single-family home to be located at 4112 El Mar Drive in the RM-25 zoning district (**Diagram 1**) (the "Property"). The Applicant, David Staudacher, is requesting Conditional Use approval to construct a single-family home on the Property.

Diagram 1



The Applicant has paid the appropriate fee and submitted the required documents. Notice has been provided to all property owners located within a three hundred (300) foot radius of the Property. The Property has been posted and the public hearing concerning the Conditional Use application has been advertised, pursuant to Section 30-139 of the Town Code of Ordinances (the "Town Code") (**Exhibit 2**). Several comments and questions have been received from an abutter to the property and an architect associated with the abutter. There was also a public records request filed by a law firm regarding prior conditional uses in RM-25 for single-family dwellings. These correspondences are attached as **Exhibit 3**.

Background and Request

The Property, a vacant 10,177 square foot (.23 acre) parcel, is located within the RM-25 zoning district and has a future land use classification of Medium High (25) Residential. It should be noted that there is a difference

between the lot area shown on the survey submitted with the application and the lot are shown on the Broward County Property Appraiser's ("BCPA") website (which shows the lot as 10,284 square feet). The Applicant is currently working with BCPA to come to agreement on the correct area for the lot. The difference in the lot area (107 square feet) and the Applicant has used the lower number for all calculations. A memo regarding the difference in lot area is provided as **Exhibit 4**.

Single-family homes are permitted in the RM-25 zoning district as a conditional use; as such, the Applicant has submitted a Conditional Use application to construct a single-family home on the Property.

Conditional Use

Documents

Staff has reviewed the documents submitted pursuant to the requirements of the Town Code. This review is based on the following plat, surveys and plans submitted by Stephen Brasgalla, Architect:

1. Site Plan/Garage Level Plan, prepared by Stephen Brasgalla, Architect, dated June 4, 2021, Sheet SP-1.
2. Site Plan/Ground Floor Plan, prepared by Stephen Brasgalla, Architect, dated June 4, 2021, Sheet A-1.
3. First, Second and Third Floor Plans, prepared by Stephen Brasgalla, Architect, dated June 4, 2021, Sheet A-2.
4. South and West Elevations, prepared by Stephen Brasgalla, Architect, dated June 8, 2021, Sheet A-3.
5. East and North Elevations, prepared by Stephen Brasgalla, Architect, dated June 8, 2021, Sheet A-4.
6. East and West Elevations and Third Floor Plan showing Administrative Adjustment Request, prepared by Stephen Brasgalla, Architect, dated March 16, 2021, revised April 26, 2021, Sheet A-5.
7. Survey, Prepared by John Ibarra & Associates, dated January 23, 2018.
8. Beach Side Rendering, prepared by Stephen Brasgalla, Architect, no date.
9. Street Side Rendering, prepared by Stephen Brasgalla, Architect, no date.

Town Code Provision

Section 30-126 of the Town Code (**Exhibit 5**) provides a process by which conditional uses may be granted. Conditional uses require review by the Town Staff, Planning and Zoning Board and final review and consideration by the Town Commission.

Review

The plans have been reviewed by one of the Town's Planners, Susan Leven. Comments are discussed below.

Conditional Use Requirements (30-126)

Pursuant to Town Code Section 30-126 (d) (Specific criteria for approving a conditional use) the Applicant must demonstrate the following:

- (1) *Land use compatibility.* The conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities and residential areas in the immediate vicinity.

For purposes of a conditional use review, compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics, which may impact adjacent or surrounding uses. They include: type of use, density, intensity, height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances. The Town Manager shall recommend whether the conditional use is compatible. Compatibility shall be measured based on all of the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:

- i. Permitted uses, structures and activities allowed within the land use category;
 - ii. Building location, dimensions, height, and floor area ratio;
 - iii. Location and extent of parking, access drives and service areas;
 - iv. Traffic generation, hours of operation, noise levels and outdoor lighting;
 - v. Alteration of light and air;
 - vi. Setbacks and buffers such as fences, walls, landscaping and open space treatment;
 - vii. The architectural and site design are compatible with the character of the surrounding area; and
 - viii. Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic.
- (2) *Sufficient site size, site specifications, and infrastructure to accommodate the proposed use.* The size and shape of the site, the proposed access and internal circulation, and the urban design must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
- (3) *Compliance with the Comprehensive Plan and Code of Ordinances.* The conditional use shall comply with environmental, zoning, concurrency and other applicable regulations of this Code of Ordinances and shall be consistent with the Comprehensive Plan.
- (4) *Proper use of mitigative techniques.* The conditional use and site plan shall incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.

The applicant has presented the following information regarding the criteria for the Conditional Use:

- (1) Land use compatibility: The single-family residence is proposed based on scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities and residential areas in the immediate vicinity. The proposed home is compatible with the existing MH land use, which supports multifamily residence at a maximum of 25 dwelling units per acre.

Introducing a single-family home to this site is compatible and less intensive than the permitted multifamily and hotel uses. As previously stated, the permitted multi-family residence would allow a maximum of 25 dwelling units per acre while the proposed single-family home is only 1 unit on the .23 acres. This single-family residence is compatible with the surrounding area in terms of

density proposing 1 unit on the .23 acres and height at 33 feet. The general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances are significantly less impactful on the proposed single family home than a multifamily residence on the property in any iteration.

Further, the proposed single-family use shall be compatible with the adjacent land uses and surrounding development in the immediate area in the following terms:

- i. The single-family use is designed to be compatible with the adjacent permitted uses, structures and activities allowed within the land use category, which are multifamily, hotel, and beach recreational uses;
 - ii. The single family residence is designed to be compatible in terms of building location just west of the beach with multifamily to the north, and vacant property to the south and west. Further, the dimensions, height, and floor area ratio of the home were designed to meet the criteria set forth in the Town of Lauderdale-by-the-Sea's Code of Ordinances;
 - iii. The single-family use will be compatible in terms of the location and extent of parking for a single-family residence with the appropriate access drives, and as a single-family residence does not contain a service area;
 - iv. The single family use is designed to be compatible in terms of traffic generation, which will be less impactful than the permitted hotel and multifamily uses, with no hours of operation, and noise levels and outdoor lighting that is consistent with a single family residence;
 - v. The single-family use is designed to be compatible in terms of alteration of light and air;
 - vi. The single-family residence will be compatible in terms of setbacks and buffers such as fences, walls, landscaping and open space treatment. The proposed single-family residence shall meet the setback and development regulations for the zoning (and for single family residences in general).
 - vii. The single-family residence is designed to be compatible with the architectural features and site design character of the surrounding beach area, as depicted in the proposed plans and elevations; AND
 - viii. The single-family use does not propose any signs will affect the existing signs. Any lighting proposed for the single-family residence is proposed to comply with the Town's Code of Ordinances.
- (2) The single-family use has a sufficient site size of 10,177 square feet of vacant land with, site specifications, and infrastructure, which appropriately accommodates the proposed single-family use. The size and shape of the site, the proposed access and internal circulation, and the urban design are designed to accommodate the proposed scale and intensity of the single-family residence proposed. The residence is designed with sufficient size on the 10,177 square foot site to provide adequate screening, buffers, landscaping, open space, parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts a single family residence might have on the surrounding area. As previously stated, the proposed single-family residence is of lesser impact to the above criteria than a multi-family residence or hotel use on the site.
 - (3) The proposed single-family use is designed to be in compliance with the Comprehensive Plan and Code of Ordinances. As designed, the single-family residence complies with the environmental, zoning, concurrency and other applicable regulations of this Code of Ordinances.
 - (4) The proposed single-family residence demonstrates proper use of mitigative techniques. Although, no adverse impacts are anticipated on adjacent properties, the single-family residence design scheme appropriately addresses off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened by the addition of the single-family home.

Summary Findings and Recommendations

The proposed plans submitted by the Applicant are consistent with the Land Development Code.

Town staff recommends approval of the Conditional Use request, subject to compliance with the following conditions:

1. Adequate storm water facilities shall be provided to meet regulatory requirements. No off-site drainage will be allowed.
2. Landscape plan may be amended to take into consideration plant availability and final site conditions, subject to approval by the Development Services Director or designee, provided that in no instance will the landscape plan be allowed to fall below the minimum standards, criteria and requirements established within the Town Code.
3. The Applicant shall secure a building permit for the project and begin construction within twelve (12) months of the effective date of the development order approval.
4. The construction shall be in accordance with the submitted plans for the hearing incorporated into this document as **Exhibit 2**, except as modifications may be required by the approved Site Plan and any changes required as part of the building permit and/or architectural review process.
5. The approved plan does not in any way create a right on the part of the Applicant to obtain a permit from a state or federal agency and does not create liability on the part of the Town for issuance of the approval if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.
6. All applicable state and federal permits shall be obtained before commencement of construction.
7. Prior to issuance of a building permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes, or other charges owed to the Town by the current or past owners or operators of the property in which the building permit is being issued. If fees are related to a code violation that requires a building permit to correct the violation, only the building permits required by the Town for correction of the violation may be issued. No other building permits will be issued until all outstanding debts to the Town are paid in full.

Summary Findings

Staff has reviewed the application and concludes the application as conditioned herein meets the Town Code requirements.

Procedure

Following the Planning and Zoning Board's review, staff will schedule the Town Commission's review of the application at its July 27, 2021 meeting.

Exhibits

1. Application with narrative
2. Plans, survey, and renderings
3. Correspondence
4. Memo on lot area difference
5. Town Code Sec. 30-126 Conditional Use Procedures and Requirements

LAUDERDALE•BY•THE•SEA

Universal Development Application



4501 N. OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FL 33308
(954)-640-4210
ZONING@LBTS-FL.GOV
M-F 8:30-4:30 PM

Administrative Purpose
2021-CU-01

Application Number: _____

BTR #: _____

Date Application Submitted: **6/1/2021** _____

Date Application found Completed: _____

Pre-Application Meeting Date: _____

Non-Refundable Application Fee: _____

Cost Recovery Fee: _____

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist and Fee Schedule.

Check appropriate application and block:

- | | |
|---|---|
| ☐ Appeal of Administrative Decision | ☐ Historic Designation |
| ☐ Site Plan | ☐ Certificate of Appropriateness |
| ☐ Site Plan Level 1 Modification | ☐ Zoning Relief |
| ☐ Site Plan Level 2 Modification | ☐ Rezoning |
| ☒ Conditional Use _____ | ☐ Right-of-Way Vacation |
| ☐ Conditional Use Modification _____ | ☐ Comprehensive Plan Amendment |
| ☐ Administrative Adjustment _____ | ☐ Payment in Lieu of Parking |
| ☐ Variance _____ | ☐ Parking Reduction _____ |
| ☐ Plat _____ | ☐ Other: _____ |
| ☐ Architectural Review _____ | |

Project Name: Conditional Use Request: New Single Family Residence

Folio Numbers: 4943 18 01 0040

Street Address: 4112 EL MAR DRIVE, LAUDERDALE BY THE SEA FL 33308

Legal Description: LAUDERDALE BY THE SEA 6-2 B LOT 7 BLK 2

Name of Property Owner: David and Sherri Staudacher Property Owner's Phone #: 425.471.4491

Address of Property Owner: 5500 NE 31st Avenue Fort Lauderdale, FL 33308

Property Owner's Email Address: dstaudacher@vandermeerfp.com

Name of Applicant: Dave Staudacher Applicant's Phone #: 425.471.4491

Applicant's Address: 5500 NE 31st Avenue Fort Lauderdale, FL 33308

Applicant Email Address: dstaudacher@vandermeerfp.com

Name of Agent (e.g. Contractor Representing the Project): Architect Representing the Project

Agent's Email Address: architect@design23.net Agent's Phone #: 954.614.3801

Agent's Address: 6991 West Broward Boulevard Suite 100, Plantation, FL 33317

Land Use Plan Designation: MH (Multifamily Residence) Zoning District: RM-25

Existing Use of the Subject Property: Vacant Land

Proposed Use of the Subject Property: Single Family Residence

DEVELOPMENT APPLICATION SIGNATURE SECTION

Property Owner

Print Name of Property Owner: Dave Staudacher Date: 6/1/2021

Signature of Property Owner: [Signature]

State of Florida:

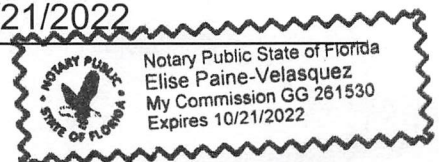
County:

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 1 of June, 2021.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: Elise Paine-Velasquez My Commission Expires: 10/21/2022

Notary Signature: [Signature]



Applicant

Print Name of Property Owner: Dave Staudacher Date: 6/1/2021

Signature of Property Owner: [Signature]

State of Florida:

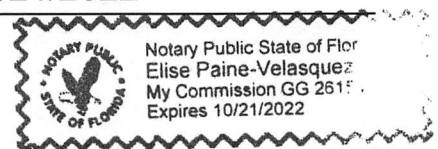
County:

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 1 of June, 2021.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: Elise Paine-Velasquez My Commission Expires: 10/21/2022

Notary Signature: [Signature]



LAUDERDALE•BY•THE•SEA

CONDITIONAL USE APPLICATION



4501 N. OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FL 33308
(954)-640-4210
ZONING@LBTS-FL.GOV
M-F 8:30-4:30 PM

For Administrative Purpose Only

Application Number: 2021-CU-01

BTR #: _____

Date Application Submitted: 6/1/2021

Date Application Found Complete: _____

Pre-Application Meeting Date: _____

Non-Refundable Application Fee: _____

Cost Recovery Fee: _____

LAUDERDALE•BY•THE•SEA

CONDITIONAL USE

In accordance with the Town of Lauderdale-By-The-Sea Unified Land Development Regulations Section 30-126, the following is a list of the documentation required for a Conditional Use Development Application.

Items for Initial Submittal:

Note: Please submit digital copies with the hard copy application via email or thumb drive

- Fee for Conditional Use and Consultant Deposit (See fee schedule)
- A completed Development Application signed and notarized for a Conditional Use application
- A boundary survey (if applicable)
- Two (2) hard copies of architectural elevations with the applicable dimensions
- A site plan drawn to scale (if required). Please include the following
 - proposed setbacks
 - landscape specifications
- A traffic impact study meeting the requirements of section 30-71(c)(14)d (if applicable)
- The square feet designated inside and out of each specific use
- The number of estimated employment
- The estimated number and type of service vehicles (if applicable)
- Any unique facilities or structures proposed as part of site improvements
- A description of any mitigative techniques to abate any possible adverse impacts of the proposed use on properties in the immediate vicinity including smoke, odor, noise, and other impacts

If a resubmittal is requested, please submit the amended documents, the previous comments received from the Town, and the applicant's response to those comments.

Need assistance or clarification?
Please contact us at (954)-640-4210 or email Zoning@lbts-fl.gov



AMENDED CONDITIONAL USE REQUEST

Date: **June 6, 2021**

To: **City and Building Officials**
Town of Lauderdale-By-The-Sea
4501 North Ocean Drive
Lauderdale By the Sea, Florida 33308

Re: **Conditional Use – 2021-L2-CU-01**
Administrative Adjustment – 2021-L2-AA-01
4112 El Mar Drive
Lauderdale-By-The-Sea, Florida 33308

Dear City and Building Officials,

I am the Architect for David and Sherri Staudacher ("the Owners") of 4112 El Mar Drive, a vacant property along the beach in the Town of Lauderdale-By-The-Sea.

This property is zoned RM-25. The Land Use Designation is MH. There is a two-story apartment building adjacent to the north and a vacant property to the south.

Originally, the Owners submitted two applications for the proposed single-family residence. The first application is a Conditional Use application for the single-family residence and the second application submitted was an Administrative Adjustment to allow an encroachment into the side setback above 22 feet in height. As the proposed design has been refined and there is no longer a need to encroach into the setback. Therefore, the Owners hereby respectfully withdraws their request for Administrative Adjustments pursuant to case number 2021-L2-AA-01.

The Owners would hereby like to respectfully request a ***Conditional Use*** approval from the Town to allow the construction of a Single-Family Residence on the property. This home would be the Owners' primary residence and would be constructed to meet the Town's Code of Ordinances, as well as, the Owners' specifications.

Please note the following: Per Code of Ordinances Section 30-126 *Conditional Use Review* that

- (1) Land use compatibility: The single-family residence is proposed based on scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities and residential areas in the immediate vicinity. The proposed home is compatible with the existing MH land use, which supports multifamily residence at a maximum of 25 dwelling units per acre.

stephenbrasgalla, architect

Introducing a single-family home to this site is compatible and less intensive than the permitted multifamily and hotel uses. As previously stated, the permitted multi-family residence would allow a maximum of 25 dwelling units per acre while the proposed single-family home is only 1 unit on the .23 acres.

This single-family residence is compatible with the surrounding area in terms of density proposing 1 unit on the .23 acres and height at 33 feet. The general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances are significantly less impactful on the proposed single family home than a multifamily residence on the property in any iteration.

Further, the proposed single-family use shall be compatible with the adjacent land uses and surrounding development in the immediate area in the following terms:

- i. The single-family use is designed to be compatible with the adjacent permitted uses, structures and activities allowed within the land use category, which are multifamily, hotel, and beach recreational uses;
- ii. The single family residence is designed to be compatible in terms of building location just west of the beach with multifamily to the north, and vacant property to the south and west. Further, the dimensions, height, and floor area ratio of the home were designed to meet the criteria set forth in the Town of Lauderdale-by-the-Sea's Code of Ordinances;
- iii. The single-family use will be compatible in terms of the location and extent of parking for a single-family residence with the appropriate access drives, and as a single-family residence does not contain a service area;
- iv. The single family use is designed to be compatible in terms of traffic generation, which will be less impactful than the permitted hotel and multifamily uses, with no hours of operation, and noise levels and outdoor lighting that is consistent with a single family residence;
- v. The single-family use is designed to be compatible in terms of alteration of light and air;
- vi. The single-family residence will be compatible in terms of setbacks and buffers such as fences, walls, landscaping and open space treatment. The proposed single-family residence shall meet the setback and development regulations for the zoning (and for single family residences in general).
- vii. The single-family residence is designed to be compatible with the architectural features and site design character of the surrounding beach area, as depicted in the proposed plans and elevations; AND

stephenbrasgalla, architect

viii. The single-family use does not propose any signs will affect the existing signs. Any lighting proposed for the single-family residence is proposed to comply with the Town's Code of Ordinances.

(2) The single-family use has a sufficient site size of 10,177 square feet of vacant land with, site specifications, and infrastructure, which appropriately accommodates the proposed single-family use. The size and shape of the site, the proposed access and internal circulation, and the urban design are designed to accommodate the proposed scale and intensity of the single-family residence proposed. The residence is designed with sufficient size on the 10,177 square foot site to provide adequate screening, buffers, landscaping, open space, parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts a single-family residence might have on the surrounding area. As previously stated, the proposed single-family residence is of lesser impact to the above criteria than a multi-family residence or hotel use on the site.

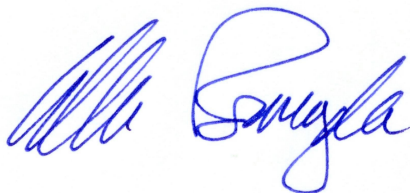
(3) The proposed single-family use is designed to be in compliance with the Comprehensive Plan and Code of Ordinances. As designed, the single-family residence complies with the environmental, zoning, concurrency and other applicable regulations of this Code of Ordinances.

(4) The proposed single-family residence demonstrates proper use of mitigative techniques. Although, no adverse impacts are anticipated on adjacent properties, the single-family residence design scheme appropriately addresses off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened by the addition of the single-family home.

The proposed single-family residence has been intentionally designed with a "MIMO" sensibility and aesthetic. The proportions and detailing are compatible and inspired by an interpretation of MIMO design conventions and "vibe". This single-family home will be harmonious with other projects in the beach area, as well as in alignment with the design priorities and directions of the Town.

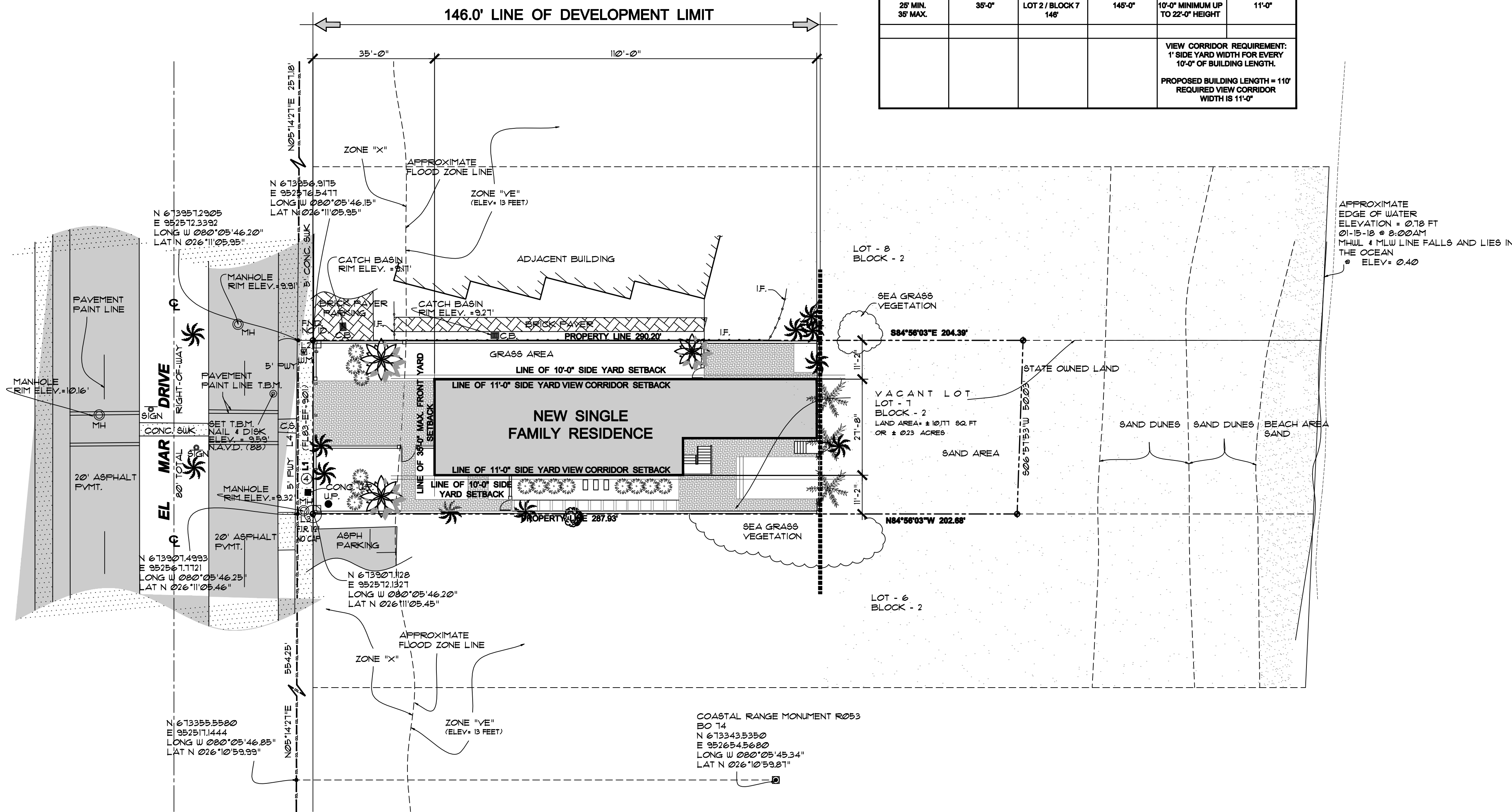
Thank you for your kind consideration of these matters. If you have questions or comments, please contact me directly. We look forward to a favorable judgment in this application process.

Best regards,



Steve Brasgalla

EXHIBIT 2



DIMENSIONAL REQUIREMENTS		RM-25 ZONING
	REQUIRED / PERMITTED	PROPOSED
LOT SIZE	N/A	10,177 S.F.
LOT DENSITY	25 UNITS / ACRE	N/A - SINGLE FAMILY HOME
LOT WIDTH	N/A	50'-0"
BUILDING SIZE	1,200 S.F. MINIMUM	6,228 S.F.
BUILDING HEIGHT	33'-0" MAXIMUM HEIGHT	33'-0" (TOP OF ROOF DECK)
STRUCTURAL LENGTH	200' MAX. 121'-0" PER LOT SIZE	110'-0"
LOT COVERAGE	MAXIMUM 40%	2,888 = 28.4 %
OPEN AREA	MINIMUM 60%	5,105 S.F.
LANDSCAPE AREA		2,146 S.F.
PERVIOUS AREA		PERVIOUS = 5,105 s.f. = 51%
IMPERVIOUS AREA		IMPERVIOUS = 5,072 s.f. = 49%
TOTAL PAVED AREA		2,440 S.F.
PARKING SPACES	MINIMUM 2	2

SETBACK REQUIREMENTS				RM-25 ZONING	
FRONT		REAR / BEACH STRUCTURES EAST OF EL MAR, MEASURED FROM FRONT PROPERTY LINE		SIDE	
REQUIRED	PROVIDED	REQUIRED	PROVIDED	REQUIRED	PROVIDED
25' MIN. 35' MAX.	35'-0"	LOT 2 / BLOCK 7 145'	145'-0"	10'-0" MINIMUM UP TO 22'-0" HEIGHT	11'-0"
				VIEW CORRIDOR REQUIREMENT: 1' SIDE YARD WIDTH FOR EVERY 10'-0" OF BUILDING LENGTH. PROPOSED BUILDING LENGTH = 110' REQUIRED VIEW CORRIDOR WIDTH IS 11'-0"	

- Revisions:
- 1
 - 2
 - 3
 - 4
 - 5

Project Number
210203

CONDITIONAL USE REQUEST
NEW SINGLE FAMILY RESIDENCE
4112 EL MAR DRIVE
LAUDERDALE BY THE SEA, FLORIDA 33308

Project Name
CONDITIONAL
USE REQUEST

STEPHEN
BRASGALLA,
ARCHITECT
STATE OF FLORIDA
REGISTRATION NO. AR12239
6991 WEST BROWARD BOULEVARD
SUITE 100
PLANTATION, FLORIDA 33317
TELEPHONE 954.814.3801
TELEFAX 954.208.0800
ARCHITECT © DESIGN23.NET

Drawn By: ES
Checked By: STB
Scale: SHOWN
Date: 6-8-21

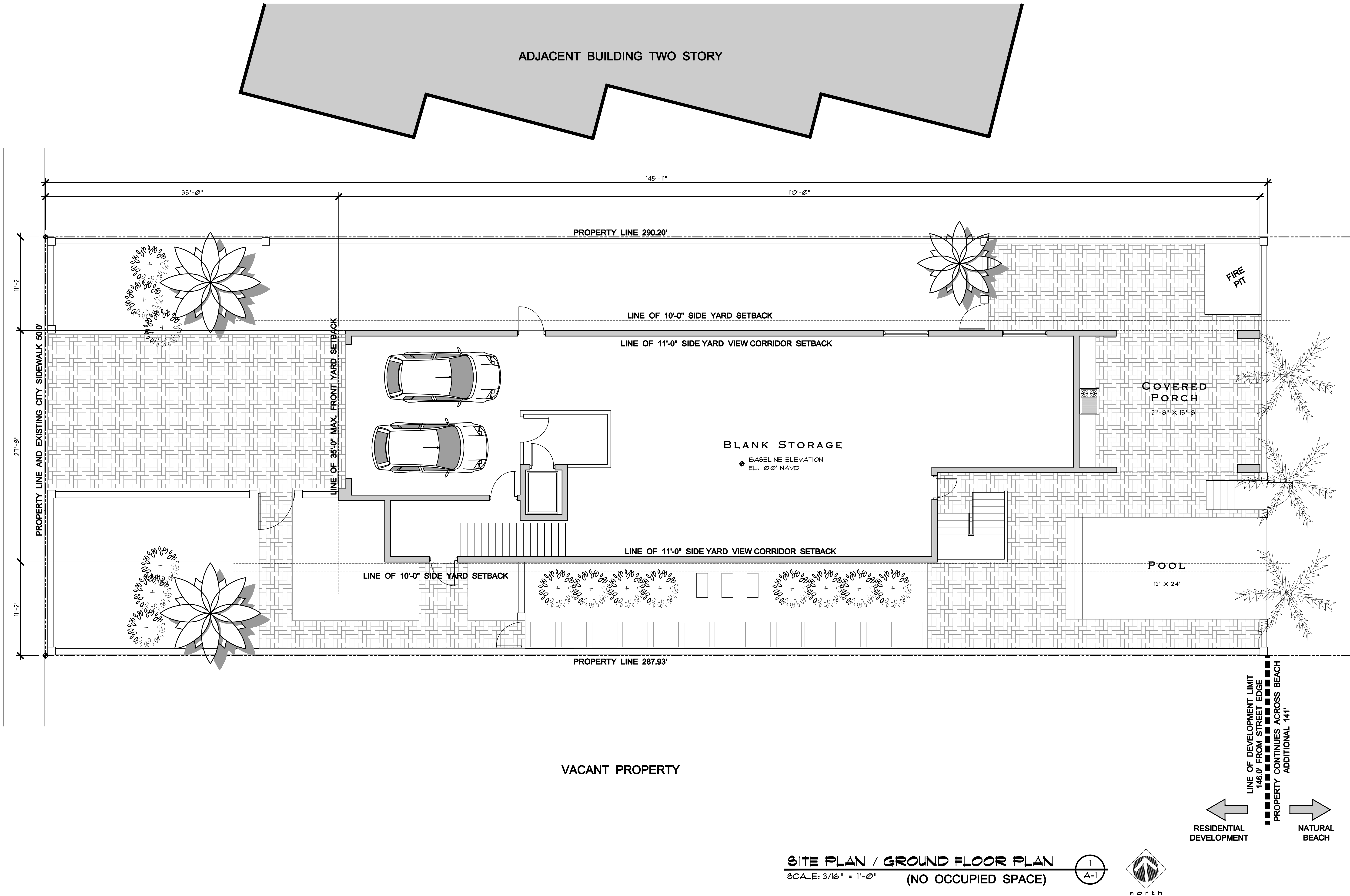
Project Number
210203

Sheet:

SP-1

SITE PLAN / GARAGE LEVEL PLAN
SCALE: 1" = 20'-0"





- Revisions:
- 1
 - 2
 - 3
 - 4
 - 5

Project Number
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CONDITIONAL USE REQUEST
NEW SINGLE FAMILY RESIDENCE
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Project Name
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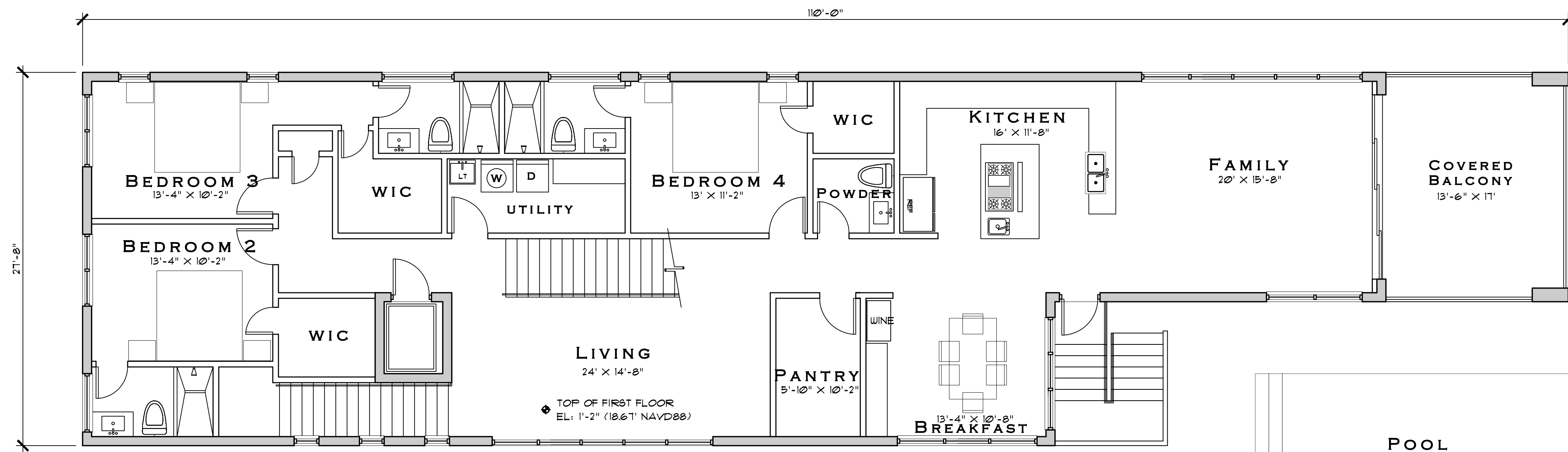
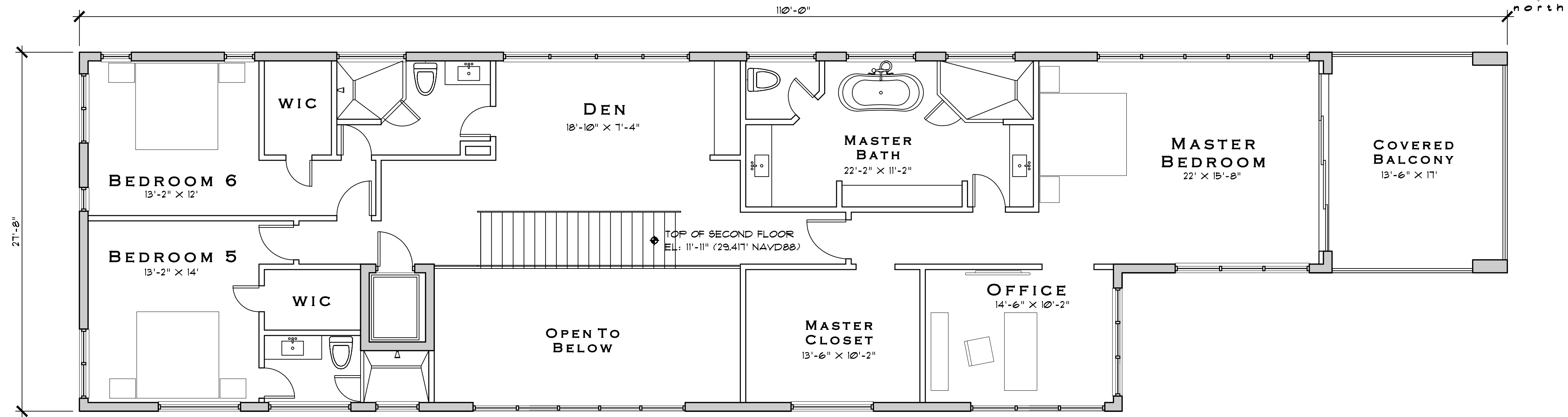
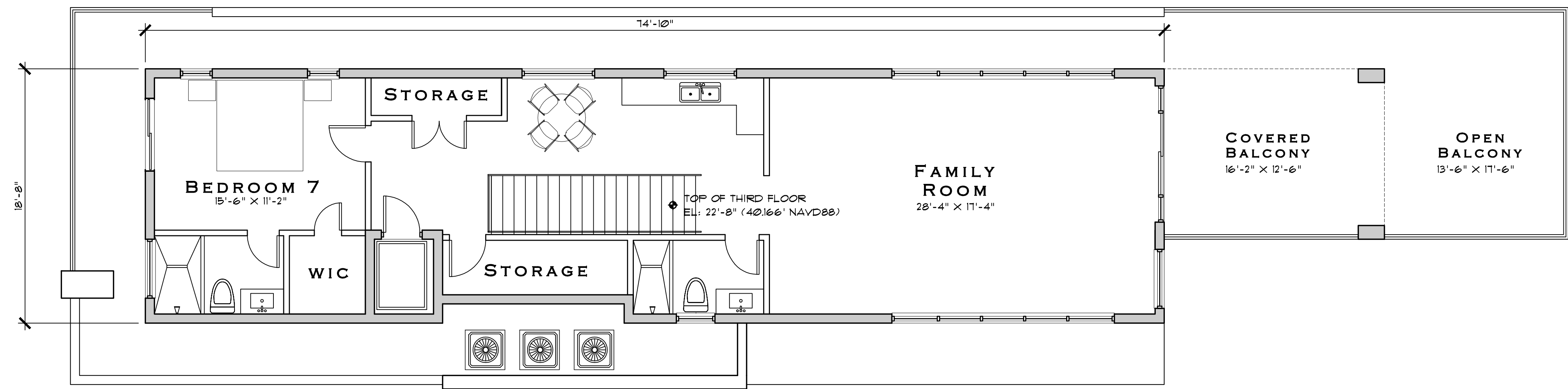
STEPHEN
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SUITE 100
PLANTATION, FLORIDA 33317
TELEPHONE 954.614.3801
TELEFAX 954.208.0800
ARCHITECT @ DESIGN23.NET

Drawn By: ES	Checked By: STB
Scale: SHOWN	Date: 6-8-21

Project Number
210203

Sheet:

A - 1
20



- Revisions:
- 1
 - 2
 - 3
 - 4
 - 5

Project Number
210203

CONDITIONAL USE REQUEST
NEW SINGLE FAMILY RESIDENCE
4112 EL MAR DRIVE
LAUDERDALE BY THE SEA, FLORIDA 33308

Project Name
CONDITIONAL USE REQUEST

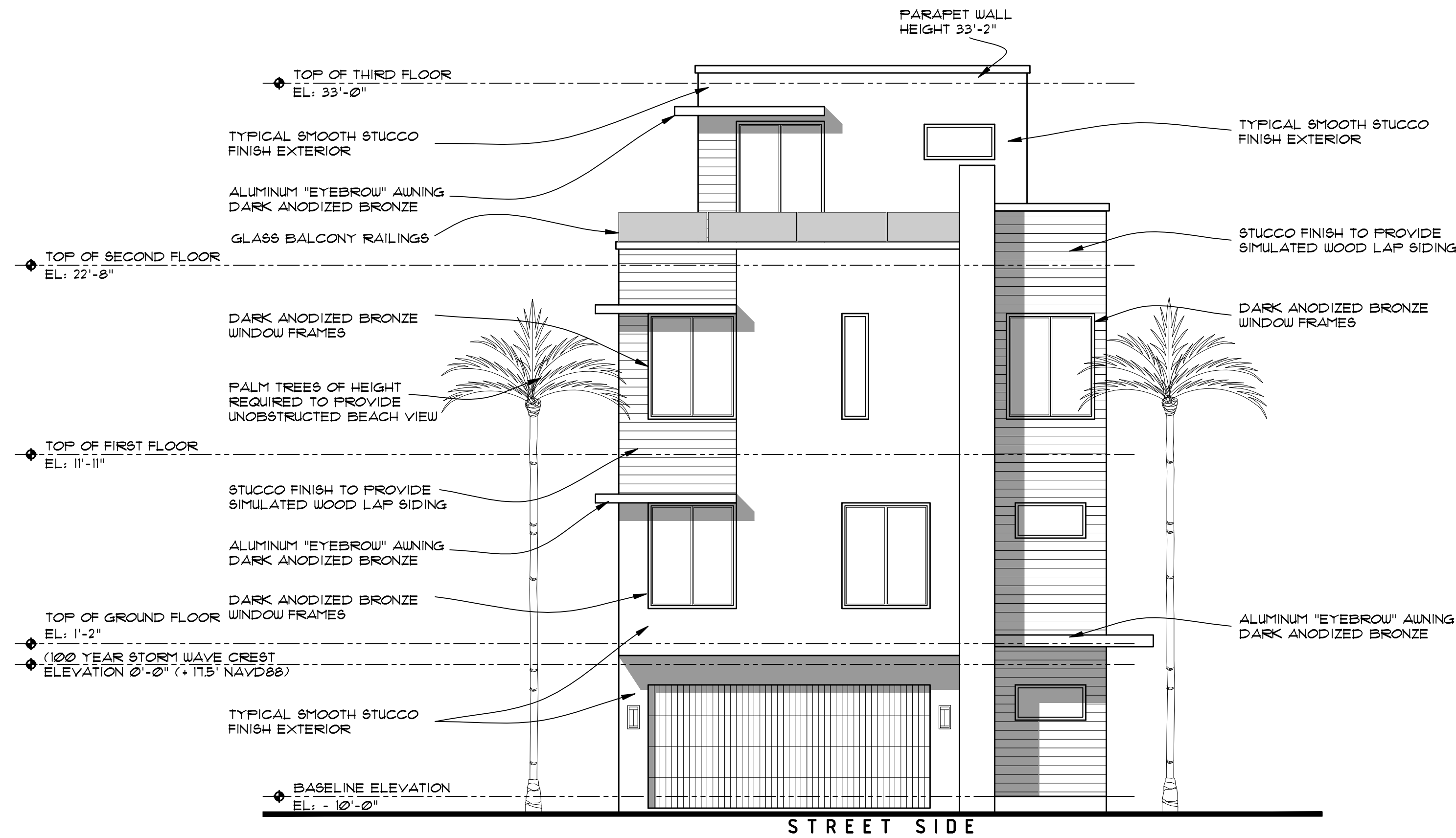
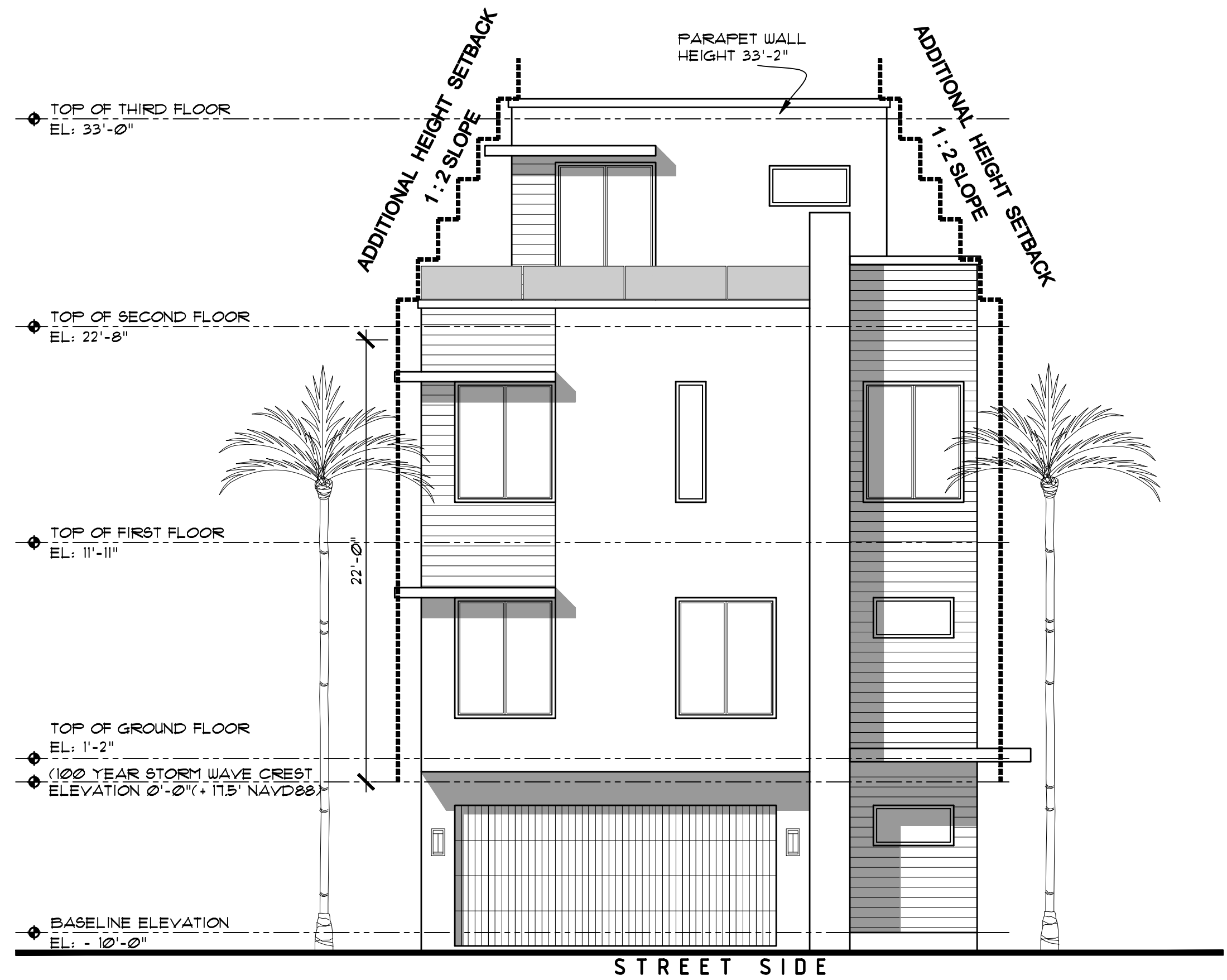
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Scale: **SHOWN** Date: **6-8-21**

Project Number
210203

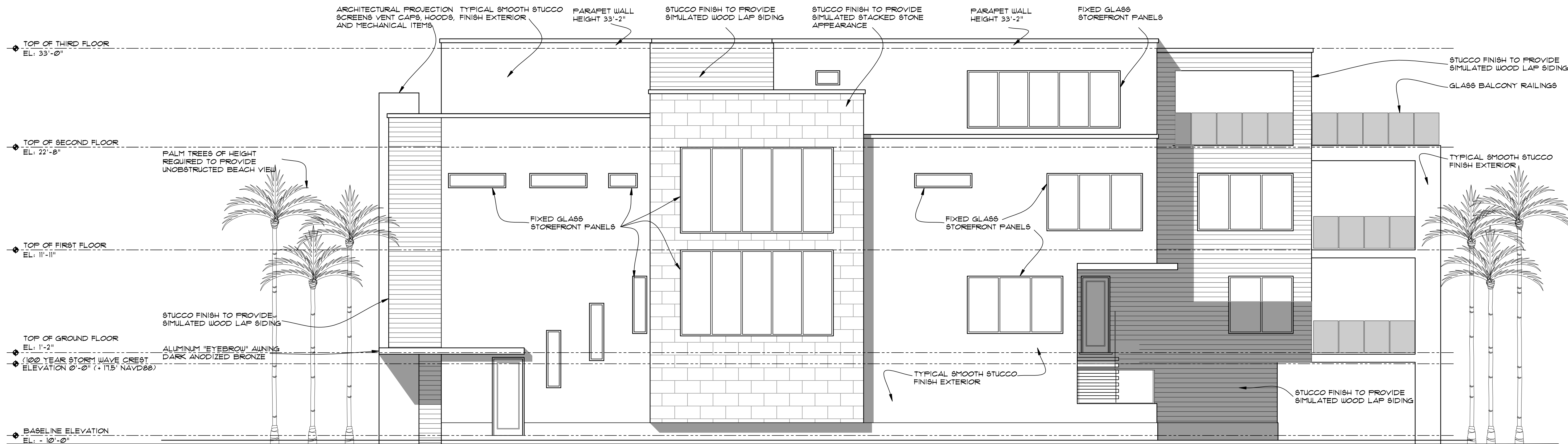
Sheet:

A - 2
21



WEST ELEVATION
SCALE: 3/16" = 1'-0"

1
A-3



SOUTH ELEVATION
SCALE: 3/16" = 1'-0"

1
A-3

- Revisions:
- 1
 - 2
 - 3
 - 4
 - 5

Project Number
210203

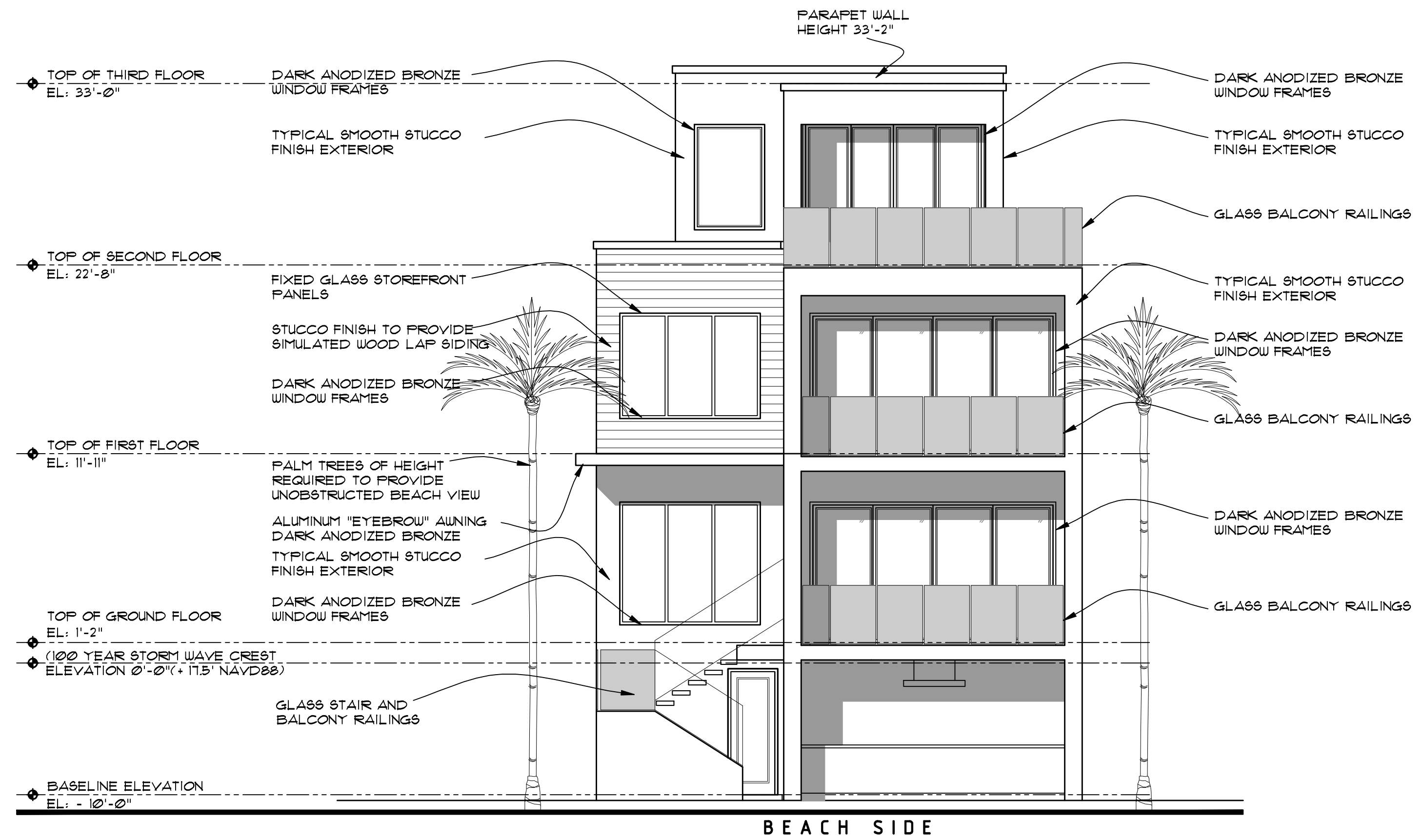
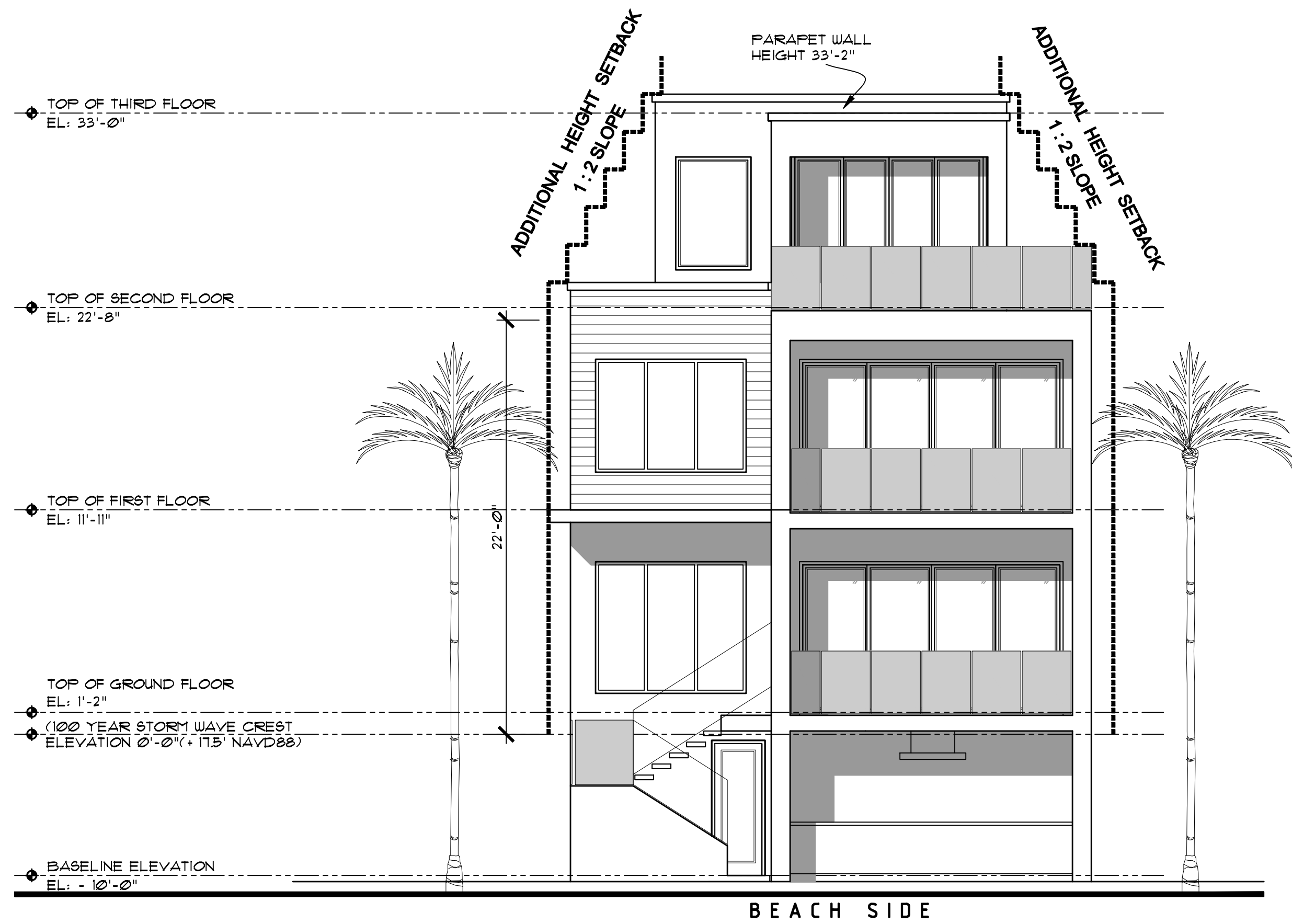
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ARCHITECT
STATE OF FLORIDA
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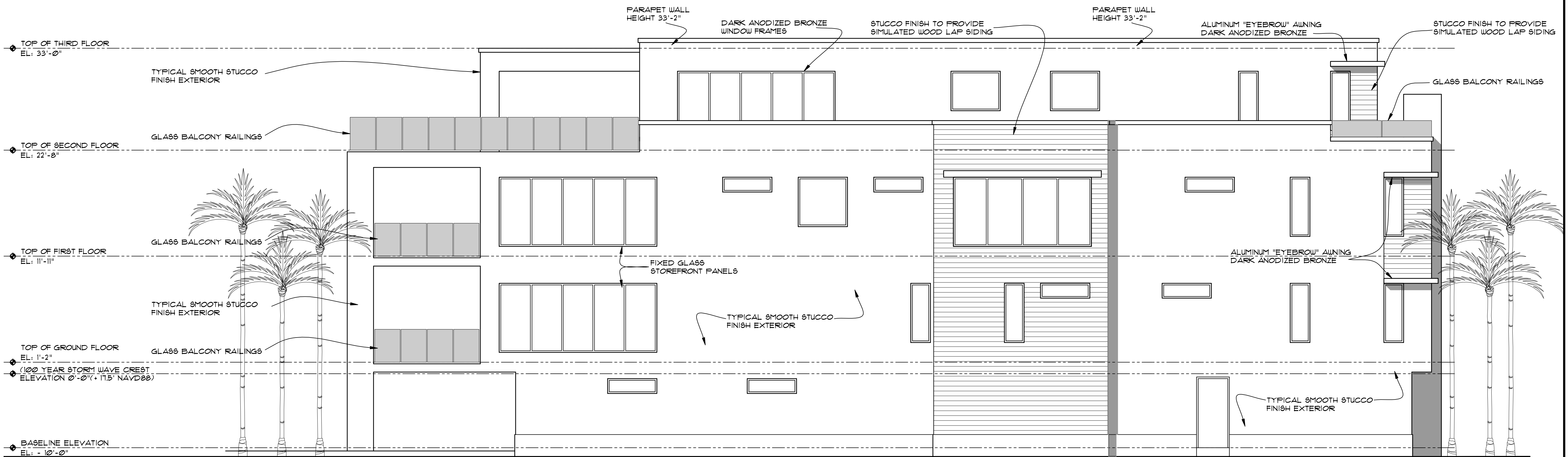
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Checked By: STB
Scale: SHOWN
Date: 6-8-21
Project Number
210203
Sheet:

A - 3
22



EAST ELEVATION
SCALE: 3/16" = 1'-0"

2
A-4



NORTH ELEVATION
SCALE: 3/16" = 1'-0"

2
A-4

Revisions:
1
2
3
4
5

Project Number
210203

CONDITIONAL USE REQUEST
NEW SINGLE FAMILY RESIDENCE
4112 EL MAR DRIVE
LAUDERDALE BY THE SEA, FLORIDA 33308

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CONDITIONAL USE REQUEST

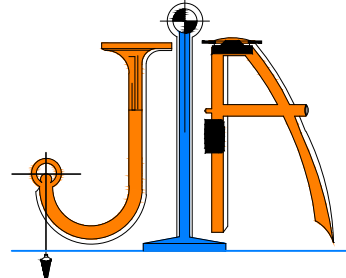
STEPHEN BRASGALLA, ARCHITECT
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Project Number
210203

Sheet:

A - 4
23



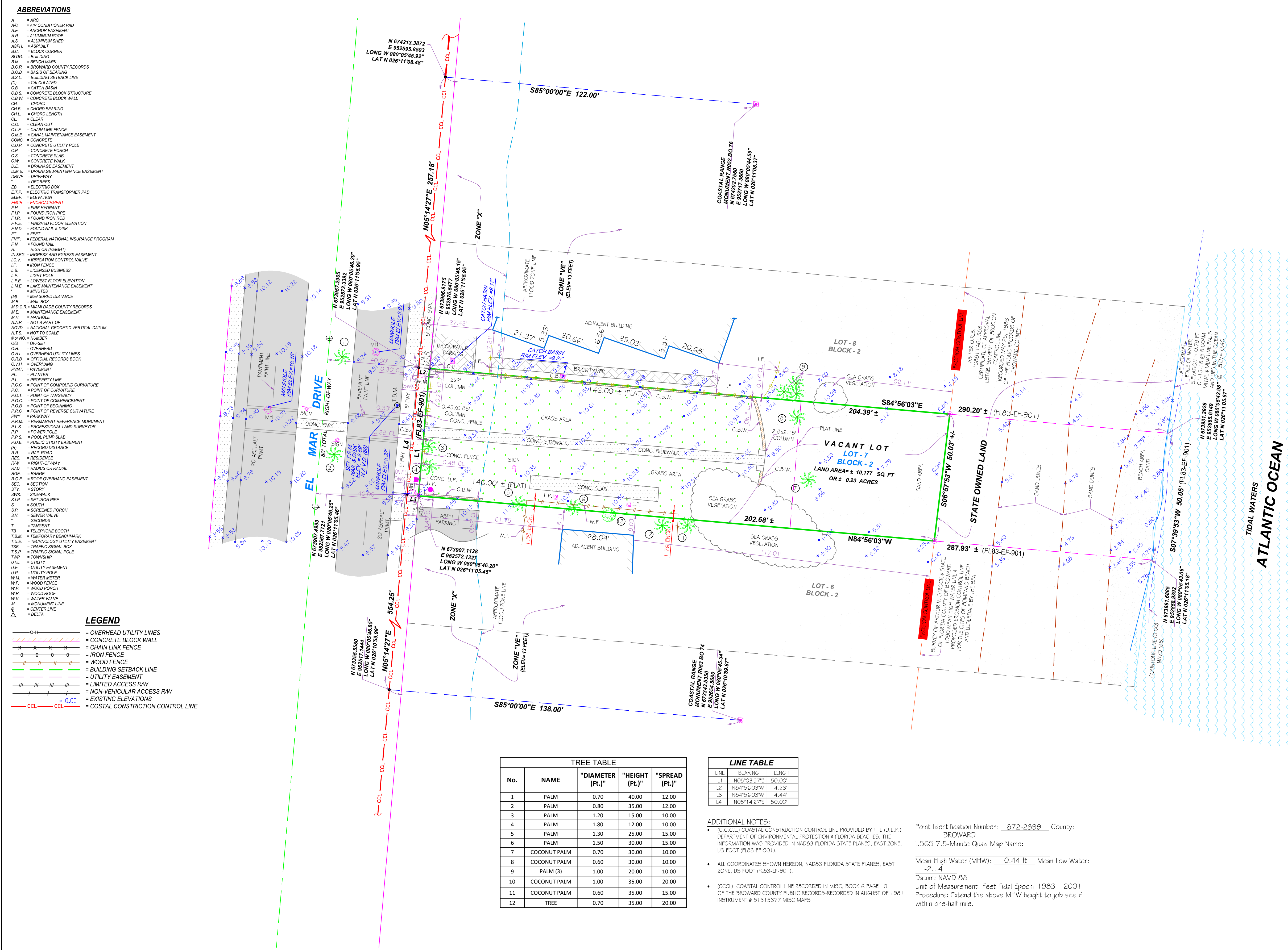
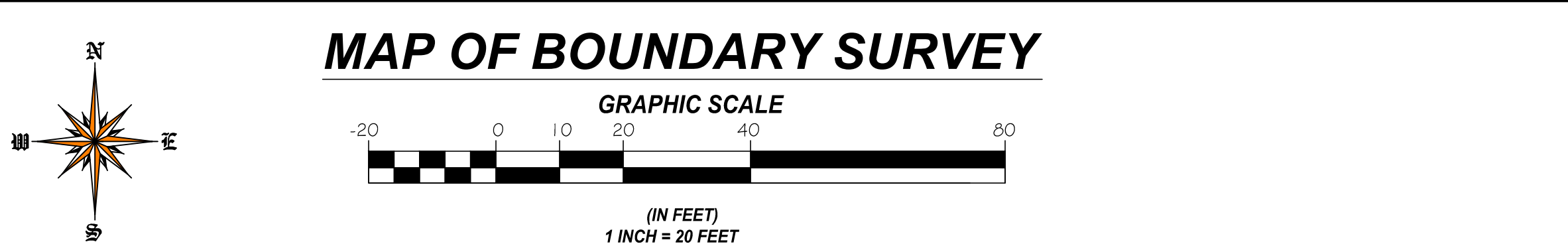
JOHN IBARRA & ASSOCIATES, INC.
Professional Land Surveyors & Mappers

WWW.IBARRALANDSURVEYORS.COM

777 N.W. 72nd AVENUE
SUITE 3025
MIAMI, FLORIDA 33126
PH: (305) 262-0400
FAX: (305) 262-0401

4851 TAMiami TRAIL NORTH
SUITE # 200
NAPLES, FL 34103
PH: (239) 540-2660
FAX: (239) 540-2664





LEGAL DESCRIPTION:

LOT 7, BLOCK 2, LAUDERDALE BY THE SEA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGE 2, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

PROPERTY ADDRESS:

4112 EL MAR DRIVE,
LAUDERDALE BY THE SEA, FLORIDA, 33308

CERTIFICATION:

ALLEGIANTE EQUITIES LLC

LEGAL NOTES TO ACCOMPANY SKETCH OF SURVEY:

- THERE MAY BE EASEMENTS RECORDED IN THE PUBLIC RECORDS NOT SHOWN ON THIS SURVEY.
- THE PURPOSE OF THIS SURVEY IS FOR USE IN OBTAINING TITLE INSURANCE AND FINANCING AND SHOULD NOT BE USED FOR CONSTRUCTION PURPOSES.
- EXAMINATIONS OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY.
- THIS SURVEY IS SUBJECT TO DEDICATIONS, LIMITATIONS, RESTRICTIONS, RESERVATIONS OR EASEMENTS OF RECORD.
- LEGAL DESCRIPTIONS PROVIDED BY CLIENT OR ATTESTING TITLE COMPANY.
- BOUNDARY SURVEY MEANS A DRAWING AND/OR A GRAPHIC REPRESENTATION OF THE SURVEY WORK PERFORMED IN THE FIELD, COULD BE DRAWN AT A SHOWN SCALE AND/OR NOT TO SCALE; THE WALLS OR FENCES MAY BE EXAGGERATED FOR CLARITY PURPOSES.
- EASEMENTS AS SHOWN ARE PER PLAT BOOK, UNLESS DEPICTED OTHERWISE.
- THE TERM "ENCROACHMENT" MEANS VISIBLE AND ABOVE GROUND ENCROACHMENTS.
- ARCHITECTS SHALL VERIFY ZONING REGULATIONS, RESTRICTIONS, SETBACKS AND WILL BE RESPONSIBLE FOR SUBMITTING PLOT PLANS WITH CORRECT INFORMATION FOR "APPROVAL FOR AUTHORIZATION" TO THE PROPER AUTHORITIES IN NEW CONSTRUCTION.
- UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTING AND/OR FOUNDATIONS.
- FENCE OWNERSHIP NOT DETERMINED.
- THIS PLAN OF SURVEY, HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON, THE CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PARTY.

FLOOD ZONE INFORMATION:

THE NFIP FLOOD MAPS HAVE DESIGNATED THE HEREIN DESCRIBED LAND TO BE SITUATED IN:
FLOOD ZONE: SEE NOTE 4
BASE FLOOD ELEVATION: SEE NOTE 4
COMMUNITY: 125123
PANEL: 0386
SUFFIX: 47
DATE OF FIRM: 08/18/2014
THE SUBJECT PROPERTY DOES LIE IN A SPECIAL FLOOD HAZARD AREA.

SURVEYOR'S NOTES:

1. IF SHOWN, BEARINGS ARE REFERRED TO AN ASSUMED MERIDIAN, BY SAID PLAT IN THE DESCRIPTION OF THE PROPERTY, IF NOT, BEARINGS ARE THEN REFERRED TO COUNTY, TOWNSHIP MAPS.
2. THE CLOSURE IN THE BOUNDARY SURVEY IS ABOVE 1:7500 FT.
3. CERTIFICATE OF AUTHORIZATION IS # 7808.
4. THE SUBJECT PROPERTY LIES WITHIN TWO FLOOD ZONES, "X" AND "VE" ELEV. 13 FEET.
5. ALL ELEVATIONS SHOWN ARE REFERRED TO NORTH AMERICAN VERTICAL DATUM OF 1988; BROWARD BENCH MARK # 6, BM 1910, ELEVATION IS 11.606 FEET OF N.G.V.D. OF 1929; CONVERTED TO NAVD (88) BY USING VERTCON.

TITLE COMMITMENT NOTES:

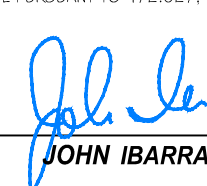
THAT I HAVE REVIEWED THE COMMITMENT AND ALL ITEMS ARE SHOWN ON THE SURVEY. THE ITEMS SHOWN HERE FORTH ARE PER SCHEDULE B-11 OF TITLE COMMITMENT NO. 6781418, DATED JAN 18, 2016; 11:00 P.M.

ITEM NO. 6 AFFECTS SUBJECT PROPERTY, NOT PLOTTABLE, AS RECORDED IN O.R.B. 12446 PG. 201.

ITEM NO. 7 AFFECTS SUBJECT PROPERTY, NOT PLOTTABLE, AS RECORDED IN O.R.B. 40038 PG 1639.

ITEM NO. 8 AFFECTS SUBJECT PROPERTY, AND PLOTTED ON SURVEY, AS RECORDED IN O.R.B. 10661 PG. 588, (EROSION CONTROL LINE).

ITEM NO. 9 AFFECTS SUBJECT PROPERTY, NOT PLOTTABLE, BLANKET IN NATURE AS RECORDED IN O.R.B. 34145 PG 1891.



JOHN IBARRA

01/23/2018
(DATE OF FIELD WORK)

PROFESSIONAL LAND SURVEYOR NO.: 5204 STATE OF FLORIDA
(NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER).

REVISED ON: _____

REVISED ON: _____

REVISED ON: _____

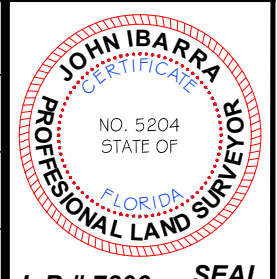
REVISED ON: _____

DRAWN BY: AS

FIELD DATE: 01/23/2018

SURVEY NO: 18-000327-1

SHEET: 1 OF 1



L.B.# 7806 SEAL





Susan Leven

From: Susan Leven
Sent: Monday, May 3, 2021 2:54 PM
To: James Sellitti
Cc: Jhanelle Campbell
Subject: RE: 4112 El Mar

Hi Jim –

I am confirming receipt of your e-mail. The Planning and Zoning Board meeting for May 5, 2021 has been canceled, however, since there are other items on the Commission's agenda for May 25, 2021 that meeting will still take place, but the application for 4112 El Mar Drive will not be on the agenda.

I will send you any new information regarding the applications including when they will go to the Planning and Zoning Board and the Commission.

Regards --

Sue

From: James Sellitti <sfreelaw@aol.com>
Sent: Monday, May 3, 2021 2:48 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Sue

Per our conversation today it is my understanding that the meetings scheduled to take place on May 5 and May 25, 2021 are canceled. Please forward any modifications to the plans and requests for adjustments, if any, along with any new dates for the meetings that may be set in the future. Thank you
Jim

James J. Sellitti
Sellitti, Nogay, & McCune
3125 Pennsylvania Ave.
Weirton, WV 26062
(304)723-1400
sfreelaw@aol.com

On Apr 30, 2021, at 3:51 PM, Susan Leven <susanl@lauderdalebythesea-fl.gov> wrote:

I believe the meeting is being postponed, but I will be able to confirm that on Monday.

From: James Sellitti <sfreelaw@aol.com>
Sent: Friday, April 30, 2021 3:49 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Sue

As I was just made aware of the meeting and the requested adjustments, I would like to request that the meetings be postponed . Thank you

James J. Sellitti
Attorney at Law

On Apr 30, 2021, at 3:37 PM, Susan Leven <susanl@lauderdalebythesea-fl.gov> wrote:

Hi Jim –

If you could put your question in an e-mail I would appreciate it. That way I can research it and respond in writing.

Thanks –

Sue

From: James Sellitti <sfreelaw@aol.com>
Sent: Friday, April 30, 2021 2:32 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar

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Sue

No problem I'm sorry to be such a pest but I wasn't aware any of this was going on until I arrived here on Sunday and saw the sign posted on the property. If you have a minute to call my cell at 304-670-8002 I have another quick question. Thank you

Jim
James J. Sellitti
Attorney at Law

On Apr 30, 2021, at 1:38 PM, Susan Leven
<susanl@lauderdalebythesea-fl.gov> wrote:

Hi Jim –

Sorry I wasn't able to answer your calls, but I have been in meetings most of the day. I have nothing definitive to report yet on your question. Once I have specific information to share I will call you. That may not be until Monday.

Regards –

Sue

<image001.png>

<image002.jpg>

Susan Leven

From: Susan Leven
Sent: Friday, May 21, 2021 12:22 PM
To: James Sellitti
Cc: vsellitti@comcast.net; Jhanelle Campbell
Subject: RE: 4112 El Mar

Hi Jim –

They are looking at being ready for the July Planning & Zoning Board meeting (July 7th), but I have not received updated plans yet.

Regards –

Sue

From: James Sellitti <sfreelaw@aol.com>
Sent: Friday, May 21, 2021 12:17 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Cc: James Sellitti <sfreelaw@aol.com>; vsellitti@comcast.net
Subject: Re: 4112 El Mar

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Hi Susan

Any updates on new plans or dates?

Thank you, Jim

James J. Sellitti
Sellitti, Nogay and Nogay
3125 Pennsylvania Ave
Weirton, WV 26062
Office (304)723-1400
Cell (304) 670-8002
sfreelaw@aol.com

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-----Original Message-----

From: Susan Leven <susanl@lauderdalebythesea-fl.gov>
To: James Sellitti <sfreelaw@aol.com>
Sent: Fri, Apr 30, 2021 3:51 pm
Subject: RE: 4112 El Mar

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To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
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Attorney at Law

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Jim
James J. Sellitti
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Regards –

Sue

<image001.png>

<image002.jpg>

Susan Leven

From: Susan Leven
Sent: Tuesday, June 8, 2021 12:53 PM
To: 'James Sellitti'
Cc: Jhanelle Campbell
Subject: 4112 El Mar Drive
Attachments: 2021-CU-01 Application 6-7-21.pdf; 2021-CU-01 Beach Side rendering.jpg; 2021-CU-01 Description of Request 6-7-21.pdf; 2021-CU-01 Street Side Rendering 6-7-21.jpg; 2021-CU-01 Survey 6-7-21.pdf; 2021-CU-01 Plan Set 6-8-21.pdf

Hi Jim –

I've attached the following information for 4112 El Mar:

1. Revised application materials
2. Revised plans
3. Survey
4. Beach side rendering
5. Street side rendering
6. Description of request

Please feel free to contact me with any questions.

Regards –

Sue



Susan M. Leven AICP
Planner
4501 N. OCEAN DRIVE
LAUDERDALE-BY-THE-SEA, FL 33308
Phone: 954-640-4221 • Fax: 954-634-4654 •
susanl@lbts-fl.gov • www.lbts-fl.gov • www.lbtsevents.com

Please note: Florida has a very broad public records law. Written communications to the Town, including emails, are Public Record available to the public upon request. Your email communication is therefore subject to public disclosure.

SHOP    STAY    DINE    PLAY

Susan Leven

From: James Sellitti <sfreelaw@aol.com>
Sent: Tuesday, June 8, 2021 3:24 PM
To: Susan Leven
Subject: Re: 4112 El Mar Drive

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Thank you

James J. Sellitti
Sellitti, Nogay,& McCune
3125 Pennsylvania Ave.
Weirton, WV 26062
(304)723-1400
sfreelaw@aol.com

On Jun 8, 2021, at 2:51 PM, Susan Leven <susanl@lauderdalebythesea-fl.gov> wrote:

It should be July 7. If that changes, I'll let you know.

From: James Sellitti <sfreelaw@aol.com>
Sent: Tuesday, June 8, 2021 2:22 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Cc: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar Drive

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Thank you Sue I received the revised plans. Please let me know when the meeting will be held

James J. Sellitti
Attorney at Law

On Jun 8, 2021, at 1:14 PM, Susan Leven <susanl@lauderdalebythesea-fl.gov> wrote:

Hi Jim –

I've attached the following information for 4112 El Mar:

1. Revised application materials
2. Revised plans
3. Survey
4. Beach side rendering
5. Street side rendering
6. Description of request

Please feel free to contact me with any questions.

Regards –

Sue

<image001.png>

<image002.jpg>

<2021-CU-01 Application 6-7-21.pdf>

<2021-CU-01 Beach Side rendering.jpg>

<2021-CU-01 Description of Request 6-7-21.pdf>

<2021-CU-01 Street Side Rendering 6-7-21.jpg>

<2021-CU-01 Survey 6-7-21.pdf>

<2021-CU-01 Plan Set 6-8-21.pdf>

Susan Leven

From: Susan Leven
Sent: Wednesday, June 23, 2021 1:01 PM
To: James Sellitti
Cc: Jhanelle Campbell
Subject: RE: 4112 El Mar Drive

Yes. The meeting starts at 6pm.

From: James Sellitti <sfreelaw@aol.com>
Sent: Wednesday, June 23, 2021 1:00 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar Drive

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Thanks Sue Is it at 6PM?

James J. Sellitti
Sellitti, Nogay and Nogay
3125 Pennsylvania Ave
Weirton, WV 26062
Office (304)723-1400
Cell (304) 670-8002
sfreelaw@aol.com

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-----Original Message-----

From: Susan Leven <susanl@lauderdalebythesea-fl.gov>
To: James Sellitti <sfreelaw@aol.com>
Cc: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>
Sent: Wed, Jun 23, 2021 12:24 pm
Subject: RE: 4112 El Mar Drive

Hi James –

The meeting is still scheduled for July 7.

Regards –

Sue

From: James Sellitti <sfreelaw@aol.com>
Sent: Wednesday, June 23, 2021 12:24 PM

To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar Drive

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Hi Sue

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-----Original Message-----

From: Susan Leven <susanl@lauderdalebythesea-fl.gov>
To: James Sellitti <sfreelaw@aol.com>
Sent: Tue, Jun 8, 2021 2:51 pm
Subject: RE: 4112 El Mar Drive

It should be July 7. If that changes, I'll let you know.

From: James Sellitti <sfreelaw@aol.com>
Sent: Tuesday, June 8, 2021 2:22 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Cc: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar Drive

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Thank you Sue I received the revised plans. Please let me know when the meeting will be held

James J. Sellitti
Attorney at Law

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<2021-CU-01 Street Side Rendering 6-7-21.jpg>

<2021-CU-01 Survey 6-7-21.pdf>

<2021-CU-01 Plan Set 6-8-21.pdf>

Susan Leven

From: Susan Leven
Sent: Friday, June 25, 2021 11:07 AM
To: James Sellitti
Cc: Jhanelle Campbell
Subject: RE: Planning_and_Zoning_Board_Update_06.02.2021_-_final_.pdf

Hi James –

That update was sent to the Planning & Zoning Board prior to their June 5, 2021 meeting. The revised plans and request to withdraw the administrative adjustment application were not received until later that week. Until we had the actual paperwork in hand, we could only refer to the application we had on file.

Sorry for the confusion.

Sue

From: James Sellitti <sfreelaw@aol.com>
Sent: Friday, June 25, 2021 10:25 AM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Planning_and_Zoning_Board_Update_06.02.2021_-_final_.pdf

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James J. Sellitti
Sellitti, Nogay,& McCune
3125 Pennsylvania Ave.
Weirton, WV 26062
(304)723-1400
sfreelaw@aol.com

Susan Leven

From: Susan Leven
Sent: Friday, June 25, 2021 8:35 AM
To: James Sellitti
Cc: Jhanelle Campbell
Subject: RE: 4112 El Mar Drive

Hi James –

Could you let me know where you saw that? They have withdrawn the administrative adjustment since it is no longer needed.

Thanks –

Sue

From: James Sellitti <sfreelaw@aol.com>
Sent: Thursday, June 24, 2021 6:50 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar Drive

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Sue

I noticed in the Lauderdale-by-the-Sea development updates they are also requesting an administrative adjustment for relief from the side set backs. Please email me that application also. Thank you. Jim

James J. Sellitti
Attorney at Law

On Jun 23, 2021, at 1:01 PM, Susan Leven <susanl@lauderdalebythesea-fl.gov> wrote:

Yes. The meeting starts at 6pm.

From: James Sellitti <sfreelaw@aol.com>
Sent: Wednesday, June 23, 2021 1:00 PM
To: Susan Leven <susanl@lauderdalebythesea-fl.gov>
Subject: Re: 4112 El Mar Drive

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Thanks Sue Is it at 6PM?

James J. Sellitti
Sellitti, Nogay and Nogay

3125 Pennsylvania Ave
Weirton, WV 26062
Office (304)723-1400
Cell (304) 670-8002
sfreelaw@aol.com

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<2021-CU-01 Survey 6-7-21.pdf>
<2021-CU-01 Plan Set 6-8-21.pdf>

Susan Leven

From: William Schenck <wschenck@hcarchitects.com>
Sent: Monday, June 28, 2021 9:39 AM
To: Susan Leven
Cc: zoning; sfreelaw@aol.com; Jhanelle Campbell; Tony
Subject: RE: 4112 El Mar - Zoning Clarifications
Attachments: Setback Diagram_210614.pdf

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Susan,

Good morning. Are you able to assist in answering our question below regarding the height of the proposed residence? Thank you.

William Schenck, AIA, LEED AP BD+C
Associate, Project Designer
D: 314.529.4015, C: 314.504.8242



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From: William Schenck <wschenck@hcarchitects.com>
Sent: Tuesday, June 22, 2021 2:13 PM
To: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>; Tony <vsellitti@comcast.net>
Cc: zoning <zoning@lauderdalebythesea-fl.gov>; Christopher Chivetta <cchivetta@hcarchitects.com>; sfreelaw@aol.com
Subject: RE: 4112 El Mar - Zoning Clarifications

Jhanelle,

Good afternoon. Have you had a chance to review the below questions from last Monday? Thanks.

William Schenck, AIA, LEED AP BD+C
Associate, Project Designer
D: 314.529.4015, C: 314.504.8242



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From: William Schenck <wschenck@hcarchitects.com>
Sent: Monday, June 14, 2021 10:15 AM
To: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>; Tony <vsellitti@comcast.net>
Cc: zoning <zoning@lauderdalebythesea-fl.gov>; Christopher Chivetta <cchivetta@hcarchitects.com>;

sfreelaw@aol.com

Subject: RE: 4112 El Mar - Zoning Clarifications

Jhanelle,

Thank you for the reply. I've reattached the sketch in pdf format.

We are still in need of some clarification on the how the height is to be measured in my first question #1. The attached plan shows the proposed residence that is 36 feet tall as measured from the baseline elevation (18" above crown of roadway), but it is only 29 feet tall as measured from the 100 Year Storm Wave Crest Elevation. In this example, is this building height considered to be less than 33 feet in height or greater than 33ft in height in order to apply the definition of grade?

In our opinion, since the residence is physically taller than 33ft we should use the definition of grade as defined in 30-11 Grade, a(2)ii.

Thank you.

Grade.

- a. For the purpose of calculating building height or structure, grade level shall mean:
 1. The maximum height of buildings that are less than or equal to 33 feet in height shall be measured
 - i. Above grade, as defined in the Florida Building Code, or
 - ii. Above a horizontal plane 18 inches above the crown of the roadway at the highest point adjoining the building.
 - iii. Above the minimum elevation for a habitable, finished floor permitted under applicable Federal, State or local flood hazard regulations.
 2. The maximum height of buildings that are greater than 33 feet in height shall be measured from
 - i. Above grade, as defined in the Florida Building Code, or
 - ii. Above a horizontal plane 18 inches above the crown of the roadway at the highest point adjoining the building.

William Schenck, AIA, LEED AP BD+C

Associate, Project Designer

D: 314.529.4015, C: 314.504.8242



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From: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>

Sent: Sunday, June 13, 2021 4:46 PM

To: Tony <ysellitti@comcast.net>; William Schenck <wschenck@hcarchitects.com>

Cc: zoning <zoning@lauderdalebythesea-fl.gov>; Christopher Chivetta <cchivetta@hcarchitects.com>;

sfreelaw@aol.com

Subject: RE: 4112 El Mar - Zoning Clarifications

Good afternoon,

Please see below.

1. **Allowable Height:** [30-241\(c\)](#) states that the maximum height above normal grade is 33 feet. The applicant for 4112 El Mar is using the 100 Year Storm Wave Crest to determine "Grade" rather than a horizontal plane 18 inches above the highest road crest. This appears to be in line with [Sec 7.1\(1\)\(c\)](#). Please confirm the use of the higher 100 Year Storm Crest is allowable per the ULDR and is an acceptable interpretation of the term "[grade](#)." This makes a big difference in the actual height of a structure relative to its neighbors.

From Section 30-11 Definitions

Grade.

a. For the purpose of calculating building height or structure, grade level shall mean:

1. The maximum height of buildings that are less than or equal to 33 feet in height shall be measured from whichever of the following three levels is highest:
 - i. Above grade, as defined in the Florida Building Code, or
 - ii. Above a horizontal plane 18 inches above the crown of the roadway at the highest point adjoining the property on which the building is located, or
 - iii. Above the minimum elevation for a habitable, finished floor permitted under applicable Federal or Florida State regulations.
2. The maximum height of buildings that are greater than 33 feet in height shall be measured from whichever of the following two levels is highest:
 - i. Above grade, as defined in the Florida Building Code, or
 - ii. Above a horizontal plane 18 inches above the crown of the roadway at the highest point adjoining the property on which the building is located.

- b. For the purpose of calculating the height of fences and privacy walls, grade shall mean the actual elevation of the ground adjacent to the exterior face of such fence or privacy wall.

2. **Rear Setbacks:** The proposed 4112 El Mar Dr residence extends approximately 153 ft from the curb line of El Mar Dr. This is 7 feet beyond the allowable 146ft listed in [30-241\(h\)\(3\)](#). However, the zoning code does not clearly identify the start of El Mar Dr. For example, is this point measured from the street curb, sidewalk, or edge of property? **The measurement is taken from the point at which El Mar Drive (the right-of-way of El Mar Drive) meets the property (at the property line). The plans submitted show the distance from the right-of-way of El Mar Drive to the rear setback line as 146 feet.**

3. **Side Setbacks:** The proposed 4112 El Mar Dr residence has a side setback of 10ft. The setback needs to increase by 1 foot horizontal for every one 2 feet vertical above 22 feet in height. [30-241\(h\)\(6\)b](#).

- a. Can the 22 feet height be measured from the established "grade" level, such as the 100 Year Storm Wave Crest, or should it start from the from the grade line 18 inches above the highest road crest? **The measurement of height begins at grade. Please see definition above.**

- b. The code is not clear if the increased side setback starts at ground level or if the setback can start to step back at 22ft as proposed by the architect for the new residence. Can you please confirm which interpretation of a side setback is correct based on the attached sketch? **Per our Counsel's opinion, the view corridor, which requires the additional setback based on the length of the building, is only required to 12-feet in height, since the view corridor has a specific height stated in the Code. The setbacks which begin at 22 feet are measured from the required 10-foot side setback. Since that height is not subject to the view corridor requirements. Please note that no sketch was provided with the e-mail.**

Sent from [Mail](#) for Windows 10

From: [Tony](#)

Sent: Monday, June 7, 2021 12:31 PM

To: [William Schenck](#)

Cc: [Jhanelle Campbell](#); [zoning](#); [Christopher Chivetta](#); [sfreelaw@aol.com](#)

Subject: Re: 4112 El Mar - Zoning Clarifications

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Thx William

Sent from my iPhone

On Jun 7, 2021, at 10:34 AM, William Schenck <wschenck@hcarchitects.com> wrote:

Jhanelle,

Good morning. I am assisting the owners of the 4128 El Mar Seaward property with a review of the new proposed residence, 4112 El Mar, that sits directly south of their lot. We believe the proposed plans may be in violation of the ULDR and will interfere with the use of 4128 El Mar. In the process of reviewing the proposed 4112 plans and the ULDR I have generated a list of questions that are in need of some basic confirmation/clarification:

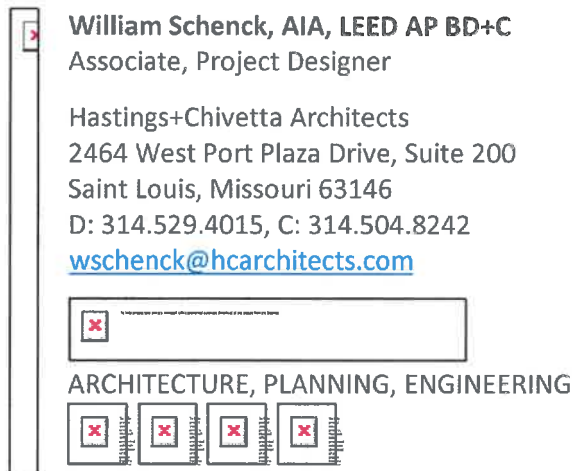
4. **Allowable Height:** [30-241\(c\)](#) states that the maximum height above normal grade is 33 feet. The applicant for 4112 El Mar is using the 100 Year Storm Wave Crest to determine "Grade" rather than a horizontal plane 18 inches above the highest road crest. This appears to be in line with [Sec 7.1\(1\)\(c\)](#). Please confirm the use of the higher 100 Year Storm Crest is allowable per the ULDR and is an acceptable interpretation of the term "[grade](#)." This makes a big difference in the actual height of a structure relative to its neighbors.
5. **Rear Setbacks:** The proposed 4112 El Mar Dr residence extends approximately 153 ft from the curb line of El Mar Dr. This is 7 feet beyond the allowable 146ft listed in [30-241\(h\)\(3\)](#). However, the zoning code does not clearly identify the start of El Mar

Dr. For example, is this point measured from the street curb, sidewalk, or edge of property?

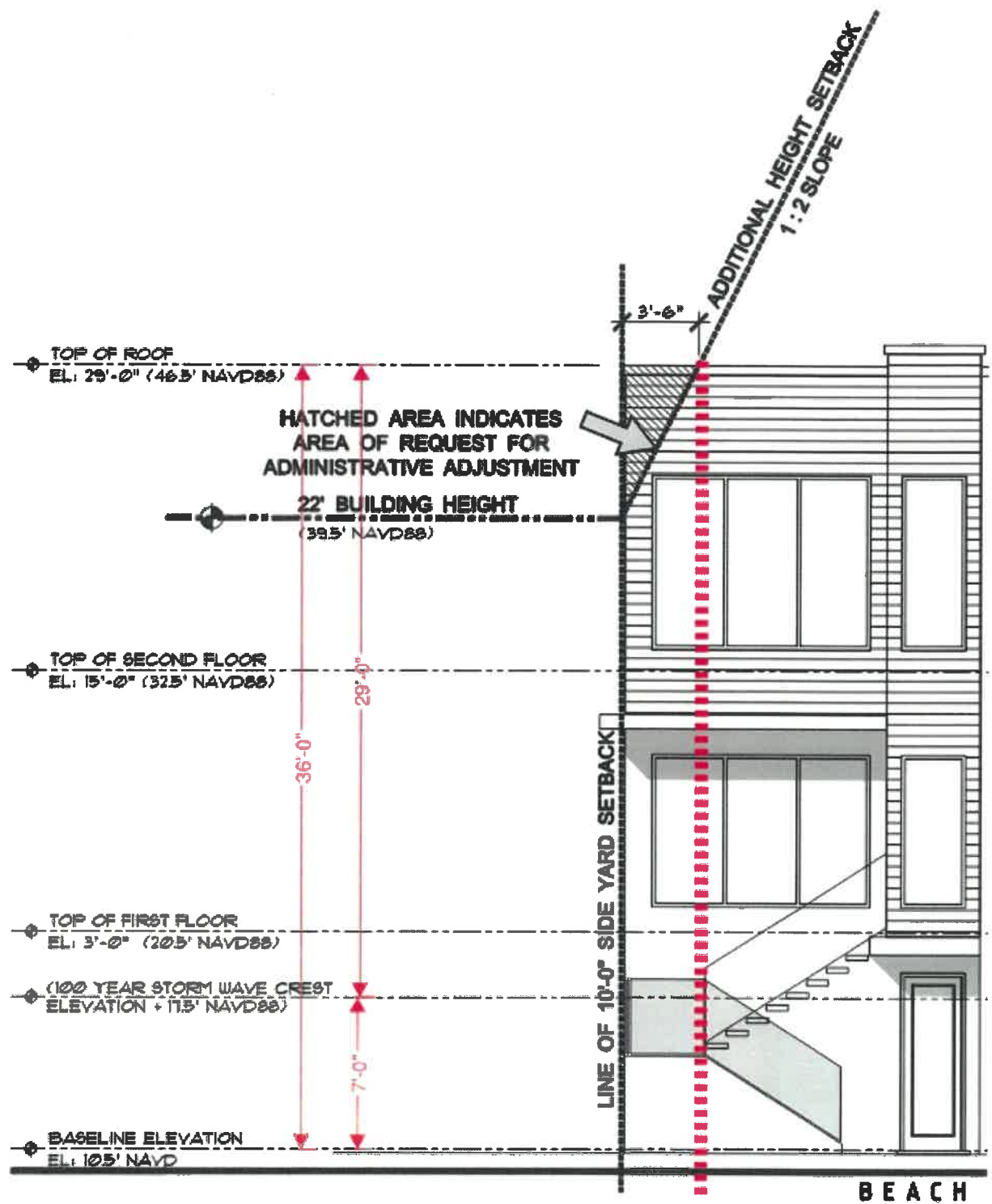
6. **Side Setbacks:** The proposed 4112 El Mar Dr residence has a side setback of 10ft. The setback needs to increase by 1 foot horizontal for every one 2 feet vertical above 22 feet in height. [30-241\(h\)\(6\)b](#).
- Can the 22 feet height be measured from the established "grade" level, such as the 100 Year Storm Wave Crest, or should it start from the from the grade line 18 inches above the highest road crest?
 - The code is not clear if the increased side setback starts at ground level or if the setback can start to step back at 22ft as proposed by the architect for the new residence. Can you please confirm which interpretation of a side setback is correct based on the attached sketch?

Thank you for your time.

<image001.png>



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EAST ELEVATION

SCALE: 3/16" = 1'-0"

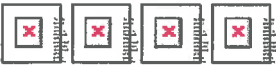


William Schenck, AIA, LEED AP BD+C
Associate, Project Designer

Hastings+Chivetta Architects
2464 West Port Plaza Drive, Suite 200
Saint Louis, Missouri 63146
D: 314.529.4015, C: 314.504.8242
wschenck@hcarchitects.com



ARCHITECTURE, PLANNING, ENGINEERING



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Susan Leven

From: Sue <sulev@comcast.net>
Sent: Friday, July 2, 2021 2:37 PM
To: Susan Leven
Subject: Fwd: Online Form Submittal: Lauderdale-By-The-Sea Public Records Request

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Sent from my iPhone

Begin forwarded message:

From: Tedra Allen <Tedraa@lauderdalebythesea-fl.gov>
Date: July 2, 2021 at 11:10:44 AM EDT
To: David Lee <dlee@capfla.com>, Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>, Sue Leven <sulev@comcast.net>
Subject: FW: Online Form Submittal: Lauderdale-By-The-Sea Public Records Request

Good morning,

Please see below public records request PRR 07-10,

Thanks,



Tedra Allen, CMC
Town Clerk
4501 N. Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Phone (954)640-4201 Fax (954)533-9546
tedraa@lbts-fl.gov ~ www.lbts-fl.gov

***Note:** Florida Public Records Law provides that most written communications to or from Municipal employees regarding town business are public records and are available to the public and media upon request. Therefore, this e-mail message may be subject to public disclosure.*

From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Wednesday, June 30, 2021 12:57 PM
To: Tedra Allen <Tedraa@lauderdalebythesea-fl.gov>
Subject: Online Form Submittal: Lauderdale-By-The-Sea Public Records Request

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Lauderdale-By-The-Sea Public Records Request

Name	Henry B Handler
Date	06/30/21
Address 1	2255 Glades Road, Suite 205-East
City	Boca Raton
State	FL
Zip	33431
Phone Number	5619979995
Email Address	hbh@whcfla.com
Records Requested and Applicable Fees	1. Outside of Application 2021-CU-01 each request for a Level 2 Conditional Use approval to construct a single family dwelling unit in the RM-25 Zoning District; 2. Since 2015, each instance in which Planning & Zoning or the Town Commission has determined a single family residence not to comply with the land use compatibility standard of Code of Ordinance 30-126 as part of a Conditional Use Review; 3. Since 2015, each instance in which Planning & Zoning or the Town Commission determined in a Code of Ordinance Section 30-126 Conditional Use Review that a single family use as designed was not compatible in terms of alteration of light and air; 4. Since 2015, each instance in which Planning & Zoning or the Town Commission determined in a Code of Ordinance Section 30-126 Conditional Use Review that a single family use as designed was compatible in terms of alteration of light and air; and 5. Since 2015, each instance in which Planning & Zoning or the Town Commission determined in a Code of Ordinance Section 30-119 Mandatory Site Plan Approval that a Single Family Home on an Existing Single Lot was not an exempt development; and 6. Since 2015, each instance in which Planning & Zoning or the Town Commission determined in a Code of Ordinance Section 30-122 Site Plan Requirements that a Single Family Home,

Apartment House, or Hotel use as designed was not compatible in terms of alteration of light and air.

Name of person submitting request Henry B Handler

Time

Using this form allows us to better track records requests. Completing this form is not required to obtain a public record. Records will be provided in a timely manner. Older Town records are stored off-site and may take extra time to retrieve.

Costs

Costs shall be prepaid as allowed by Florida Statute 119.07. Single copies cost .15 cents. Double-sided copies are .20 cents. Building Plan copies require a \$30 deposit plus any extra copying costs. CDs are \$7.99. DVDs are \$7.99. Tapes are \$3.00. Costs are projected. Additional fees may also be due upon receipt. Any request requiring more than 15 minutes of staff time is considered extensive and you will be charged for the clerical time needed to research and process your request.

Email not displaying correctly? [View it in your browser.](#)

Total Control Panel

[Log](#)

To: tedraa@lbts-fl.gov

Message Score: 1

High (60): **Pass**

From: noreply@civicplus.com

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April 23, 2021

VIA E-MAIL: SusanL@lauderdalebythesea-fl.gov

Susan Leven, AICP
Town of Lauderdale-by-the-Sea
4501 N. Ocean Drive
Lauderdale-by-the-Sea, FL 33308

RE: 4112 El Mar Dr. – Lot calculations

Dear Ms. Leven,

Please consider this letter as our explanation for the calculations of lot area shown on the site plan for the above referenced property. The Broward County Property Appraiser has calculated the lot square footage as 10,284 sf. The survey and site plan submitted for the above conditional use approval shows the square footage of the property as 10,177 square feet. This is a difference of 107 square feet. The Broward County Property Appraiser was contacted, and they indicated that they establish the lot line based on the erosion control line. The applicant has elected to proceed with the smaller square footage of 10,177 sf, which is more conservative than the Broward County Property Appraiser. All calculations are based off the more conservative calculation.

Please let me know if you need anything further.

Sincerely,



Nectaria M. Chakas, Esq.

cc: Bernie Paine, JBP General Contracting, via e-mail: bpaine@jbpgc.com
David Staudacher, via e-mail: dstaudacher@vandermeerfp.com

EXHIBIT 5

DIVISION 3. - CONDITIONAL USE PROCEDURES AND REQUIREMENTS

Sec. 30-126. - Conditional uses review.

- (a) *Defined.* A conditional use is a use that would not be appropriate without restriction throughout the land use district, but which, if controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood.
- (b) *Intent, purpose and effect.* The purpose of this section is to ensure that a conditional use shall only be permitted on specific sites as provided in a particular zoning district or as provided in this Code. where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity.

This section sets forth the procedures and criteria for approval of conditional uses on specific sites. A conditional use is quasi-judicial, and shall be permitted only upon a finding that the proposed use satisfies the specific review criteria of this section and other requirements of this Code.

An approval of a conditional use does not eliminate the need for other approvals, which may be required under this Code, including but not limited to site plan review.

- (c) *Application.* A conditional use application shall provide the following information unless waived by the DSD:
 - (1) Traffic impact study meeting the requirements of section 30-71(c)(14)d;
 - (2) Square feet designated (indoors or out) for each specific use;
 - (3) Estimated employment;
 - (4) Estimated number and type of service vehicles;
 - (5) Any unique facilities or structures proposed as part of site improvements; and
 - (6) A description of any mitigative techniques to abate any possible adverse impacts of the proposed use on properties in the immediate vicinity including smoke, odor, noise, and other impacts.
- (d) *Specific criteria for approving a conditional use.* A conditional use shall be permitted upon a finding by the Town Commission that the proposed use, as proposed or with additional conditions or modifications, satisfies the criteria herein specified. A conditional use shall be denied if the Town Commission determines that the proposed use does not meet the criteria herein provided or is adverse to the public interest. The Board and/or Commission may impose conditions and safeguards, in addition to those prescribed in the Code, as they determine are necessary for the protection of the surrounding area and to preserve the spirit and intent of the Town Code and Comprehensive Plan. The applicant shall demonstrate the following:
 - (1) *Land use compatibility.* The conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities and residential areas in the immediate vicinity.

For purposes of a conditional use review, compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics, which may impact adjacent or surrounding uses. They include: type of use, density, intensity,

Exhibit 5

height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances. The Town Manager shall recommend whether the conditional use is compatible. Compatibility shall be measured based on all of the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:

- i. Permitted uses, structures and activities allowed within the land use category;
 - ii. Building location, dimensions, height, and floor area ratio;
 - iii. Location and extent of parking, access drives and service areas;
 - iv. Traffic generation, hours of operation, noise levels and outdoor lighting;
 - v. Alteration of light and air;
 - vi. Setbacks and buffers such as fences, walls, landscaping and open space treatment;
 - vii. The architectural and site design are compatible with the character of the surrounding area; and
 - viii. Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic.
- (2) *Sufficient site size, site specifications, and infrastructure to accommodate the proposed use.* The size and shape of the site, the proposed access and internal circulation, and the urban design must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
- (3) *Compliance with the Comprehensive Plan and Code of Ordinances.* The conditional use shall comply with environmental, zoning, concurrency and other applicable regulations of this Code of Ordinances and shall be consistent with the Comprehensive Plan.
- (4) *Proper use of mitigative techniques.* The conditional use and site plan shall incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
- (e) *Conditional use approval amendments.* A conditional use approval is specific to the density and intensity of the proposed use, the particular site plan and any supplemental conditions approved. Unauthorized modification to a site plan or any of the specifics or conditions of the conditional use approval is a violation of the Town Code and subject to code enforcement action and/or revocation of the conditional use approved. Any proposed modification to the conditional use that affects density, intensity or minimum code requirements of the site development plan will require review and approval by the Town Commission.
 - (1) The Town Manager shall determine if the request is a Level 1 Amendment or a Level 2 Amendment. In deciding whether an application is a Level 1 or Level 2 Amendment, the Town Manager shall consider the requirements of section 30-123(a)—(c) of the Code.
 - a. Level 1 Amendment: Shall be processed pursuant to the requirements for a Level 1 Review-Administrative Approval as set forth in section 30-113.
 - b. Level 2 Amendment: Shall be processed pursuant to the requirements for a Level 2 Review - Town Commission Approval as set forth in section 30-113.
- (f) *Continuing jurisdiction.* The Town Commission hereby reserves to itself the jurisdiction and authority to review and revoke conditional use permits where the use or the continuation of the use:
 - (1) Violates the conditions set forth by the Town Commission as a requirement for the granting of the use;

Exhibit 5

- (2) Is injurious to the health, safety or welfare of the community or of the public;
- (3) Tends to attract vagrants, loiterers or habitually intoxicated persons; or
- (4) Has a history of repeated Code violations.

(Ord. No. 2014-08, § 3, 7-7-2014)