

Town of Lauderdale-By-The-Sea

Planning and Zoning Board

Agenda

Wednesday May 3, 2023

6:00 PM



Jarvis Hall 4505 N. Ocean Drive 33308
www.Lauderdalebythesea-fl.gov

Planning and Zoning Board

Wednesday, May 3, 2023, 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. February 16, 2023 Planning and Zoning Board Minutes
[Unapproved Minutes for February 16, 2023.pdf](#)

4. PUBLIC COMMENTS

5. TOWN PLANNER REPORT

6. NEW BUSINESS

- 6.a. Conditional Use (2023-CU-01) request to construct a duplex dwelling within the RM-25 Zoning District for property located at 4200 N Ocean Drive.
[2023-CU-01 Conditional Use \(4200 N Ocean Drive\) Staff Report_rvs_-46D8373.pdf](#)
[Ex 1 2023-CU-01 Plans and application.pdf](#)
[Ex 2 Notice of Public Hearings 30-139.pdf](#)
[Ex 3 Conditional Use Code 30-126.pdf](#)
[Ex 4 Sec. 30_114. ___Public_participation_required.pdf](#)
[Ex 5 Citizen Participation Meeting Summary.pdf](#)
- 6.b. Case Number 2023-V-01: Edward Maslanka (Applicant)-Requests a Variance from Section 30-313(d)(1)h of the Town's Code of Ordinances, to permit the construction of a fence and gate within the required front setback for the property located at 291 Imperial Lane.
[2023-V-01 Variance \(291 Imperial Lane\) Staff Report_rvs- 46D8374.pdf](#)
[Ex 1 Variance Application and plans 291 Imperial Lane.pdf](#)
[Ex 2 Notice of Public Hearings 30-139.pdf](#)
[Ex 3 Sec. 30_313. ___General_provisions. \(7\).pdf](#)
[Ex 4 Variance 30-127.pdf](#)
[Ex 5 Applicant narrative.pdf](#)
[Ex 6 Commission Minutes 1997-07-08 Variance 97-05.pdf](#)
[Ex 7 Variance #91-04 288 Imperial.pdf](#)
[Ex 8 Variance #93-01 287 Imperial.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 ENSURE 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.

INVOCATION:

The Invocation before each Town Commission meeting is a voluntary service of a private citizen, offered to serve the spiritual needs of the members of the Town Commission and solemnize the meeting. It is not intended to be an opportunity to advance or disparage one faith or belief over another. The views expressed in the Invocation have not been previously reviewed by the Town and do not necessarily represent the beliefs of any Town employee or official. No person is required to be present at or participate in the Invocation, and the decision whether to be present or participate in the Invocation will not affect any person's right to actively participate in the official business of the Town or obtain any benefit from the Town. The Town's written Invocation policy is available on its website, and upon written request to the Town Clerk.

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Thursday, February 16, 2023

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

Chair Piersante called the in-person Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at approximately 6:01PM.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL & WELCOME

Board Clerk Megan Small called the roll and board members present in-person were Chair Ron Piersante, Patricia Omana, 1st Alternate Denise Lambert and 2nd Alternate Karen Sylvester. The absentee board members were Wayne Dillistin, Vice Chair Howard Goldberg, and Brandy Whitford. Also present in person were Town Attorney James White, Development Services Director Jhanelle Campbell, Town Planner Susan Leven, and Board Clerk Megan Small.

3. APPROVAL OF MINUTES

a. Planning & Zoning (P&Z) Meeting Minutes – August 22, 2022

Board Member Sylvester made a motion to approve the minutes of the P&Z Meeting of August 22, 2022 as written. The motion was seconded by Board Member Omana. The motion to approve the August 22, 2022 minutes as written carried 4-0.

4. PUBLIC COMMENTS

Chair Piersante opened the meeting to the public for any comments on items not on the agenda. When an agenda item was presented, public comments regarding that item would be heard at that time. As there were no public comments for items not on the agenda, the Chair closed this portion of Public Comments.

Please note that due to technical difficulties, the video of this meeting did not capture any of the audio.

5. TOWN PLANNER REPORT

6. NEW BUSINESS

Case Numbers 2022-CU-01 (Conditional Use), 2022-L2-SPM-02 (Site Plan Modification), 2022-FXU-01 (Flex Unit Allocation): IMCO BY C., LLC (The Applicant) Conditional Use Request to permit a Mixed-Use Development in the B-1 Zoning District, Site Plan Modification and a Flex Unit Allocation to create two second-floor dwelling units.

Susan Leven, Town Planner, presented this item. She gave a PowerPoint presentation. Among the various information in the Board packet, the 233 Commercial Boulevard Staff Report reflected that Staff recommended that the Board vote to recommend to the Town Commission approval of the request for Site Plan Modification, Conditional Use, and Flex Unit

Allocation. The Chair called for public comment but no one from the public wished to speak on this matter and this portion of public comment was closed. There was a brief discussion/questions among the board members, Town Attorney James White, Planner Susan Leven, and the applicant Maria Karachalia (property owner IMCO BY C., LLC - Charles Weidner's daughter). Mr. Weidner was present but did not speak. As no one else requested to speak, the Chair called for a motion.

Board Member Sylvester made a motion to recommend approval to the Town Commission of Case Numbers 2022-CU-01 (Conditional Use), 2022-L2-SPM-02 (Site Plan Modification), 2022-FXU-01 (Flex Unit Allocation) subject to conditions. The motion was seconded by Board Member Lambert. The motion to recommend approval with conditions to the Town Commission carried 4-0.

7. OLD BUSINESS

8. UPDATES/BOARD MEMBER COMMENTS

9. ADJOURNMENT

Board Member Lambert made a motion to adjourn at approximately 6:17PM. The motion was seconded by Board Member Sylvester. The motion to adjourn carried 4-0.

Chair Ron Piersante

ATTEST:

Date Accepted: _____



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

To: Planning and Zoning Board (the "Board")
From: Jhanelle Campbell, Acting Development Services Director
Meeting Date: May 3, 2023
Project: Conditional Use (2023-CU-01) request to construct a duplex dwelling within the RM-25 Zoning District for property located at 4200 N Ocean Drive.

The purpose of this memorandum is to provide Staff's findings and recommendations regarding the Conditional Use application (**Exhibit 1**) submitted to the Town of Lauderdale-By-The-Sea, Florida (the "Town") for a proposed duplex dwelling to be located at 4200 North Ocean Drive (the "Property")(**Diagram 1**).

Diagram 1



The Applicant, Brian Lowe, 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**). To date, no one has contacted the Town with respect to the proposed project.

Background and Request

The Property is a vacant 0.13 acre parcel located within the RM-25 zoning district with a future land use classification of Medium High (25) Residential.

In December of 2021, a prior duplex dwelling located on this Property was demolished.

Duplex dwellings 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 duplex dwelling on the Property.

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:

1. Cover page with rendering, prepared by Tuthill Architecture, dated January 9, 2023, revised April 14, 2023, Sheet A-0.0.
2. Front and right side elevations, prepared by Tuthill Architecture, dated January 9, 2023, Sheet A-2.0.
3. Rear and left side elevations, prepared by Tuthill Architecture, dated January 9, 2023, Sheet A-3.0.
4. Site Plan, prepared by Tuthill Architecture, dated January 9, 2023, revised April 14, 2023, Sheet SP-1.0.
5. Lighting Plan, prepared by Tuthill Architecture, dated April 14, 2023, Sheet E-1.0.
6. First, and Second Floor Plans, prepared by Tuthill Architecture, dated January 9, 2023, Sheet A-1.0.
7. Landscape Plan, prepared by George Keen, Landscape Architect, dated October 29, 2022, revised December 19, 2022, revised April 12, 2023, Sheet LS-1.
8. Landscape Details and Plant Materials Schedule, prepared by George Keen, Landscape Architect, dated October 29, 2022, revised December 19, 2022, revised April 12, 2023, Sheet LS-2.
9. Rendering with Materials Board, prepared by Tuthill Architecture, no date, revised February 8, 2023, Sheet A-6.0.

Town Code Provision

Section 30-126, "Conditional uses review" of the Town Code (**Exhibit 3**) provides the process by which conditional uses may be granted. Conditional use applications require review by the Town Staff, Planning and Zoning Board and final review and consideration by the Town Commission.

Public Participation

A public participation meeting, pursuant to section 30-114, "Public participation required" of the Town Code (**Exhibit 4**), took place on March 20, 2023. A summary of the meeting (**Exhibit 5**) was submitted on March 28, 2023.

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 response regarding the criteria for the Conditional Use:

- (1) The proposed conditional use, a new duplex, is compatible with the neighboring properties and was a duplex previously until it was demolished to make way for this new project. It will coexist harmoniously with neighboring properties and will not negatively impact, or be negatively impacted by, nearby uses.
 - (i) The proposed conditional use, a new duplex, is compatible with neighboring uses on larger properties, such as hotels and apartment buildings. Because of the small size of the subject property, a hotel or apartment building is not a feasible use of the property.

- (ii) The proposed building location and scale are compatible to the neighboring properties. The dimensions of the building and its height are in keeping with all zoning requirements and attempt to create a balanced transition between the one-story building to the north, the two-story building to the east, and the two story building across Hibiscus Avenue to the south. The FAR of the project is 0.60.
- (iii) The location of the parking for the new proposed duplex has been moved off of A1A, where it was previously located for the original duplex. There are no access drives or service areas in our proposed site plan. The town currently has four parallel metered parking spots along Hibiscus Avenue to the south, and our design allows two of those four metered spots to remain, and two be removed to allow for four onsite parking spots for the new duplex.
- (iv) The proposed new duplex is compatible with neighboring properties with respect to traffic generation (four cars parked off-street), noise levels (duplex similar to apartments but at a smaller scale, and outdoor lighting (wall mounted sconces and soffit downlights match neighboring properties).
- (v) The proposed new duplex is compatible with neighboring properties with respect to its alteration of light and air. The scale of the building allows neighboring properties to still access natural light and prevailing breezes from the east.
- (vi) The proposed new duplex is compatible with neighboring properties with respect to setbacks, buffers, landscaping, and open space treatment. A new landscaped front yard (open space) along A1A is being created in place of what was previously a paved parking area. New walls along Hibiscus Avenue are designed to be sculptural and harmonious with new proposed landscaping that will beautify the streetscape and improve neighbor's experience when walking down the sidewalk along Hibiscus Avenue.
- (vii) The architectural and site design are compatible with the character of the surrounding area by improving the street scape and continuing the functional use of south facing balconies to the east. As noted above, the wall and landscape designs, in addition to the new duplex itself, will vastly improve the pedestrian experience and visual interest of a showcase corner that will be seen by many visitors as the enter town from the south.
- (viii) The existing stop sign at the corner of Hibiscus Avenue and A1A will remain as part of the proposed design, and there are no new signs proposed. Lighting is designed to be harmonious with neighboring buildings and will only serve to improve surrounding areas.

Staff Finding: This criterion has been met.

- (2) The shape and size of the site is adequate to accommodate the proposed use. Vehicular and pedestrian access have been moved off A1A and onto Hibiscus Avenue for safety and to improve the urban design on this corner. As noted above, there are adequate areas of open space, landscaping, and buffers included in the site design to improve the neighbor's experience and easily accommodate the proposed use. Four off street parking spots have been provided, and two of the four on street parking spots are able to remain as part of the proposed design.

Staff Finding: This criterion has been met.

- (3) The conditional use complies with environmental, zoning, concurrency, and other applicable regulations of the town's Code of Ordinances, and is consistent with the town's Comprehensive plan in the following ways:

- the project provides onsite parking
- the project maintains runoff onsite
- it maintains the town's year round residential character
- it implements compact design principles to preserve open space
- it maintains the overall scale of the town through a proper height building

Staff Finding: This criterion has been met.

- (4) The proposed use and site design plans to incorporate any mitigative techniques to prevent negative impacts on adjacent land uses as suggested by the town. In addition, the design scheme will appropriately address any off-site impacts brought up by the town, to ensure that land use activities in the immediate vicinity are not burdened with adverse impacts detrimental to the general public health, safety, and welfare.

Staff Finding: This criterion has been met.

Summary Findings and Recommendations

The proposed plans submitted by the Applicant are consistent with the Land Development Code and Town Staff believe that the Applicant has addressed the criteria for granting of the Conditional Use.

Town Staff recommends that the Board vote to recommend the Town Commission's 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 1**, 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.

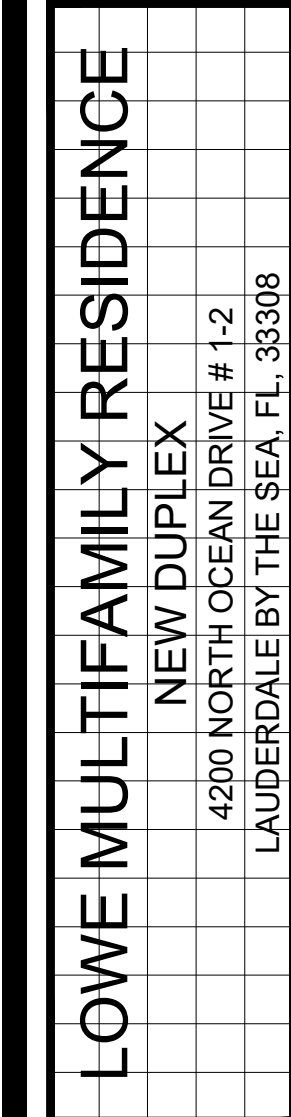
Summary Findings

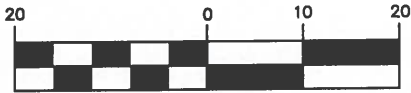
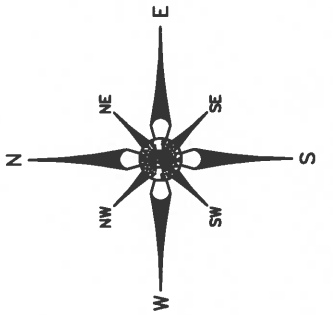
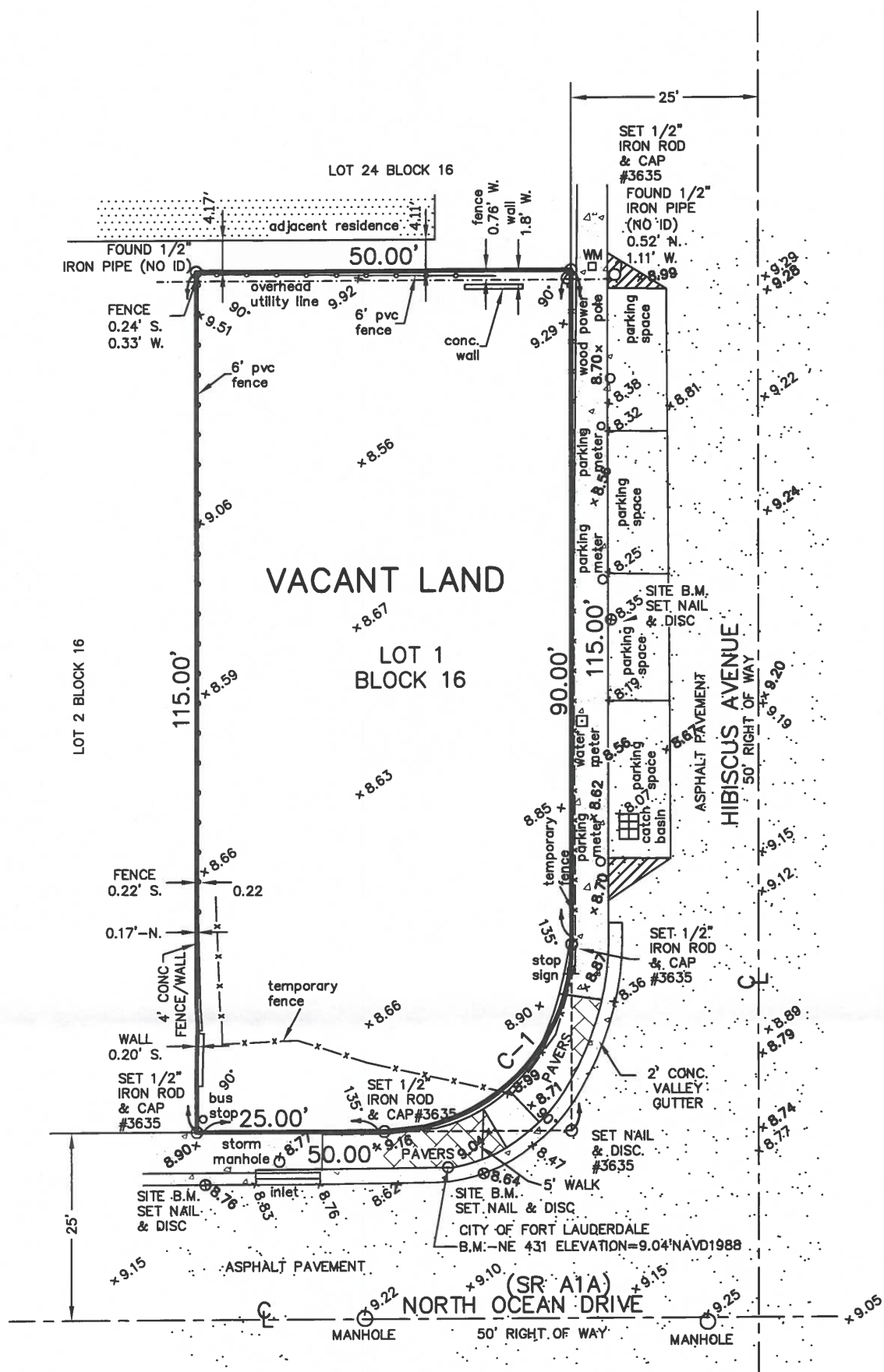
Staff has reviewed the application and concludes the application as conditioned herein meets the Town Code requirements.

Exhibits

1. Plans and application
2. Section 30-139 - Notice of Public Hearings
3. Section 30-126 - Conditional Use Procedures and Requirements
4. Section 30-114 – Public Participation Required
5. Public Participation meeting summary

**4200 NORTH OCEAN DRIVE #1-2
LAUDERDALE BY THE SEA, FL 33308**

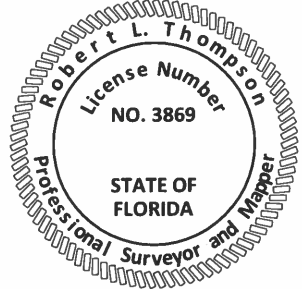




GRAPHIC SCALE
1"=20'

$$\begin{aligned} C-1 \\ R &= 25' \\ \Delta &= 90^\circ \\ A &= 39.27' \end{aligned}$$

SEAL



Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

NOTES:

1. Unless otherwise noted field measurements are in agreement with record measurements.
2. Angles shown hereon are per Plat book 6, Page 2, Broward County Records.
3. The lands shown hereon were not abstracted for ownership, rights of way, easements, or other matters of records by Accurate Land Surveyors, Inc.
4. Ownership of fences and walls if any are not determined.
5. This survey is the property of Accurate Land Surveyors, Inc. and shall not be used or reproduced in whole or in part without written authorization.
6. Any and all underground features such as foundations, utility lines, Ext. were not located on this survey. This is an above ground survey only.
7. The flood zone information shown hereon is for the dwellable structure only unless otherwise indicated.
8. The location of overhead utility lines are approximate in nature due to their proximity above ground. size, type and quantity must be verified prior to design or construction.
9. Accuracy statement: This survey meets or exceeds the horizontal accuracy for SUBURBAN LINEAR : 1 FOOT IN 7,500 FEET.
10. +7.00' Denotes elevations based on the North American Vertical Datum of 1988.

REVISIONS & SURVEY UPDATES

DATE OF SURVEY & REVISIONS

BY

UPDATE/TOPO SURVEY SU-22-0270
UPDATE/TOPO SURVEY SU-21-2406

02-16-2022
10-07-2021

AL/RLT
AL/RLT

CERTIFICATION:

This is to certify that this above ground sketch of boundary survey was made under my responsible charge and is accurate and correct to the best of my knowledge and belief. I further certify that this sketch meets the current Standards of Practice, established by the Board of Professional Surveyors and Mappers, Chapter 5J-17, Florida Administrative Codes, pursuant to current Section 472.027, Florida Statutes.

Robert L. Thompson 02-24-2022

ROBERT L. THOMPSON (PRESIDENT)

PROFESSIONAL SURVEYOR AND MAPPER No.3869 - STATE OF FLORIDA

ORIGINAL DATE OF SURVEY
03-19-2021

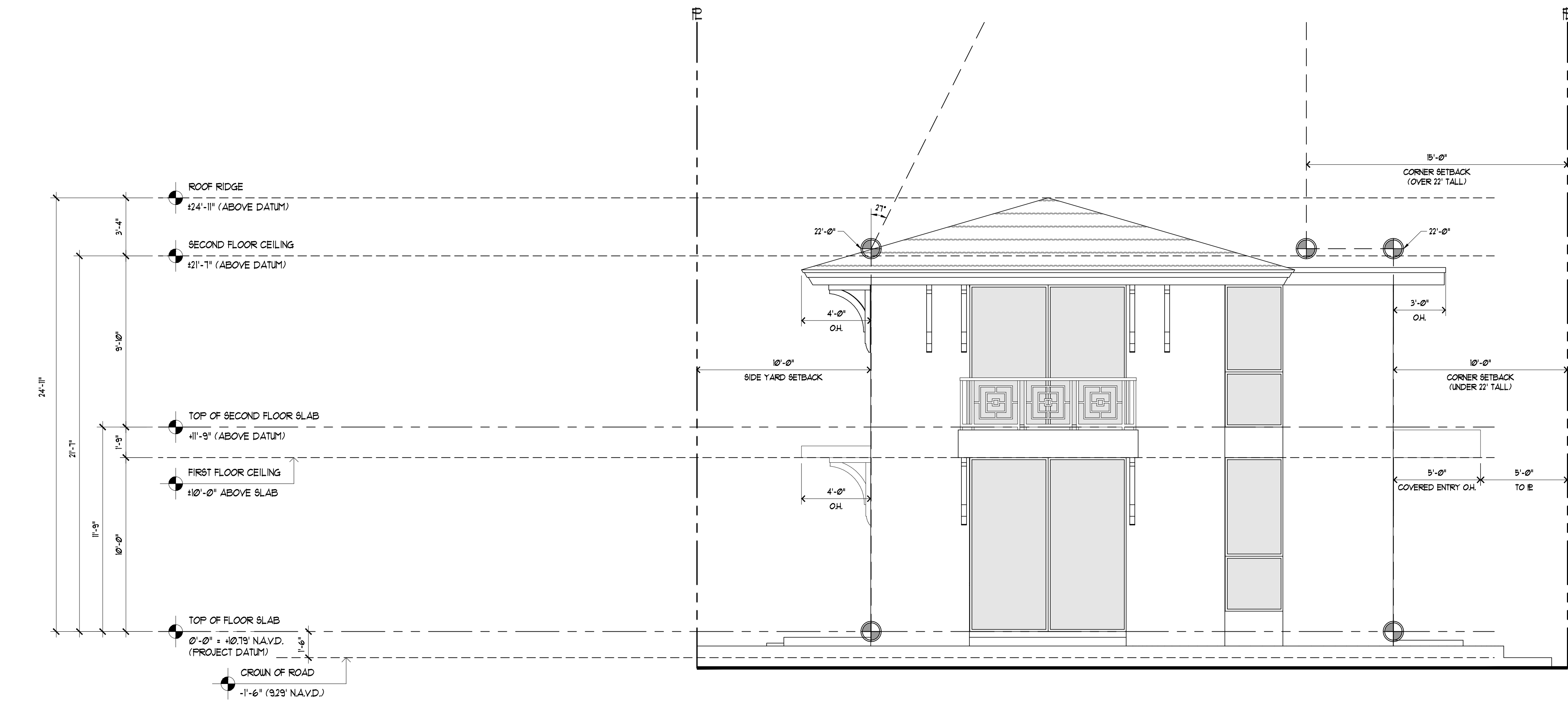
DRAWN BY
SP

CHECKED BY
RLT

FIELD BOOK
21-0585

SCALE 1"=20'

SKETCH NUMBER SU-21-0585

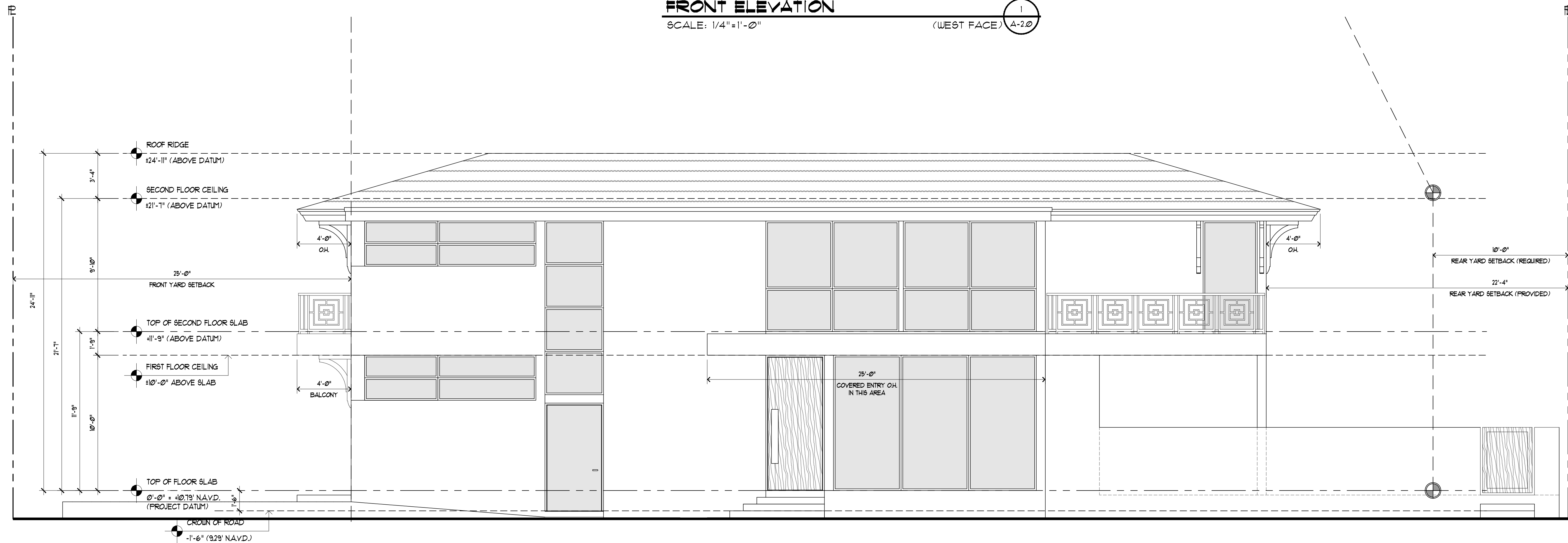


FRONT ELEVATION

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

(WEST FACE)

1
A-2.0

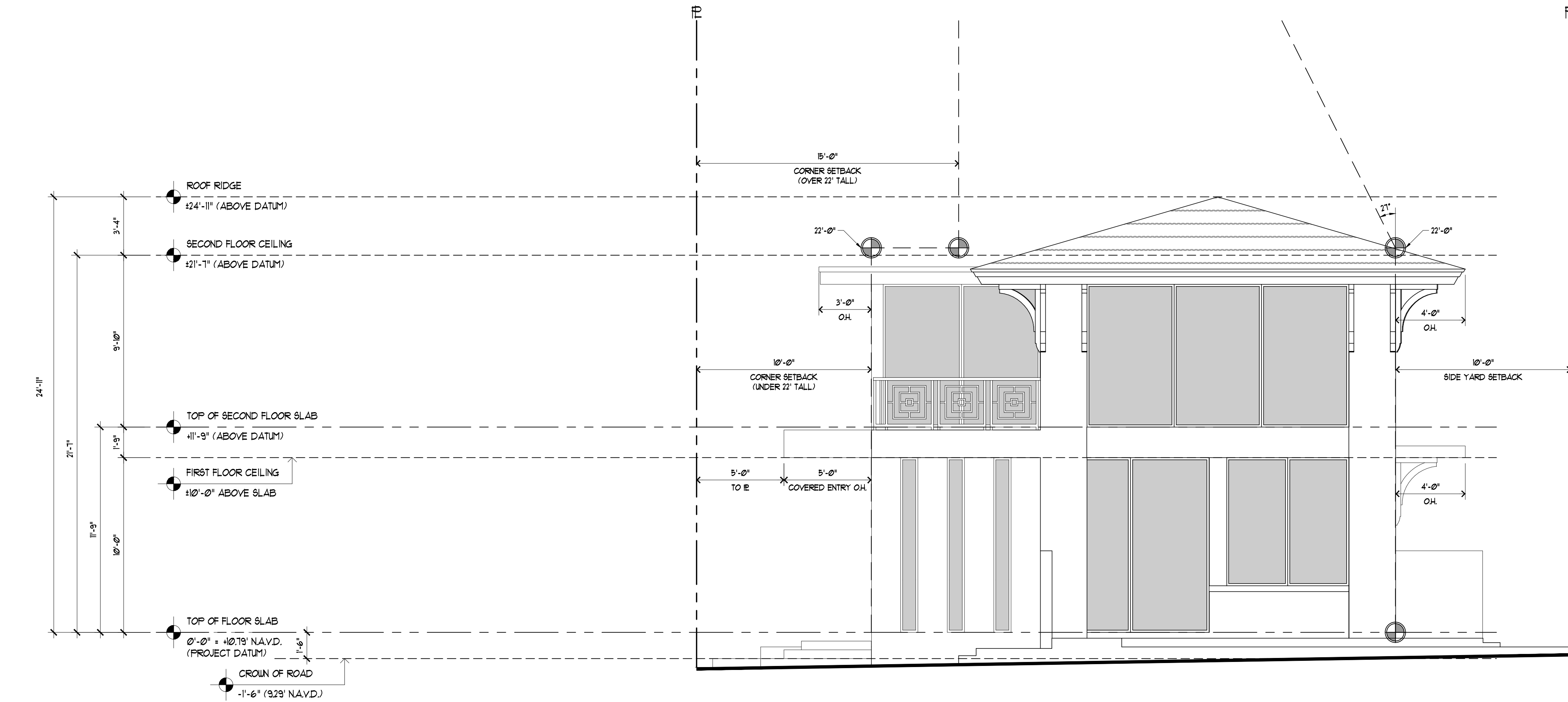


RIGHT SIDE ELEVATION

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

(SOUTH FACE)

2
A-2.0

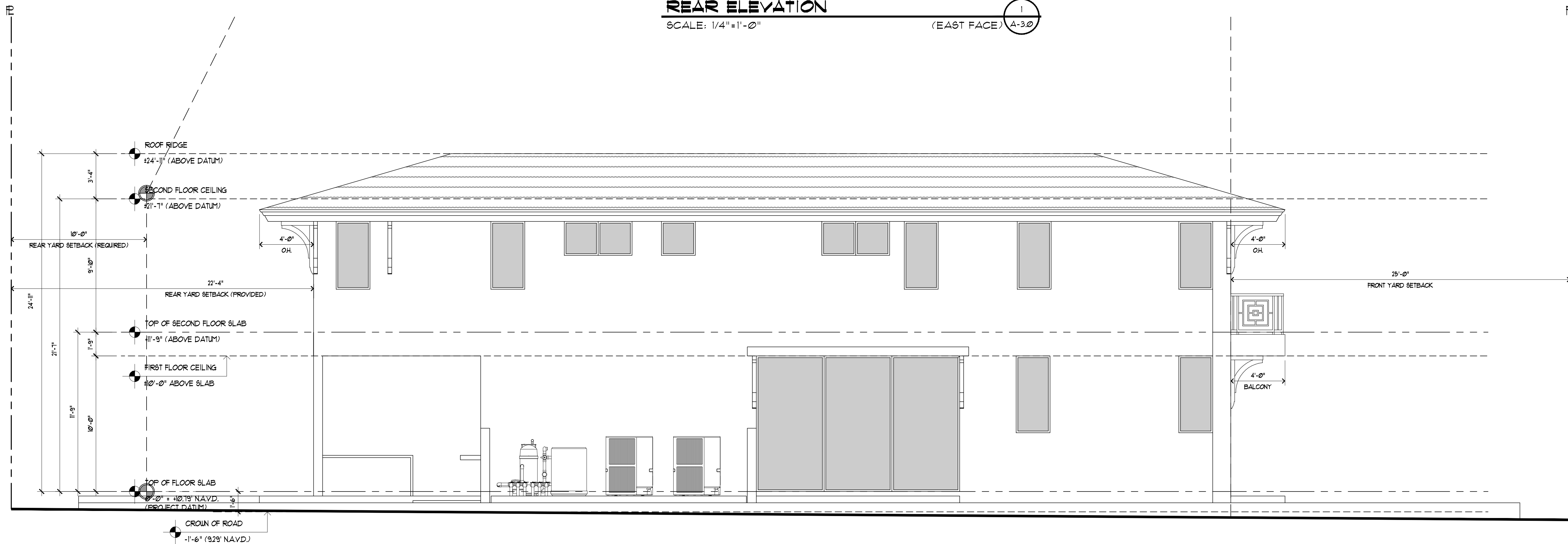


REAR ELEVATION

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

(EAST FACE)

1
A-3.0



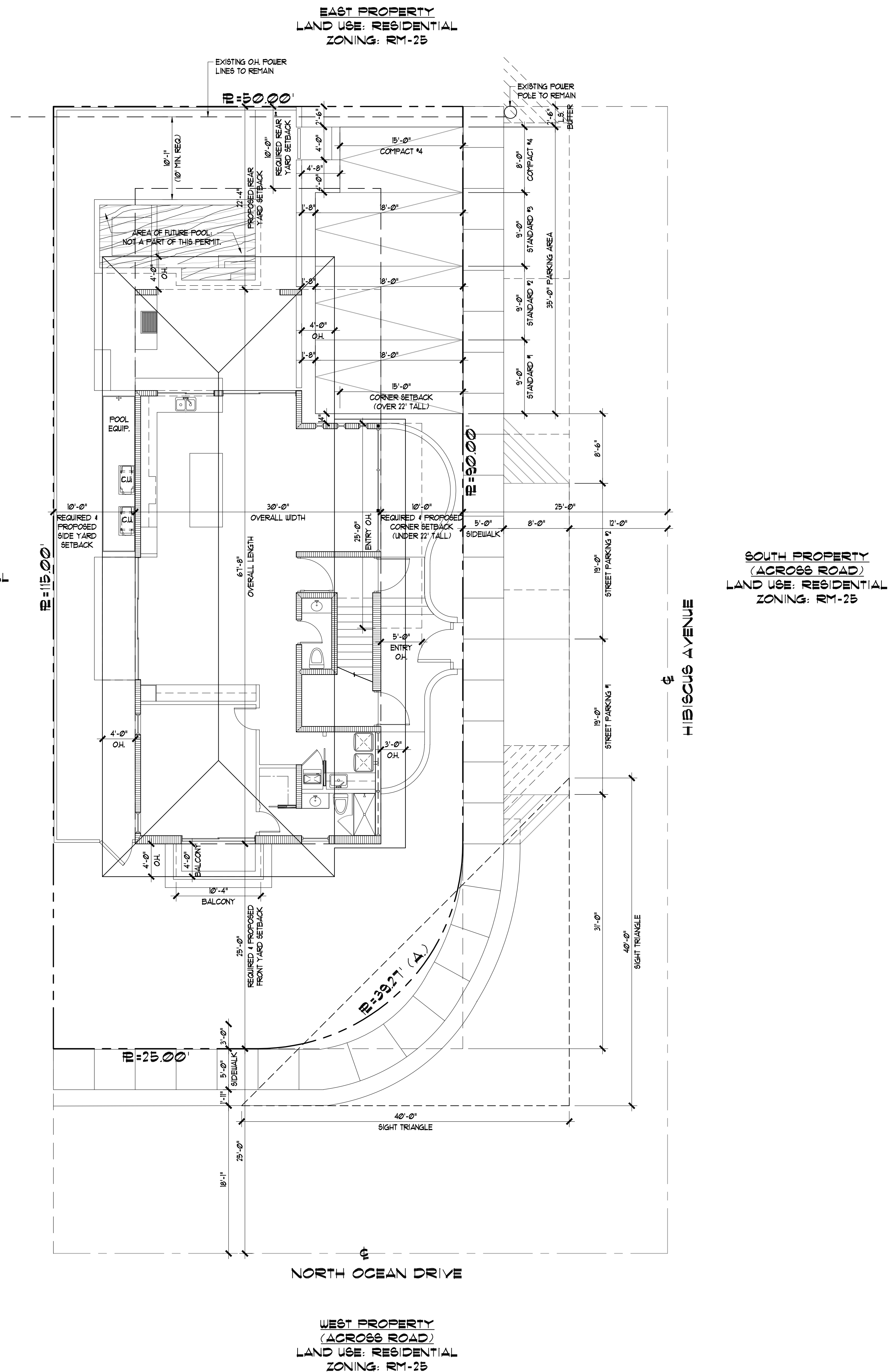
LEFT SIDE ELEVATION

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

(NORTH FACE)

2
A-3.0

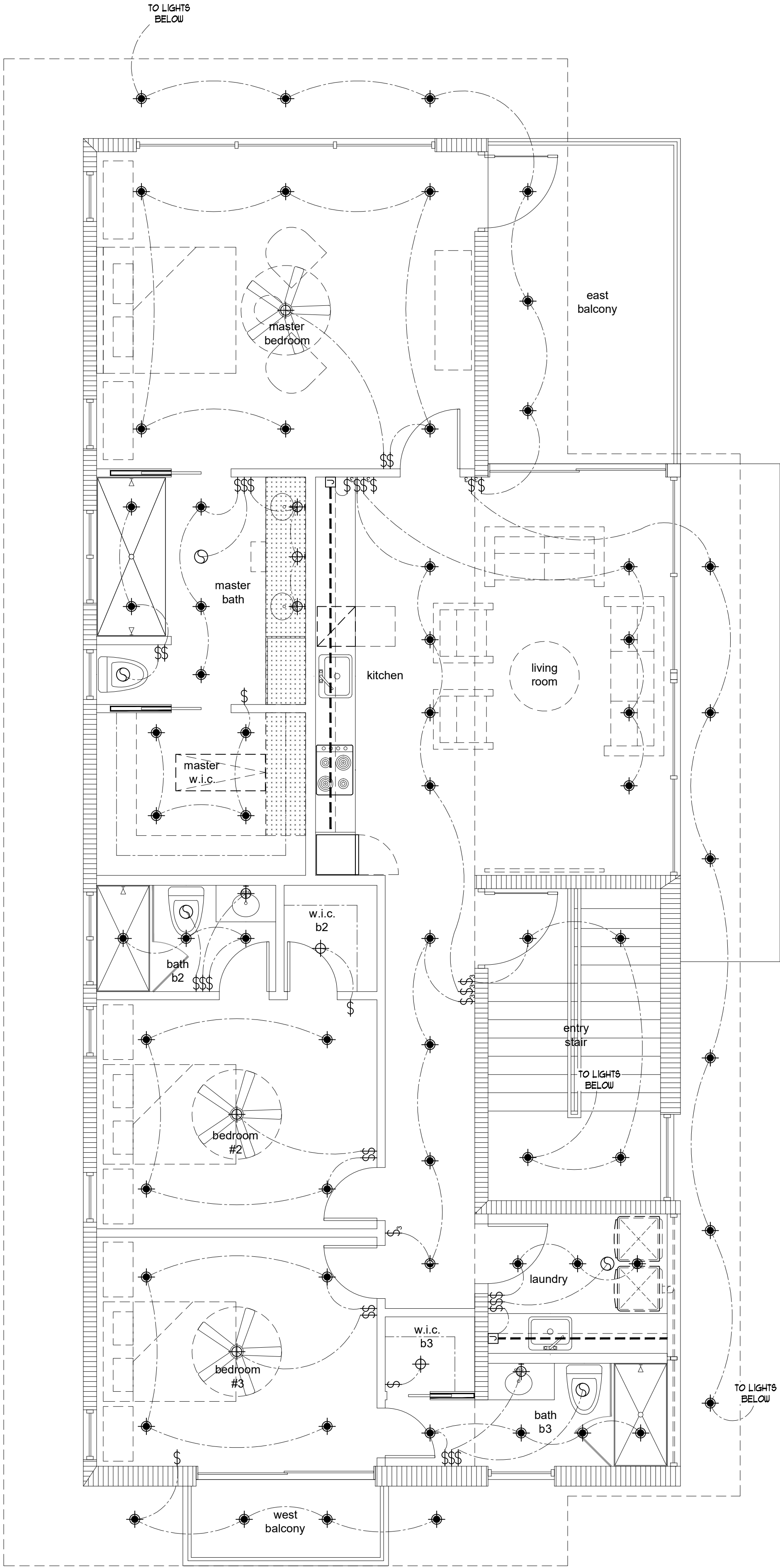
UTILITY PROVIDER DATA	
ELECTRICAL POWER SERVICE:	FLORIDA POWER & LIGHT
WATER SUPPLY SERVICE:	FT. LAUDERDALE UTILITIES
SEWER SERVICE:	POMPANO BEACH UTILITIES
SOLID WASTE SERVICE:	WASTE PRO



GENERAL ELECTRICAL NOTES:

- DO NOT SCALE DRAWINGS. REFER TO ARCHITECTURAL PLANS AND ELEVATIONS FOR APPROXIMATE EQUIPMENT LOCATIONS. CONFIRM EXACT LOCATIONS WITH OWNER'S REPRESENTATIVE. (ALLOW FOR OWNER/ARCHITECT WALK-THRU)
- ALL WORK SHALL BE DONE IN STRICT COMPLIANCE WITH THE NATIONAL ELECTRICAL CODE AND ALL OTHER RULES AND ORDINANCES OF THE LOCAL JURISDICTION.
- ELECTRICAL CONTRACTOR SHALL FURNISH AND INSTALL ALL ITEMS FOR A COMPLETE ELECTRICAL SYSTEM AND PROVIDE ALL REQUIREMENTS NECESSARY FOR EQUIPMENT TO BE PLACED IN PROPER WORKING ORDER.
- ELECTRICAL SYSTEM SHALL BE COMPLETELY GROUNDED AS REQUIRED BY THE LATEST EDITION OF THE NATIONAL ELECTRICAL (NEC 250) AND SHALL CONSIST OF COPPER CONDUCTORS IN CONDUIT WITH BOLTED OR BRACED CONNECTIONS TO COLD WATER PIPE AND GROUND RODS. ALL METALLIC RACEWAYS SHALL BE GROUNDED.
- ALL MATERIALS SHALL BE NEW AND BEAR UNDERWRITER'S LABELS AS APPLICABLE.
- ALL WORK SHALL BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR IN A PROFESSIONAL WORKMANLIKE MANNER. THE COMPLETED SYSTEM SHALL BE FULLY OPERATIVE & ACCEPTED BY THE OWNER/REP. AND ARCHITECT.
- PLANS ARE GENERALLY DIAGRAMMATIC. ELECTRICIAN IS TO COORDINATE HIS WORK WITH OTHER TRADES, AS REQUIRED TO AVOID INTERFERENCE WITH THE PROGRESS OF CONSTRUCTION, AND TO FEED CONNECT-CONTROLS FOR A/C, HEATERS, WATER HEATERS, AND ANY OTHER ELECTRICAL REQUIREMENTS FOR EQUIPMENT TO WORK PROPERLY.
- ELECTRICAL CONTRACTOR SHALL PROVIDE ALL REQUIRED INSURANCE FOR PROTECTION AGAINST PUBLIC LIABILITY AND PROPERTY DAMAGE FOR THE DURATION OF WORK.
- ELECTRICAL CONTRACTOR SHALL PAY FOR ALL PERMITS, FEES, INSPECTIONS AND TESTS, UNLESS ARRANGED OTHERWISE BY CONTRACT.
- THE ELECTRICAL INSTALLATION SHALL MEET ALL STANDARD REQUIREMENTS OF POWER AND TELEPHONE COMPANIES.
- MINIMUM WIRE SIZE SHALL BE #12 ALUG. EXCLUDING CONTROL WIRING (LIGHTING). UNLESS OTHERWISE NOTED, WIRING TO BE SOFT-DRAIN COPPER WITH THIN/THIN 600 VOLT INSULATION MIN SIZE SHALL BE #12 FOR POWER WIRING (OUTLETS) AND #14 FOR CONTROL WIRING (LIGHTING). CONDUIT SHALL BE RGS OR MC FOR EXTERIOR RUNS, EMT FOR CONCEALED AND INTERIOR RUNS NOT EXPOSED TO WEATHER OR MECHANICAL DAMAGE. PVC MAY BE USED UNDERGROUND (WHERE BURIED 18") AND PROVIDED WITH A GROUND WIRE AS PER NEC 250. TYPE "NM" GROUND COPPER CABLE, AS MANUFACTURED BY "ROMEX" (OR APPROVED EQUAL), MAY BE USED WHERE IN PARTITIONS AND INTERIOR SPACES.
- OUTLET BOXES SHALL BE PRESSED STEEL IN DRY LOCATIONS, CAST ALLOY WITH THREADED HUBS IN WET OR DAMP AREAS, AND SPECIAL ENCLOSURES FOR OTHER CLASSIFIED AREAS.
- DO NOT INSTALL OUTLET BOXES BACK TO BACK INSIDE ANY INTERIOR PARTITIONS. OFFSET BOXES IN ORDER TO PREVENT SOUND TRANSMISSION BETWEEN ROOMS.
- DISCONNECT SWITCHES SHALL BE HP, RATED, HEAVY DUTY, QUICK-MAKE, QUICK-BREAK ENCLOSURES AS REQUIRED BY EXPOSURE.
- MOTOR STARTERS SHALL BE MANUAL OR MAGNETIC WITH OVERLOAD RELAYS IN EACH HOT LEG.
- ALL UNDERGROUND RACEWAYS SHALL BE 1/2" CONDUIT (MIN).
- ALL CIRCUIT BREAKERS, TWO OR MORE POLE, SHALL BE A COMMON TRIP, NO TIE HANDLES OR TANDEM'S ARE PERMITTED.
- UNLESS NOTED OTHERWISE (UNO.), ALL FUSES SHALL BE CURRENT LIMITED FUSES RATED FOR 200/000 AIC.
- ELECTRIC SERVICE MUST BE INSTALLED AT 3'-0" ABOVE M.S.L.
- ALL CONVENIENCE OUTLETS SHALL BE GROUNDED TYPE, WITH FACTORY INSTALLED LEAD.
- PROVIDE ATTIC LIGHTS AT ALL ATTIC ACCESS LOCATIONS WITH SWITCH AT ENTRY.
- ALL 120-VOLT, SINGLE PHASE, 15 AND 20 AMP BRANCH CIRCUITS SUPPLYING OUTLETS INSTALLED IN DUELLING UNIT FAMILY ROOMS, DINING ROOMS, LIVING ROOMS, PARLORS, LIBRARIES, DEN'S, BEDROOMS, SUNROOMS, RECREATION ROOMS, OR AREAS, OR SIMILAR ROOMS OR AREAS SHALL BE PROTECTED BY A LISTED ARC-FALLT CIRCUIT INTERRUPTER, COMBINATION-TYPE, INSTALLED TO PROVIDE PROTECTION OF THE BRANCH CIRCUIT.
- PANELS TO BE SQUARE "D", 17.5, GE, OR APPROVED EQUAL TO COMPLY WITH THE TYPE SPECIFIED IN THESE DRAWINGS.
- ALL LIGHTING FIXTURE SELECTIONS AND LOCATIONS ARE TO BE CONFIRMED WITH OWNER/INTERIOR DESIGNER/OWNER REP/ARCHITECT PRIOR TO INSTALLATION.
- CEILING PATTERNS SHOWN ARE DEMONSTRATIVE ONLY. COORDINATE DRAWINGS WITH INTERIOR DESIGNER'S DRAWINGS AND/OR OWNER INSTRUCTIONS.
- FOR PREPARATION OF RECORD DRAWINGS, WHEREUPON FIELD INSTALLATION DIFFERS FROM APPROVED PERMIT SETS DUE TO NECESSARY ALTERATIONS, IT IS THE CONTRACTOR'S AND SUB-CONTRACTOR'S RESPONSIBILITY TO FURNISH THE ARCHITECT, OR ENGINEER OF RECORD, AS-BUILT DRAWINGS AS PREPARED BY A LICENSED ELECTRICAL CONTRACTOR OR ENGINEER, DEPICTING ALL RELATED ALTERATIONS, ALONG WITH SUPPORTING CALCULATIONS, DETAILS AND/OR EQUIPMENT OUT SHEETS AS NECESSARY, UPON THE TERMINATION OF JOB AND MINIMUM 1 MONTH PRIOR TO APPLYING FOR THE CERTIFICATE OF OCCUPANCY.
- WEATHERPROOF (W.P.) EXTERIOR OUTLET COVERS SHALL BE AS MANUFACTURED BY "COOPER WIRING DEVICES" MODEL: #52366W-SP, OR APPROVED EQUAL.
- WHEREUPON FIELD REVISIONS HAVE TAKEN PLACE OR ARE YET TO BE MADE, "AS-BUILT" AND/OR "REVISED" ELECTRICAL PLANS, ALONG WITH SUPPORTING CALCULATIONS AS NECESSARY, SHALL BE PREPARED BY A LICENSED ELECTRICAL CONTRACTOR, AS APPLICABLE.

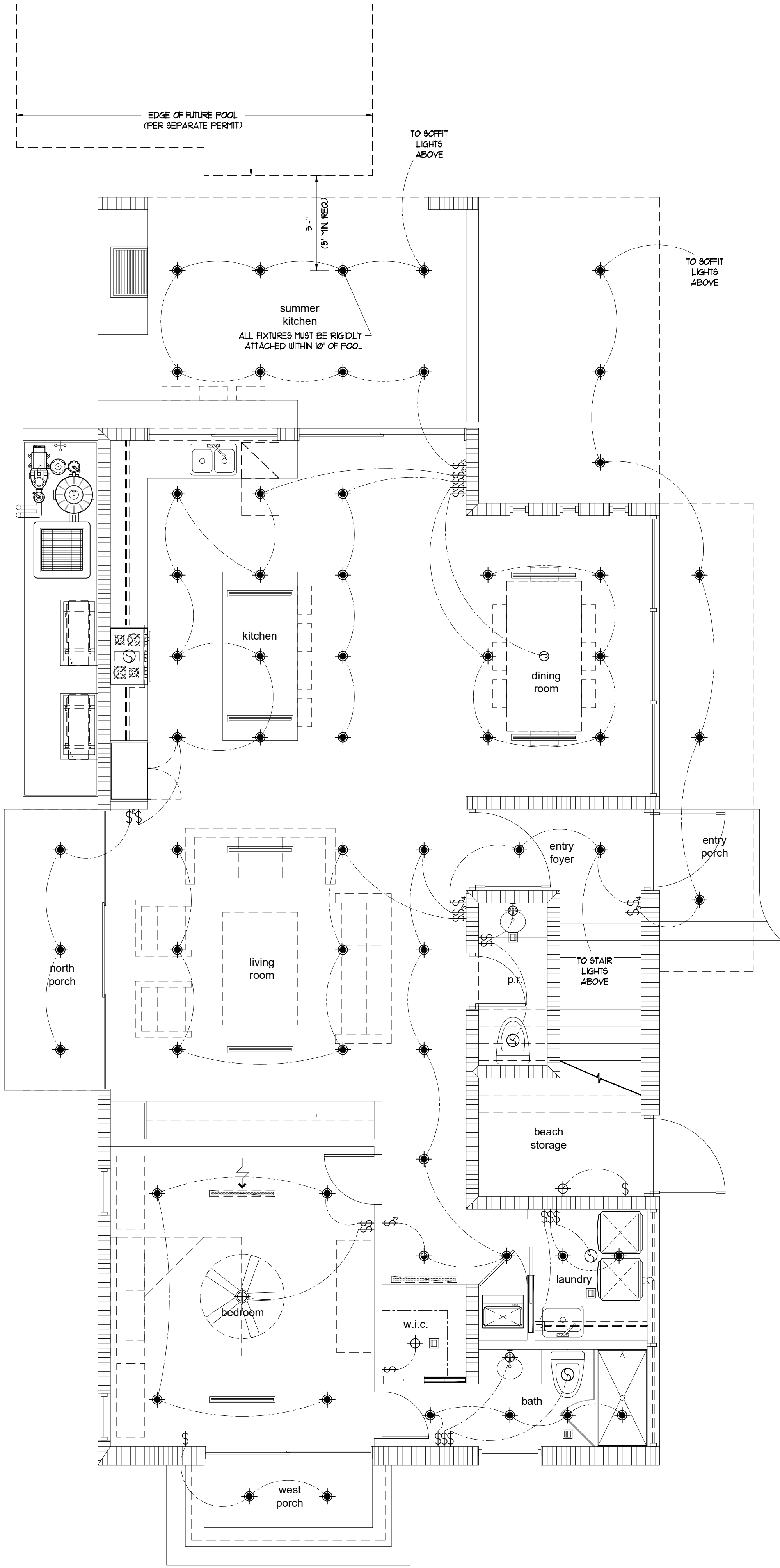
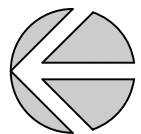
ELECTRICAL SYMBOL LEGEND			
⌚	SINGLE OR MULTI-SWITCH AT 46" AFF.	⌚	EXHAUST FAN
⌚	3 WAY SWITCH AT 46" ABOVE FINISHED FLOOR	⌚	THERMOSTAT CONTROL
⌚	10 VOLT SINGLE OUTLET	⌚	OCCUPANCY SENSOR
⌚	10 VOLT DUPLEX OUTLET AT 12" AFF.	⌚	INDICATES ELECTRICAL PANEL
⌚	10 VOLT SPLIT WIRED DUPLEX OUTLET AT 12" AFF.	⌚	INDICATES ELECTRICAL METER
⌚	10 VOLT QUAD OUTLET AT 12" AFF.	⌚	CARBON MONOXIDE DETECTOR
⌚	SPECIALTY HIGH VOLTAGE APPLIANCE OUTLET	⌚	SMOKE DETECTOR
⌚	DATA/CABLE TV JACK BY OTHERS	⌚	POWER SUPPLY DISCONNECT RATED FOR VOLTS/AMPS REQUIRED BY THE SPECIFIC EQUIPMENT SERVED.
⌚	VACUUM OUTLET BY OTHERS	⌚	UNDER COUNTER FLUORESCENT DOWN LIGHT FIXTURE W/ INTEGRAL BALLAST (FIXTURE LENGTH MAY VARY)
⌚	SURFACE-MOUNT INCANDESCENT	⌚	LOW VOLTAGE RHEOSTAT LIGHTING AT CEILING COFFERS (LENGTH OF FIXTURE MAY VARY)
⌚	WALL MOUNTED INCANDESCENT	⌚	SURFACE MOUNTED 48"x24" LED PANEL
⌚	RECESSED INCANDESCENT DOWN LIGHT	⌚	JUNCTION BOX FOR LIGHT AND FAN PROVIDES REINFORCEMENT FOR AS REQUIRED FOR CEILING FAN.
⌚	INCANDESCENT UP & DOWN LIGHT	⌚	SPEAKER LOCATION BY OTHERS
⌚	VAPOR PROOF RECESSED DOWN LIGHT		
⌚	MINIATURE RECESSED DIRECTIONAL		
⌚	MINIATURE RECESSED DOWNLIGHT		
⌚	JUNCTION BOX		



SECOND FLOOR LIGHTING PLAN

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

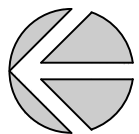
(UNIT #2) E-10



FIRST FLOOR LIGHTING PLAN

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

(UNIT #1) E-10



COPYRIGHT 2022 - TUTHILL ARCHITECTURE

REVISIONS

LOWE MULTIFAMILY RESIDENCE
NEW DUPLEX

4200 NORTH OCEAN DRIVE # 1-2
LAUDERDALE BY THE SEA, FL. 33308

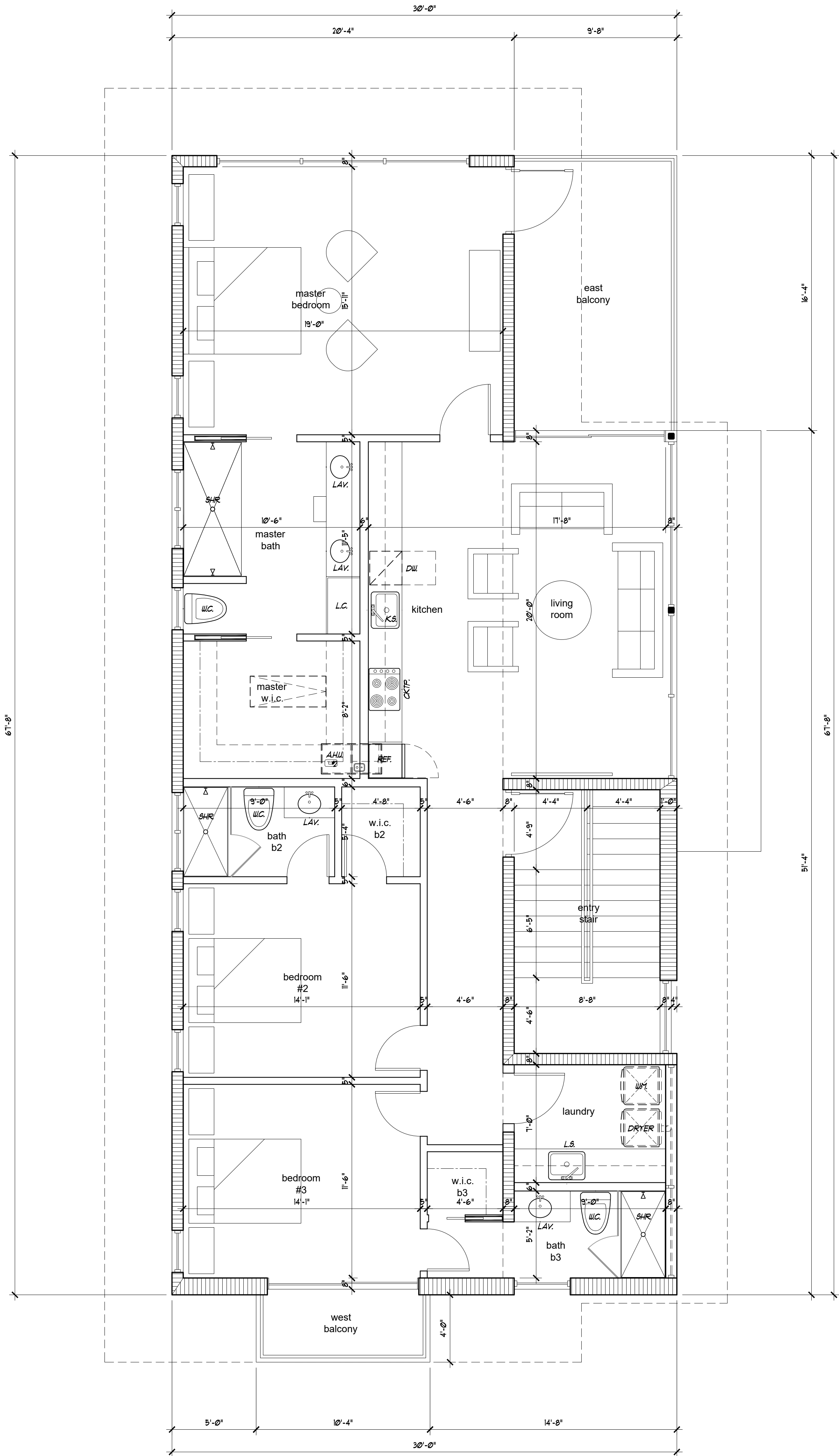
tuthill architecture

architect: tuthill architecture
1412 el boulevard
fort lauderdale, florida 33301
tel: 954-527-0097
fax: 954-527-0092

DESIGNED RT
MODIFIED JK
CHECKED RT
DATE 04-14-23

PROJECT NUMBER
2215

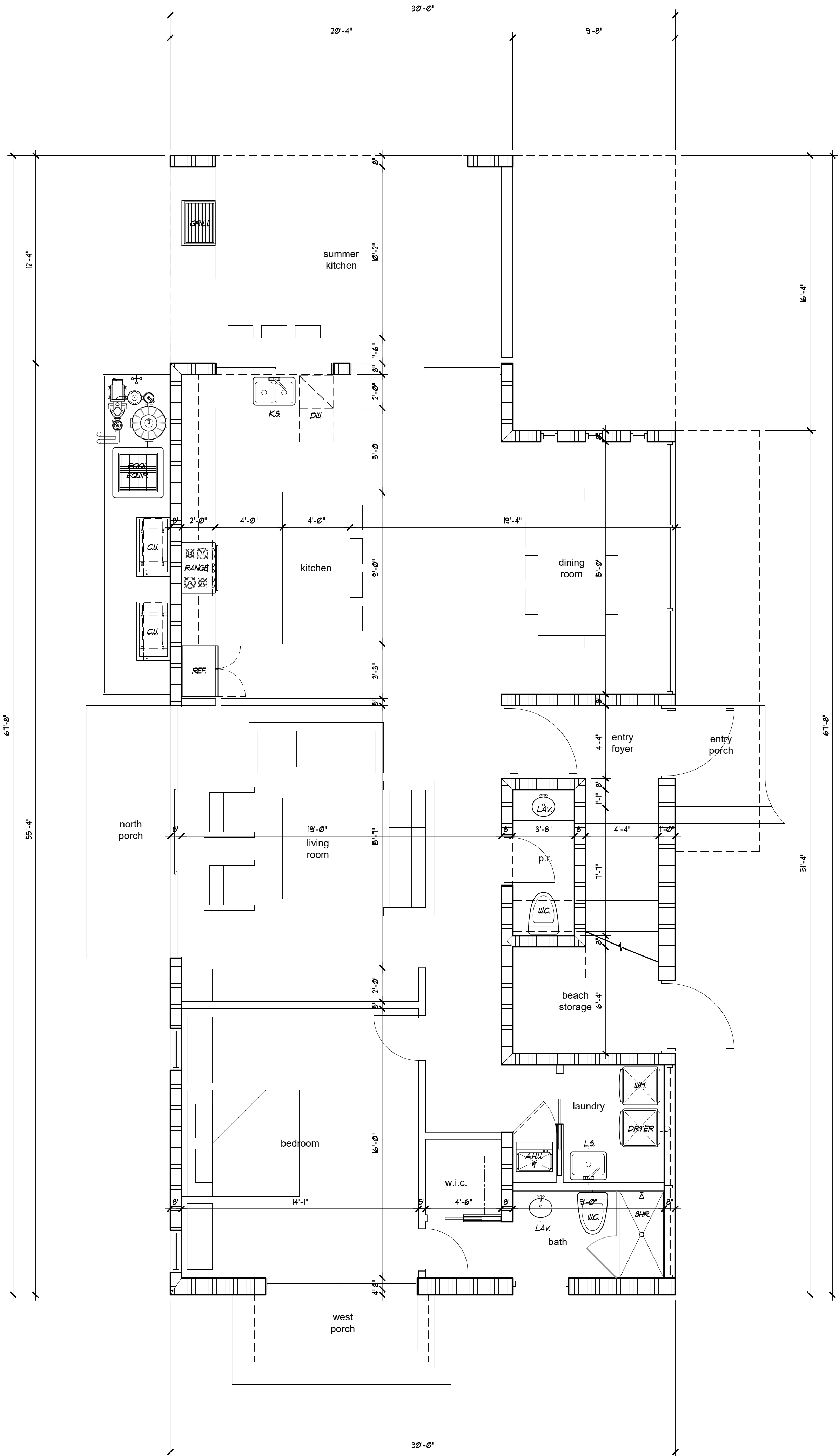
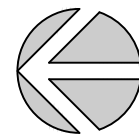
REINFORCED UNIT MASONRY NOTE:
THIS BUILDING SHALL BE CONSTRUCTED USING REINFORCED UNIT MASONRY PURSUANT TO THE REQUIREMENTS OF SECTION 2122 OF THE FLORIDA BUILDING CODE. INSPECTION OF ALL REINFORCED MASONRY STRUCTURES SHALL BE FURNISHED BY A FLORIDA REGISTERED ARCHITECT OR PROFESSIONAL ENGINEER.



SECOND FLOOR PLAN

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

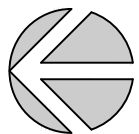
(UNIT #2) 2 A-10



FIRST FLOOR PLAN

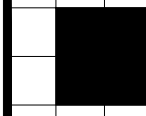
SCALE: 1/4"=1'-0"

(UNIT #1) 1 A-10



REVISIONS	

LOWE MULTIFAMILY RESIDENCE	
NEW DUPLEX	4200 NORTH OCEAN DRIVE # 1-2
LAUDERDALE BY THE SEA, FL. 33308	



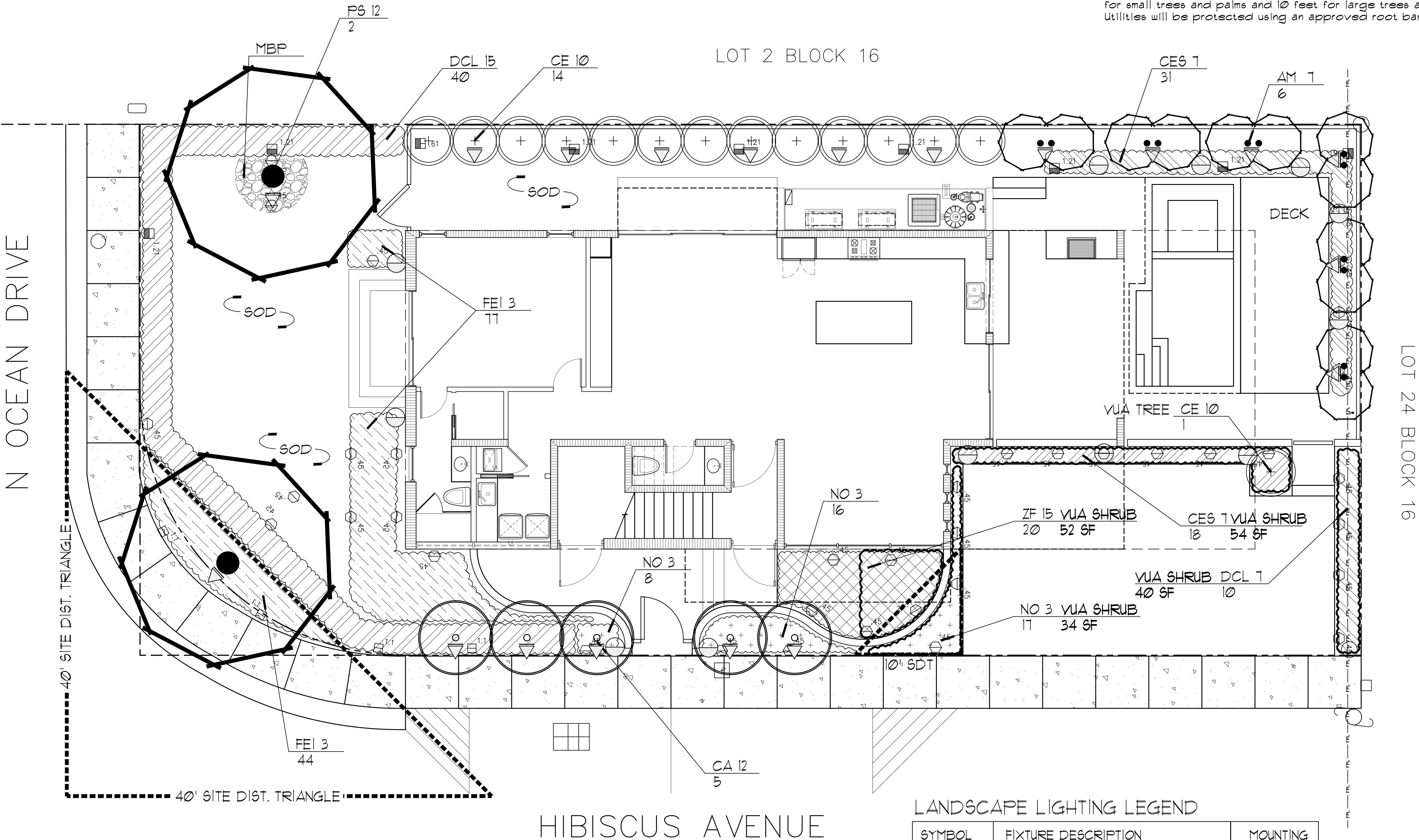
tuthill architecture

architects, planners, and designers
1612 el broward boulevard, suite 104a
fort lauderdale, florida 33301
tel. 954-527-0007
fax. 954-527-0002

DESIGNED	RT
MODIFIED	JK
CHECKED	RT
DATE	01-09-23

A-10
PROJECT NUMBER
2215

UTILITIES AND ROOT BARRIERS
Landscaping will provide a minimum horizontal clearance to utilities of 5 feet for small trees and palms and 10 feet for large trees and palms.
Utilities will be protected using an approved root barrier such as Bio-Barrier



LANDSCAPE LIGHTING LEGEND

SYMBOL	FIXTURE DESCRIPTION	MOUNTING
⊕	KICHLER LIGHTING MODEL 15800 AZT 12 V. PATHWAY LIGHT ARCH. BRONZE FIN.	8" IN GROUND STAKE
△	KICHLER LIGHTING MODEL 15152 AZT 12.4 WATT 35 DEG. MEDIUM. ACCENT LT. ARCH. BRONZE FIN.	8" IN GROUND STAKE

ELECTRICAL CONTRACTOR TO VERIFY
LOCATION OF ALL UNDERGROUND UTIL-
ITIES PRIOR TO INSTALLATION OF LAND-
SCAPE LIGHTING.

ELECTRICAL CONTRACTOR TO INCLUDE
ALL HARDWARE, WIRING, J-BOXES AND
TRANSFORMERS IN SCOPE OF INSTALL-
ATION.

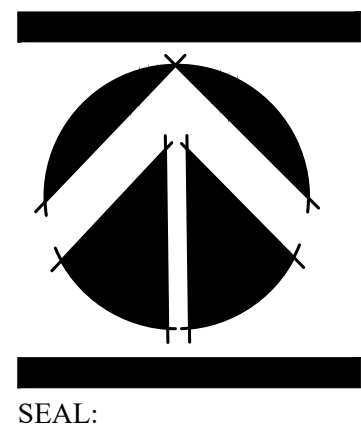
NO LIGHTING SUBSTITUTIONS SHALL BE
ACCEPTED WITHOUT THE PRIOR
WRITTEN PERMISSION OF THE LAND-
SCAPE ARCHITECT

gwk
GEORGE KEEN
LANDSCAPE ARCHITECT
3696 N FEDERAL HWY
SUITE 302
FORT LAUDERDALE
FLORIDA 33308
TEL. 954-296-5377
FAX . 954-763-4704
lndscapg@bellsouth.net

LOWE RESIDENCE
4200 N OCEAN DRIVE
LAUDERDALE BY THE SEA
LANDSCAPE PLAN

DATE: 10-29-22
DRAWN BY: GWK
SCALE: 3/16"=1'-0"

REVISIONS:
1. LANDSCAPE 12-19-22
2. COMMENTS 04-12-23



SEAL:

SHEET:
LS-1

48 HOURS BEFORE DIGGING
CALL FROM ANYWHERE IN FLORIDA
811
SUNSHINE STATE 1 CALL
UNDERGROUND UTILITIES
NOTIFICATION CENTER
<http://www.callsunshine.com>

THIS DRAWING IS NOT A SURVEY

PLANTING NOTES

SPECIES AND SIZE shall conform to those indicated on the drawings. Nomenclature shall conform to STANDARDIZED PLANT NAMES, 1942 edition. All nursery stock shall be in accordance with Grades and Standards for Nursery Plants Parts I & II, latest edition published by the Florida Department of Agriculture and Consumer Services. All plants not otherwise specified as being Florida Fancy or Specimen, shall be Florida Grade Number 1 or better as determined by the Florida Division of Plant Industry. Specimen means an exceptionally heavy, symmetrical, tightly knit plant, so trained or favored in its development that first appearance is unquestionable and outstandingly superior in form, number of branches, compactness and symmetry.

GENERAL REQUIREMENTS

All plants shall be freshly dug, sound, healthy, vigorous, well branched, and free of disease and insect eggs and larvae, and shall have adequate root systems. Trees for planting rows shall be uniform in size and shape. All materials shall be subject to approval by the Landscape Architect. Where any requirements are omitted from the plant list, the plants furnished shall be normal for the variety. Plants shall be pruned prior to delivery only upon the approval of the Landscape Architect.

SOIL

Planting soil for use in preparing backfill for plant pits shall be added at a rate of seventy-five (75%) percent to twenty-five (25%) percent existing soil. This soil mix shall be used in all plant pits except Sabal palms which shall be backfilled with clean sand. Planting soil shall be a fertile, friable natural topsoil or loamy character. It shall contain forty (40) to fifty (50) percent decomposed organic matter and shall be free from heavy clay, stones, lime, plants, roots or other foreign materials or noxious grasses (such as Bermuda or nut grass) and noxious weeds. It shall not contain toxic substances which may be harmful to plant growth.

COMMERCIAL FERTILIZER

Two fertilizer shall be used in all types of plantings, except palms. Granular fertilizer shall be uniform in composition, dry and free flowing. This fertilizer shall be delivered to the site in the original unopened bags, each bearing the Manufacturer's statement of analysis, and shall meet the following requirements: sixteen (16%) percent nitrogen, seven (7%) percent phosphorus, twelve (12%) percent potassium, plus iron. Tablet fertilizer ('Agriform' or equal) in 21 gram size shall meet the following requirements: twenty (20%) percent nitrogen, ten (10%) percent phosphorus, five (5%) percent potassium.

The two fertilizers will be applied at the following rates:

PLANT SIZE	16-7-12	'AGRIFORM' TABLET (21 Grams)
1 gal.	1/4 lb.	1
3 gal.	1/3 lb.	2
7-15 gal.	1/2 lb.	4
1'-6" caliper	2 lbs./1" caliper	2/1" caliper
6" and larger	3 lbs./1" caliper	2/1" caliper

'Florida East Coast Palm Special' will be applied to all palms at installation at a rate of 1/2 lb. per inch of trunk caliper unless otherwise specified.

MULCH

Mulch material shall be three (3) inches of shredded NON CYRESS mulch (sterilized and free of seeds) or approved equal, moistened at the time of application to prevent wind displacement.

SUBSTITUTIONS

No substitutions of plant material types or size will be allowed without written consent of the Landscape Architect. B&B material will not be accepted as substitute for container grown material unless previously approved. Alternate substitutions shall be indicated in bid.

CONTAINER GROWN STOCK

All container grown material shall be healthy, vigorous, well rooted plants, and established in the container in which they are sold. The plants shall have tops which are good quality and in a healthy growing condition.

An established container grown plant shall be grown in that container sufficiently long enough for the new fibrous roots to have developed so that the root mass will retain its shape and hold together when removed from the container.

MISC. NOTES

All plant material, unless specified as being Florida Fancy or Specimen, shall be Florida Grade Number 1 or better as determined by the Florida Division of Plant Industry.

All plant materials and sod shall have an automatic irrigation system providing 100% coverage. - Maintain positive drainage away from residence.

All plant material shall be planted, fertilized and mulched as per the Plant Details and Plant Specifications noted on this plan. Landscape Contractor shall research plans and contact appropriate agencies to determine location of utilities and obstructions prior to commencing work. Any utilities or unanticipated obstructions shall be reported immediately to the Landscape Architect.

Landscape Contractor will be responsible for obtaining all necessary permits, licenses, inspections, and insurance as required by the State and local agencies.

Landscape Contractor shall refer to the Certified Arborists Tree survey and report for information pertaining to existing trees on site

UTILITIES AND ROOT BARRIERS

Landscaping will provide a minimum horizontal clearance to utilities of 5 feet for small trees and palms and 10 feet for large trees and palms.

Utilities will be protected using an approved root barrier such as Bio-Barrier

48 HOURS BEFORE DIGGING
CALL FROM ANYWHERE IN FLORIDA
811
SUNSHINE STATE 1 CALL
UNDERGROUND UTILITIES
NOTIFICATION CENTER
<http://www.callsunshine.com>

THIS DRAWING IS NOT A SURVEY

PLANT MATERIAL SCHEDULE

SYM	BOTANICAL NAME	DESCRIPTION	SPECIFICATION	NATIVE
AM 7	ADONIDIA MERELLII	CHRISTMAS PALM - DOUBLE	2 Canes, 7' c.t., matched	
CA 12	COPERNECIA ALBA	COPERNECIA PALM	12' c.t., matched	
CE 10	CONOCARPUS ERECTUS	GREEN BUTTONWOOD	10' o.a. ht., 4'-5' spr. Std.	*
CES 7	CONOCARPUS ERECTUS SER.	SILVER BUTTONWOOD HEDGE	7 gal., 24" ht., 24" o.c. FTB.	*
DCL 15	CLUSIA ROSEA	CLUSIA HEDGE	15 gal., 30" ht., 30" spr. 30" o.c.	*
DCL 7	CLUSIA ROSEA	CLUSIA HEDGE	7 gal., 24" ht., 24" o.c. FTB.	*
FEI 3	FICUS MICROCARPA	GREEN ISLAND FICUS	3 gal., 15" ht., 15" spr.	
NO 3	NEPHROLEPSIS OBLITERATA	KIMBERLY FERN	1 gal., 12" ht., 12" o.c.	*
PS 12	PHOENIX SYLVESTRIS	WILD DATE PALM	12' c.t., matched	
SOD	STENOTAPHRUM SECUNDATUM	ST AUGUSTINE SOD	Solid weed free sod	
ZF 15	ZAMIA FLORIDANA	FLORIDA COONTIE	15 gal., 3' ht., full to base	*

LANDSCAPE REQUIREMENT TABLE

1. SITE PERVIOUS AREA

REQUIRED = 25% OF TOTAL GROSS AREA = 1,404 SF REQUIRED
PROVIDED = 2,346 SF

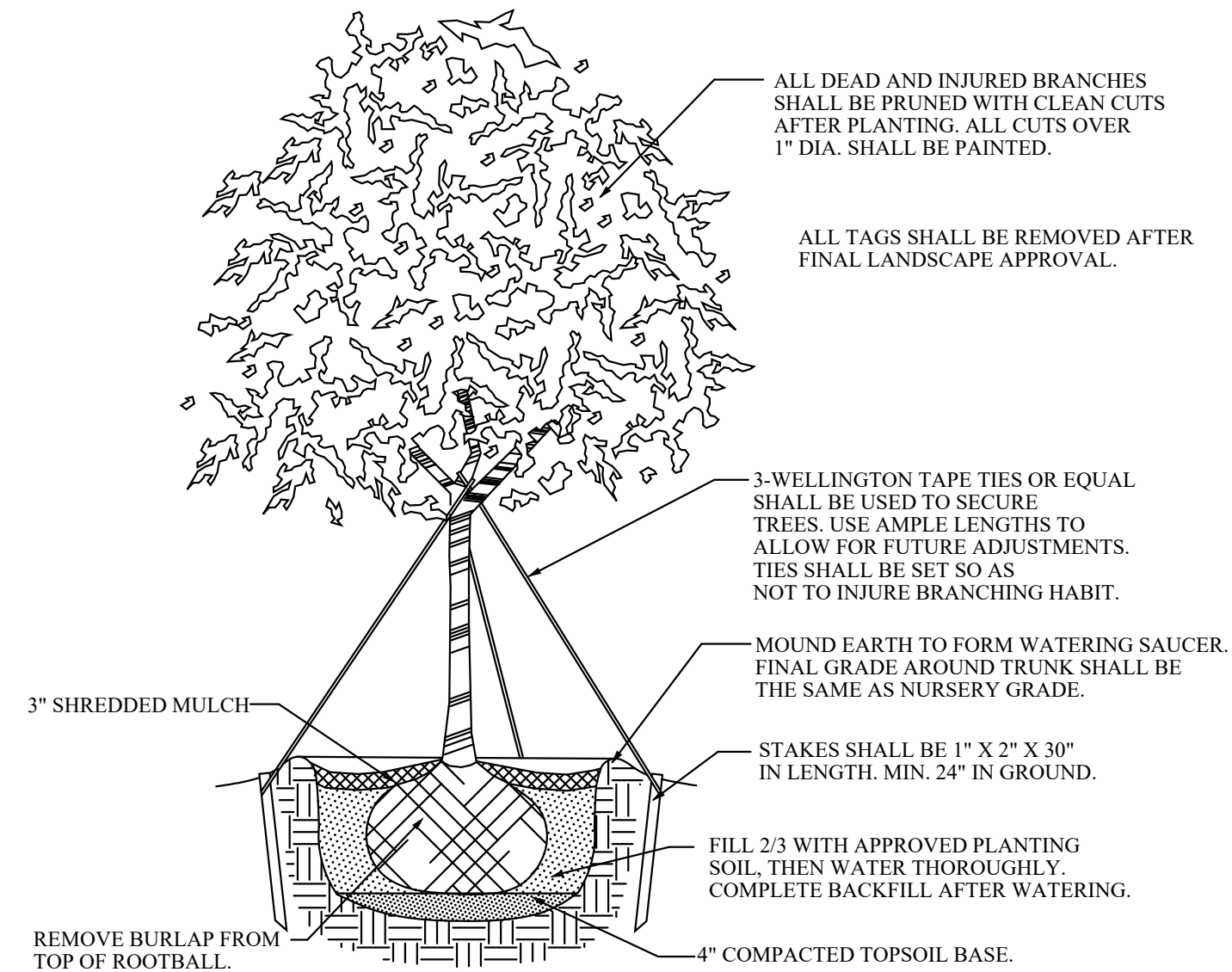
2. TOTAL TREES REQUIRED

REQUIRED = 5616 SF CORNER LOT - 5 TREES, 20 SHRUBS REQUIRED
PROVIDED = 2, IA-12, 2, PS 12, 3, THR. 14, CE 10.

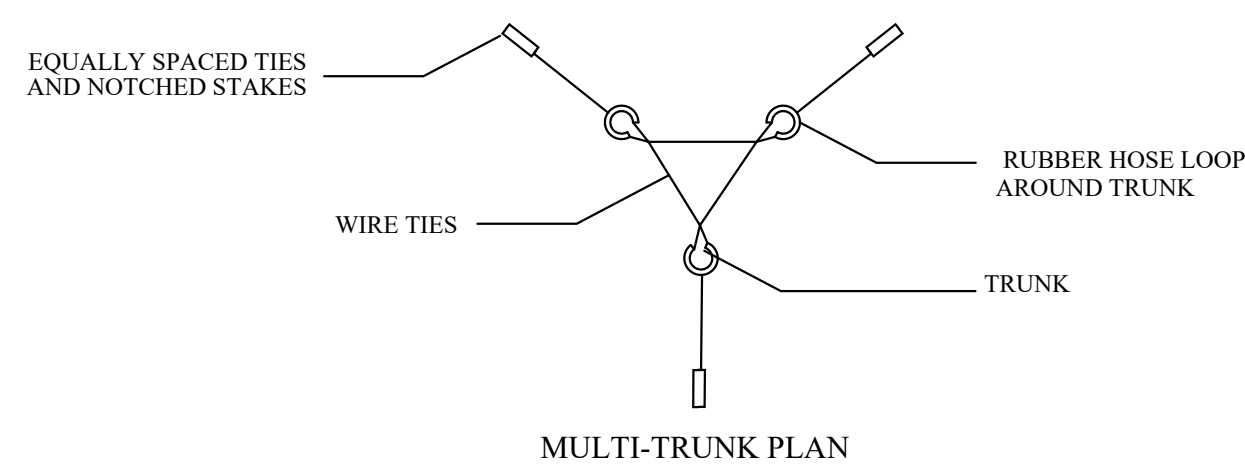
3. TOTAL SITE AREA (5,615 SF.)

- PERVIOUS - 2,346 - 42%
- IMPERVIOUS - 3,270 OR 58.2%
- V.U.A. AREA - 606 SF.
- 20% OF GREEN AREA = 121 S.F. REQUIRED
- 181 S.F. GREEN AREA PROVIDED
- TREES - 1 CE 10, PROVIDED
- SHRUBS - 17 NO 3, 10 DCL 7, 10, ZF 15, 18, CES 7 PROVIDED

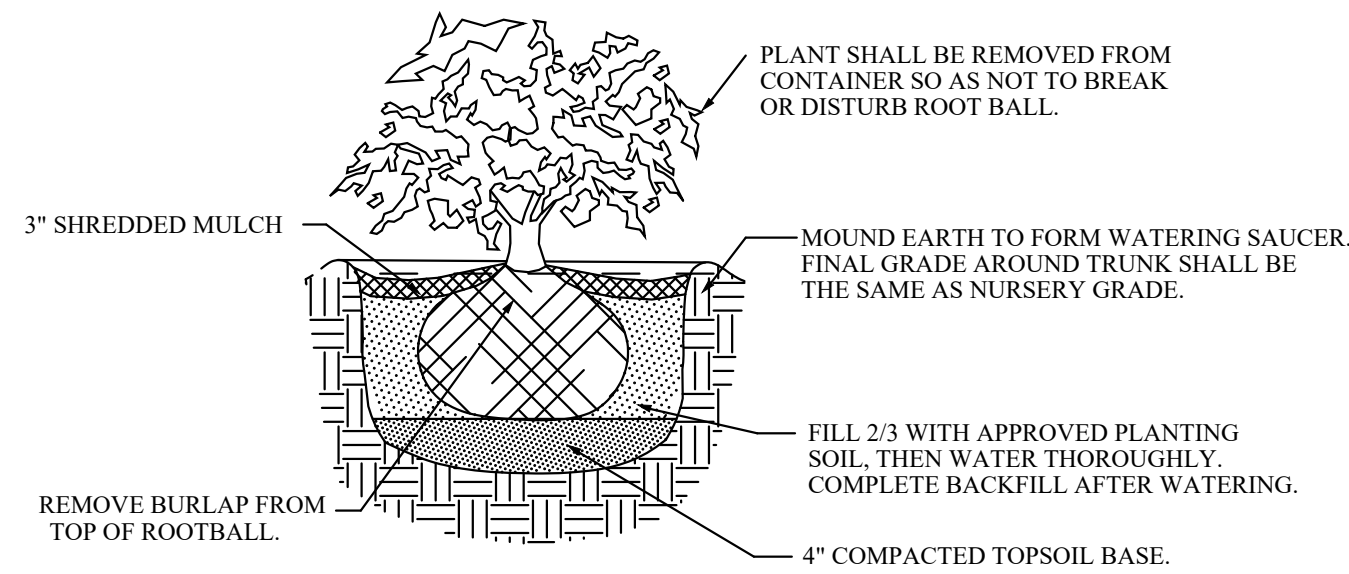
PLANT DETAILS



PLANTING AND STAKING DETAIL-UP TO 6" CALIPER

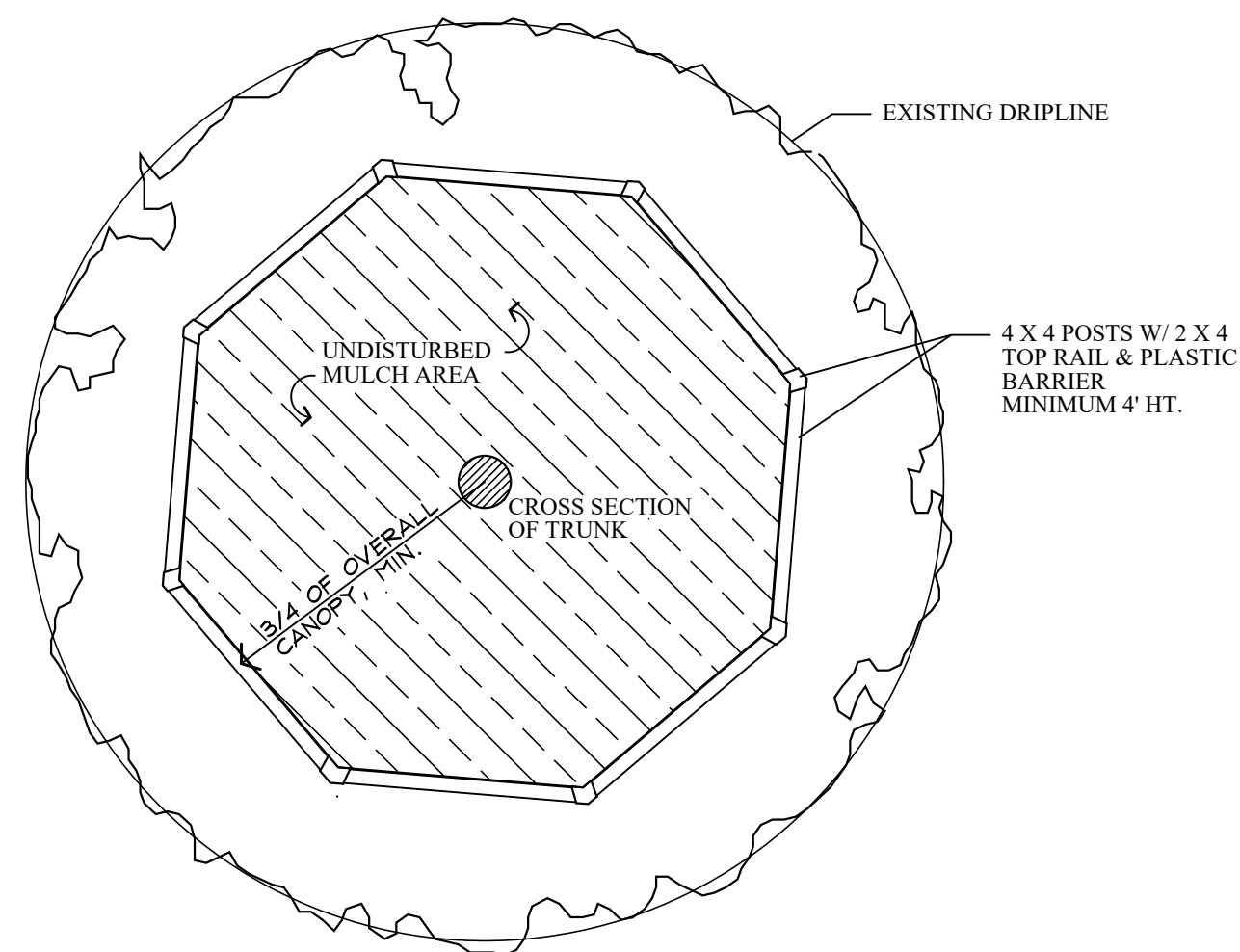
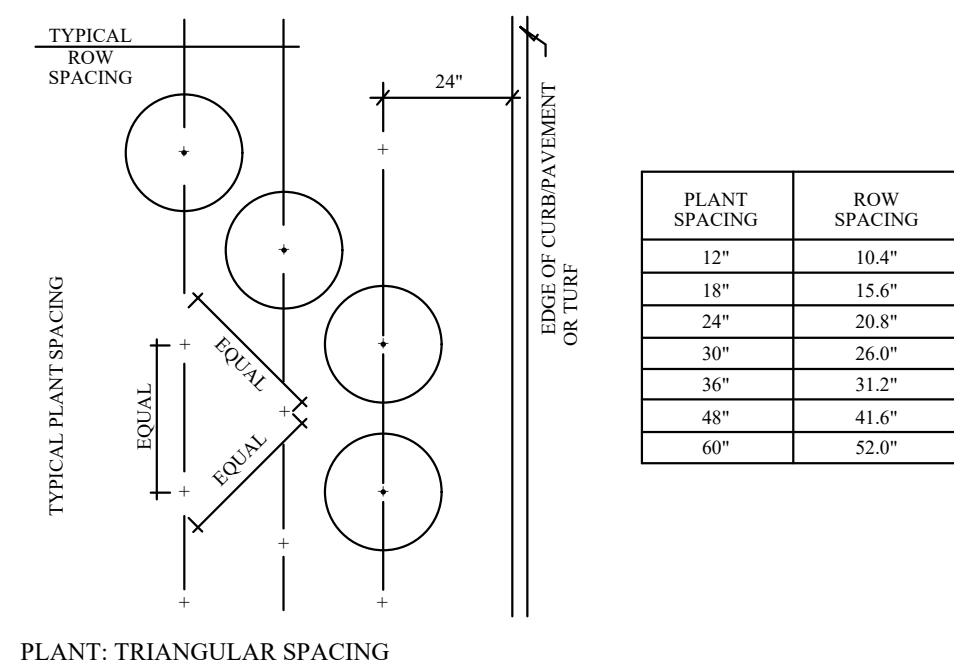


MULTI-TRUNK PLAN



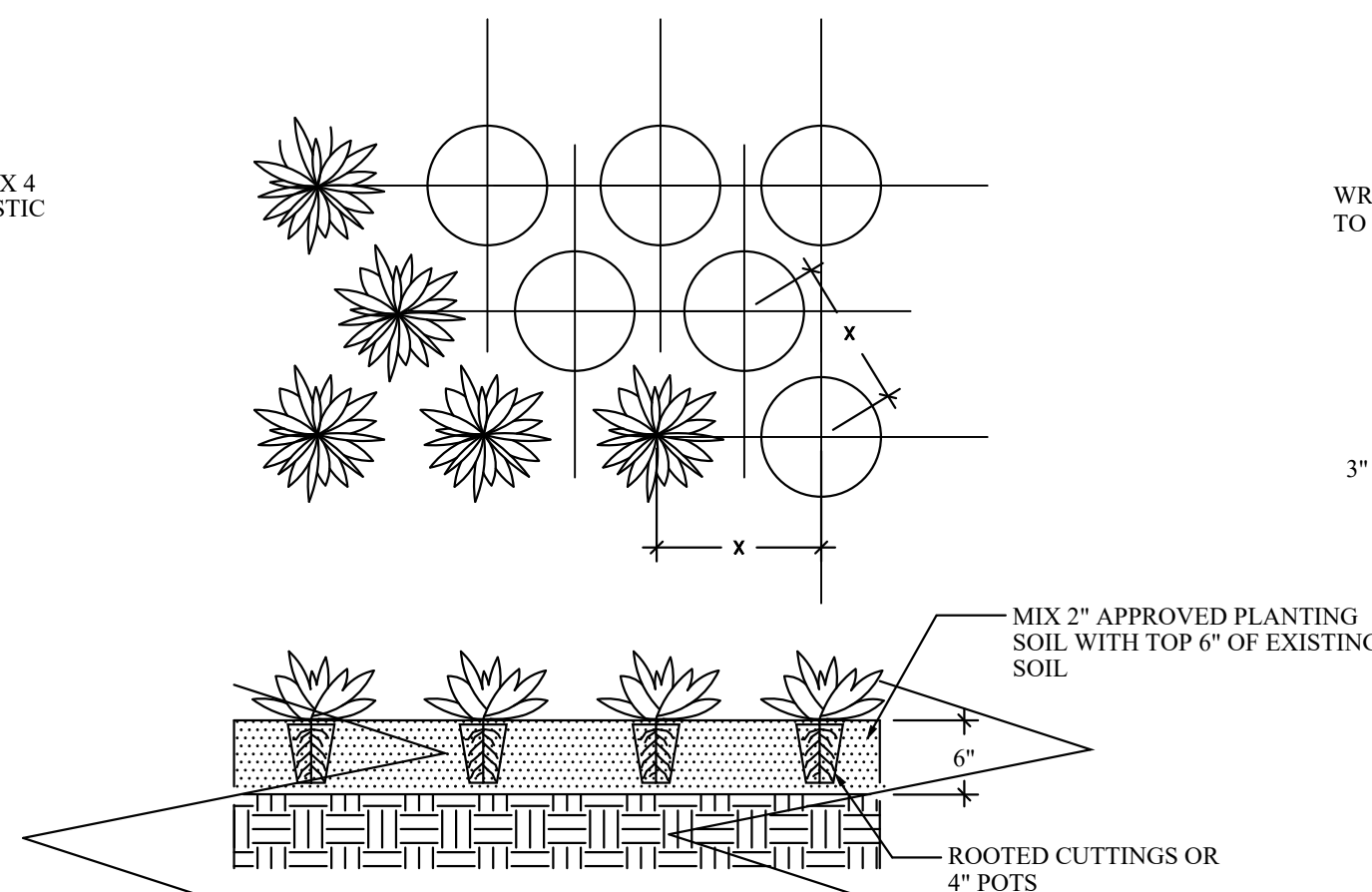
PLANTING DETAIL-CONTAINER GROWN SHRUBS

SHRUB PLANTING DETAIL

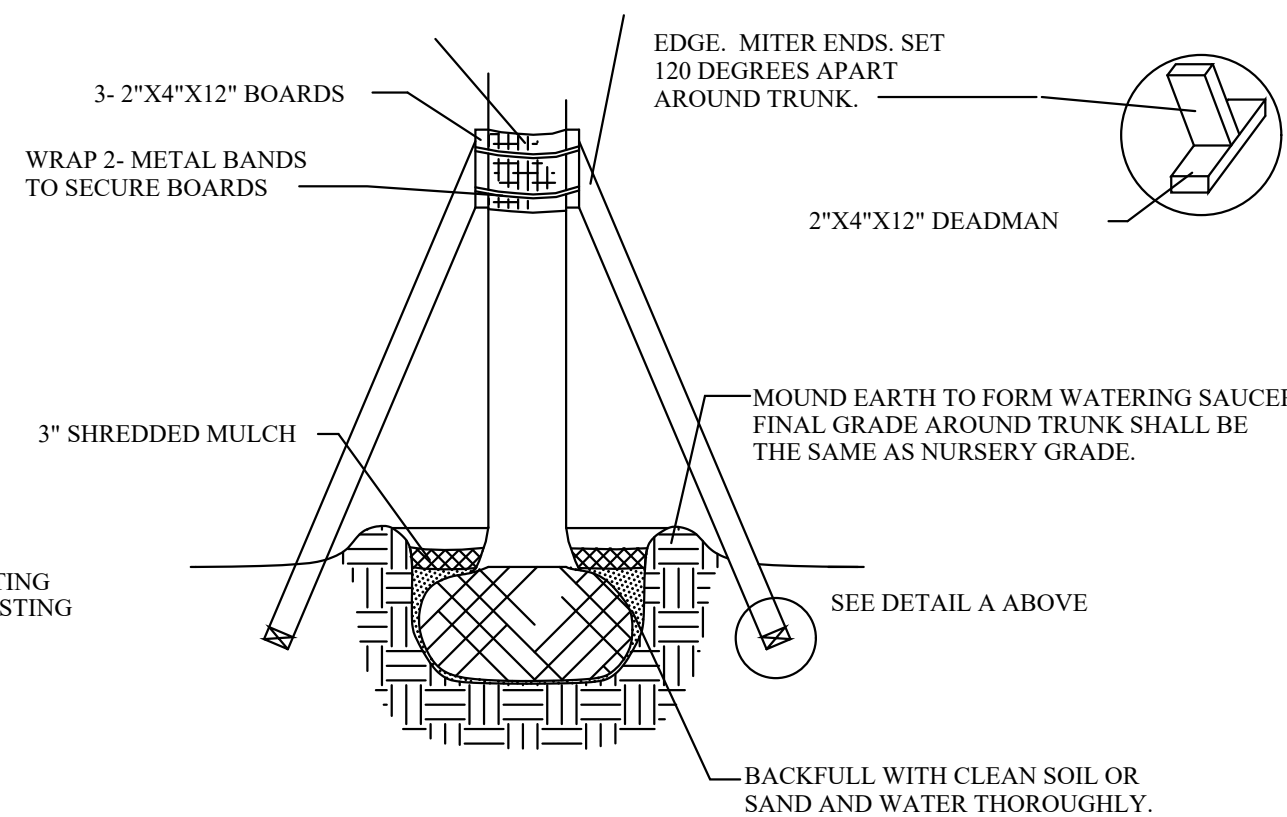


APPLIES TO ALL EXISTING TREES TO REMAIN

TREE PROTECTION DETAIL



PLANTING DETAIL-GROUNDCOVER BEDS



PLANTING AND STAKING DETAIL-PALMS

gwk
GEORGE KEEN
LANDSCAPE ARCHITECT
3696 N FEDERAL HWY
SUITE 302
FORT LAUDERDALE
FLORIDA 33308
TEL. 954-296-5377
FAX. 954-763-4704
Indscapg@bellsouth.net

LOWE RESIDENCE
4200 N OCEAN DRIVE
LAUDERDALE BY THE SEA
LANDSCAPE NOTES / DETAILS

DATE: 10-29-22
DRAWN BY: GWK
SCALE: N.T.S.

REVISIONS:
1. LANDSCAPE 12-19-22
2. COMMENTS 04-12-23

SEAL:

SHEET:

LS-2



4200 N OCEAN DRIVE

Conditional Use Criteria

- (1) The proposed conditional use, a new duplex, is compatible with the neighboring properties and was a duplex previously until it was demolished to make way for this new project. It will coexist harmoniously with neighboring properties and will not negatively impact, or be negatively impacted by, nearby uses.
 - (i) The proposed conditional use, a new duplex, is compatible with neighboring uses on larger properties, such as hotels and apartment buildings. Because of the small size of the subject property, a hotel or apartment building is not a feasible use of the property.
 - (ii) The proposed building location and scale are compatible to the neighboring properties. The dimensions of the building and its height are in keeping with all zoning requirements, and attempt to create a balanced transition between the one-story building to the north, the two story building to the east, and the two story building across Hibiscus Avenue to the south. The FAR of the project is 0.60.
 - (iii) The location of the parking for the new proposed duplex has been moved off of A1A, where it was previously located for the original duplex. There are no access drives or service areas in our proposed site plan. The town currently has four parallel metered parking spots along Hibiscus Avenue to the south, and our design allows two of those four metered spots to remain, and two be removed to allow for four onsite parking spots for the new duplex.
 - (iv) The proposed new duplex is compatible with neighboring properties with respect to traffic generation (four cars parked off-street), noise levels (duplex similar to apartments but at a smaller scale, and outdoor lighting (wall mounted sconces and soffit downlights match neighboring properties).
 - (v) The proposed new duplex is compatible with neighboring properties with respect to its alteration of light and air. The scale of the building allows neighboring properties to still access natural light and prevailing breezes from the east.
 - (vi) The proposed new duplex is compatible with neighboring properties with respect to setbacks, buffers, landscaping, and open space treatment. A new landscaped front yard (open space) along A1A is being created in place of what was previously a paved parking area. New walls along Hibiscus Avenue are designed to be sculptural and harmonious with new proposed landscaping that will beautify the streetscape, and improve neighbor's experience when walking down the sidewalk along Hibiscus Avenue.
 - (vii) The architectural and site design are compatible with the character of the surrounding area by improving the street scape and continuing the functional use of south facing balconies to the east. As noted above, the wall and landscape designs, in addition to the new duplex itself, will vastly improve the pedestrian experience and visual interest of a showcase corner that will be seen by many visitors as the enter town from the south.



- (viii) The existing stop sign at the corner of Hibiscus Avenue and A1A will remain as part of the proposed design, and there are no new signs proposed. Lighting is designed to be harmonious with neighboring buildings and will only serve to improve surrounding areas.
- (2) The shape and size of the site is adequate to accommodate the proposed use. Vehicular and pedestrian access have been moved off A1A and onto Hibiscus Avenue for safety and to improve the urban design on this corner. As noted above, there are adequate areas of open space, landscaping, and buffers included in the site design to improve the neighbor's experience and easily accommodate the proposed use. Four off street parking spots have been provided, and two of the four on street parking spots are able to remain as part of the proposed design.
- (3) The conditional use complies with environmental, zoning, concurrency, and other applicable regulations of the town's Code of Ordinances, and is consistent with the town's Comprehensive plan in the following ways:
- the project provides onsite parking
 - the project maintains runoff onsite
 - it maintains the town's year round residential character
 - it implements compact design principles to preserve open space
 - it maintains the overall scale of the town through a proper height building
- (4) The proposed use and site design plans to incorporate any mitigative techniques to prevent negative impacts on adjacent land uses as suggested by the town. In addition, the design scheme will appropriately address any off-site impacts brought up by the town, to ensure that land use activities in the immediate vicinity are not burdened with adverse impacts detrimental to the general public health, safety, and welfare.

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

Application Number: _____

BTR #: _____

Date Application Submitted: _____

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

Project Name: LOWE MULTIFAMILY RESIDENCE

Folio Numbers: 494318011470

Street Address: 4200 N OCEAN DRIVE #1-2, LAUDERDALE BY THE SEA, FL, 33308

Legal Description: LAUDERDALE BY THE SEA 6-2B LOT 1 BLOCK 16

Name of Property Owner: MARLOWE LLC Property Owner's Phone #: 512-940-7717

Address of Property Owner: 237 DESERT WILLOW WAY, AUSTIN, TX, 78737

Property Owner's Email Address: BRIANLOWE@GMAIL.COM

Name of Applicant: BRIAN LOWE Applicant's Phone #: 512-940-7717

Applicant's Address: 237 DESERT WILLOW WAY, AUSTIN, TX, 78737

Applicant Email Address: BRIANLOWE@GMAIL.COM

Name of Agent (e.g. Contractor Representing the Project): JOHN KOURY - TUTHILL ARCHITECTURE

Agent's Email Address: TUTHILLARCHITECTURE@GMAIL.COM Agent's Phone #: 954-527-0007
 Agent's Address: 1512 E. BROWARD BLVD. #104-A, FORT LAUDERDALE, FL, 33301
 Land Use Plan Designation: MULTIFAMILY RESIDENCE Zoning District: RM-25
 Existing Use of the Subject Property: DUPLEX
 Proposed Use of the Subject Property: DUPLEX

APPROVAL OF WAIVER OF TIME ALLOWED TO REVIEW APPLICATION

I BRIAN LOWE (Applicant/ Property Owner) hereby waive my rights as to the required review time stated in House Bill 7103 as it relates to time limits to review applications for approval of a development permit or development order.

Print Name of Property Owner: BRIAN LOWE Date: 1/4/23
 Signature of Property Owner: 

DEVELOPMENT APPLICATION SIGNATURE SECTION

Property Owner

Print Name of Property Owner: BRIAN LOWE Date: 1/4/23
 Signature of Property Owner: 

State of Florida:

County:

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 4th of JANUARY, 20 23.

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

Print Notary Name: TEDY SASSI-GAMIO My Commission Expires: 03/23/23

Notary Signature: 



TEDY SASSI-GAMIO
 Commission # GG 289778
 Expires March 23, 2023
 Bonded Thru Budget Notary Services

Applicant

Print Name of Property Owner: BRIAN LOWE Date: 1/4/23

Signature of Property Owner: 

State of Florida:

County: BROWARD



SWORN AND SUBSCRIBED before me by means of _____ physical presence or _____ online notarization, this day
4th of JANUARY, 2023.

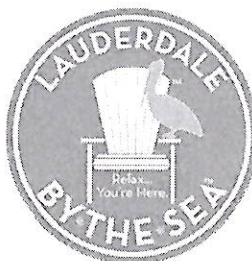
The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: TED SASSI-GAMIO My Commission Expires: _____

Notary Signature: 



TEDY SASSI-GAMIO
Commission # GG 289778
Expires March 23, 2023
Bonded Thru Budget Notary Services





4200 N OCEAN DRIVE

Conditional Use Checklist

- Fee for Conditional Use & Consultant Deposit
 - Attached
- A completed Development Application
 - Attached
- A boundary survey
 - Attached
- Two hard copies of architectural elevations
 - Attached
- A site plan showing proposed setbacks & landscape specifications
 - Attached: SP-1.0 (setbacks) LS-1 (landscape specs)
- A traffic impact study
 - We have not included this item, but can if required
- The square feet designated inside and out of each specific use
 - Attached: please refer to SP-1.0 on the zoning site & data table
- The number of estimated employment
 - 0
- The estimated number and type of service vehicles
 - 0
- Any unique facilities or structures proposed
 - N/A
- 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
 - N/A

Sec. 30-139. Notice of Public Hearings.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the DSD shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
- (1) Applicant's name;
 - (2) The date, time, and place of the public hearing;
 - (3) A description of the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law;
 - (4) The nature, scope and purpose of the proposal being noticed;
 - (5) The Town departments where the public may inspect the application, staff report and related materials during normal business hours;
 - (6) A statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application; and
 - (7) Other information as may be required by law.
- (b) *Mailed notice.*
- (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property owners within a 300 foot radius of the subject property, and shall include the subject property owner(s) and Town Development Services Department.
 - (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
 - (3) Property owners shall be determined by the ad valorem tax records of Broward County.
 - (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall be responsible for mailing the notices, with the exception of public participation meetings which shall be the responsibility of the applicant as set forth in section 30-114 of this Code.
 - (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.
 - (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice.
- (c) *Published notice.* When the provisions of this chapter require published notice, the DSD shall provide that the notice be:
- (1) Published in the non-legal section of the local newspaper of general circulation that has been selected by the Town and in accordance with applicable Florida Statutes.
 - (2) Follow the timelines and ad type established in Table XXX in this article.
 - (3) For the purposes of this section and Table XXX:
 - a. "Display ad" shall be no less than two columns wide by ten inches long and the headline of the required notice shall be in a type no smaller than 18 point font size. If the ad is for a zoning map amendment, it shall also include a map pursuant to Florida Statutes 166.041(3)(c)2.

-
- b. "Standard ad" shall be in the legal ad section of the classified ads of the newspaper and shall be in a type no smaller than 5 point font size.
- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the DSD shall provide the required sign to the applicant who will be responsible for posting the property, as set forth below:
- (1) Signs shall be placed on the property that is the subject of the application in accordance with timelines prescribed in Table XXX in this article prior to a required or requested hearing.
 - (2) If the subject property fronts on more than one right-of-way, then a sign shall be posted facing each right-of-way.
 - (3) Signs shall be placed no more than five feet from the street or if there is a sidewalk, no more than two feet beyond the property side edge of the sidewalk, so that the lettering is visible from the street.
 - (4) If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign from the Town and posting the new sign on the property.
 - (5) The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, or requirement for review or hearing by another body. The sign information shall be updated to include any additional public hearings or public hearing deferrals consistent with Table XXX.
 - (6) No less than five days prior to the public hearing, the applicant shall execute and submit to the Department an affidavit of proof of the posting of the public notice sign in accordance with the provisions of this section. Updates as provided in (5) above shall also require such affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the application until the next public hearing after the affidavit has been supplied.
- (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's Website no later than ten days prior to any public hearing related to the application. Website Notice is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to be posted.
- (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates, substantive changes to an application request during the period an application has been continued, or more than two continuances on the application, shall require re-noticing for the new public hearing date.
- (g) *Development applications requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances shall be noticed as follows in accordance with Table XXX.
- (h) *Applicant bears burden of costs.* When the provisions of this chapter require that notice be provided, the costs of Town staff preparing the content of the notice and providing such notice shall be billed through cost recovery.
- (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements not in conflicting with the Florida Statutes.

Table XXX. Notice Requirements

Application Type	Florida Statute Reference	Public Participation Meeting	Board Notice Date (as applicable)	Commission Notice Date	Type of Notice			
					Website	Posted	Mailed 300'	Published (Ad Type)
Administrative adjustments, appeals from administrative decisions, plats, site plans, variances		n/a	10 days	10 days	X	X	X	n/a
Conditional uses for signs		10 days	n/a	10 days	X	X	X	n/a
A variance for a single-family home		n/a	10 days	10 days	X	X	X	n/a
Conditional uses, site plans, Level 2 site plan modifications, variances		10 days	10 days	10 days	X	X	X	n/a
Right-of-way vacations		10 days	10 days	10 days	X			X (Standard)
Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification		n/a			n/a	n/a	n/a	n/a
Comprehensive Plan - Text	163.3184	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)
Comprehensive Plan - Map	163.3184	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X	X	X	X (Display)
Land Development Code - Text Amendments changes to actual list of permitted, conditional, or	166.041(3)(c)2	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)

prohibited uses within a zoning category).								
Land Development Code - all other Text Amendments	166.041	n/a	10 days	10 days	X			X (Standard)
Zoning Map Change (chapter 30)—Town (less than 10 contiguous acres)	166.041(3)(c)1	10 days	10 days	30 days	X		X	X (Standard)
Zoning Map Change (chapter 30)—Town (10 or more contiguous acres)	166.041(3)(c)2	10 days	10 days	7 days - 1st public hrg 5 days - 2nd public hrg	X	X	X*	X* (Display, with map)
Zoning Map Change (chapter 30)—Owner	166.041(3)(a)	10 days	10 days	10 days	X	X	X	X (Standard)

(Ord. No. 2022-05, § 3, 8-24-2022)

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, 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;
 - (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)

Sec. 30-114. Public participation required.

- (a) *Purpose and intent.* The public participation process provides for the ability of citizens of the Town to actively participate in the Town's development procedures and allows the Town's citizens to play an essential role in shaping the direction of the Town's development, thereby enhancing the welfare of the community.
- (b) *Applicability.* All applicants submitting applications to the Town for approval of a site plan, site plan level 2 modification, conditional use variance (except for a single-family home), right-of-way vacation, rezoning, or land use plan amendment shall solicit citizen participation in accordance with this section.
- (c) *Citizen participation meeting.*
 - (1) *Meeting.*
 - a. *Required; timing.* Subsequent to filing a complete application with the Town, as set forth in subsection (b) above, applicants shall be required to conduct a minimum of one public meeting with residents, property owners and interested parties that may be affected by the proposed application (the affected parties), or additional number of meetings as may be directed by the Development Services Director (DSD) or designee. The meeting shall not be scheduled or conducted before the initial review of the application has been completed by the DSD or designee.
 - b. *Notice.*
 - 1. Applicants shall provide affected parties with notice of the proposed application as set forth in section 30-139 of this Code. "Affected parties" include residents and property owners that are located within a 300-foot radius of the subject property associated with the proposed application, and any other interested parties who have submitted a written request to the DSD or designee with a stated interest in the proposed application to be included in the notice.
 - 2. Prior to sending mailed notices of the proposed application to affected parties, the applicant shall be required to submit a copy of the proposed notice and application summary to the DSD or designee for review and approval. Applicants shall then be provided a list of affected parties to which the notice must be mailed. Additionally, applicants shall also be required to provide the DSD or designee with a copy of the mailed notice. A summary of the proposed application shall be included within the mailed notice provided to affected parties and made available for review by the public at the meeting.
 - c. *Purpose; location.* The purpose of the citizen participation meeting is to discuss the proposed application, provide Town citizens with the ability to actively participate in the Town's development procedures and solicit public comment from affected parties and the community. Citizen participation meetings may be held at Jarvis Hall, subject to scheduling and availability, or at a similarly convenient location within the Town, provided such location is accessible and open to the public.
 - d. *Submission of summary.* A written summary setting forth the details and results of the citizen participation meeting shall be submitted to the DSD or designee for approval by the Town Manager or designee at least 21 days prior to the Planning and Zoning Board's review of the proposed application, in accordance with the requirements of this section. Notwithstanding the foregoing, applications for conditional uses for signs shall submit a written summary setting forth the details and results of the citizen participation meeting to the DSD or designee for approval by the Town Manager or designee at least 21 days prior to the Town Commission's review of the proposed application, in accordance with the requirements of this section.

EXHIBIT 4

(d) *Citizen participation meeting summary.*

(1) *Citizen participation meeting summary.* All citizen participation meeting summaries shall include:

- a. A brief written summary of the proposed application and development project.
 - b. Dates and locations of all meetings where affected parties were invited to discuss the applicant's proposal.
 - c. The names, dates, and number of attendees. The applicant shall request that attendees provide their contact information, including name, address and email, and report that information, if available.
 - d. A written summary of the issues and concerns raised during the meeting and how the applicant proposes to resolve these issues and concerns. If the applicant is unable or unwilling to resolve the issues and concerns raised during the meeting, the summary should state the reason why these issues and concerns cannot be resolved.
 - e. The written summary shall be submitted and reviewed by the DSD or designee to determine whether the applicant has completed the citizen participation requirements and procedures set forth in this section prior to its transmittal by staff to the Planning and Zoning Board for review and consideration.
- (e) *Consideration by the Planning and Zoning Board and the Town Commission.* The applicant's citizen participation meeting summary shall be included as an exhibit to the staff report. Any issues identified in the meeting summary that are pertinent to any provision of this Code, which may affect the Planning and Zoning Board's recommendation or the Town Commission's determination of the application may be taken into consideration by the Planning and Zoning Board and the Town Commission as part of their deliberations.

(Ord. No. 2021-11 , § 2, 10-26-2021; Ord. No. 2022-05 , § 2, 8-24-2022)

**Citizen Participation Meeting Summary for
2023-CU-01 4200 N Ocean Drive**

Meeting Date: March 20, 2023

Location: Jarvis Hall

- Susan Leven opens the citizen participation meeting at 6:30pm for the project on 4200 North Ocean Dr.
- Brian and Claudia Lowe, who are the owners of the property, introduce themselves and present their project.
- John Koury, from Tuthill Architecture, presents a rendering of the project, elevations and orientation of the proposed two-story duplex.
- Two citizens are present at the meeting. One of them asks a question about the future building layout and use.
- No more questions are presented, and the meeting is adjourned by Susan Leven at 6:45pm.



Town of Lauderdale-By-The-Sea

Development Services Department

To: Planning & Zoning Board (the “Board”)

From: Jhanelle Campbell, Acting Development Services Director

Meeting Date: May 3, 2023

New Business: Case Number 2023-V-01: Edward Maslanka (Applicant) – Requests a Variance from Section 30-313(d)(1)h of the Town’s Code of Ordinances, to permit the construction of a fence and gate within the required front setback for the property located at 291 Imperial Lane.

The Applicant, Edward Maslanka, is requesting a Variance (**Exhibit 1**) from Town Code Section 30-313(d)(1)h to construct a fence and gate within the front setback and sight visibility triangles, for property located at 291 Imperial Lane(the “Property”), where the Town Code requires a twenty-five (25) foot setback. The Property is located at the end of Imperial Lane, abutting the Intracoastal Waterway.



The Applicant has paid the appropriate fee and submitted the required documents.

Notice was sent to all property owners within 300 feet of the subject property on April 21, 2023. The Property has been posted and the hearing has been advertised pursuant to Section 30-139 of the Code of Ordinances (**Exhibit 2**). To date, we have not received any responses to the notice.

Description of the Existing Site

The subject property, zoned RS-5, is located at 291 Imperial Lane and is currently used as a single-family residence. The Property is located on the western end of Imperial Lane and abuts the Intracoastal Waterway.

Background

The existing building was constructed in the mid 1990’s. The property is 11,226 SF (0.26 acres) in size. The Applicant wishes to construct a fence and gate within the front setback and sight visibility triangles. Since the Town Code does not permit a fence and gate at the front property line, staff required that the Applicant submit a variance application to address the proposed location of the structures.

Variance Request – Location of fence and gate within the front setback and sight visibility triangles

The Applicant has requested a Variance to permit the proposed fence to be installed in the front setback where twenty-five (25) feet is required. Section 30-313(d)(1)h of the Town Code (**Exhibit 3**) does not allow fences within twenty-five (25) feet of the front property line or within the sight visibility triangles.

Criteria and Analysis

Section 30-127 of the Town Code (**Exhibit 4**) provides that a variance application shall be evaluated by considering the following criteria. Please note that the Applicant's response is taken directly from the application. For the full narrative from the Applicant, please see **Exhibit 5**.

1. *Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.*

Applicant statement: Clear access to Intracoastal allows intruders through my yard to the water. Due to being on a dead end street, the end house and on the Intracoastal, a fence and gate is required intruders and police chases from access.

Staff findings: The abutting properties both have fences and gates that were approved through the variance process (**Exhibits 6 & 7**). The Applicant's property is the only property on the end of Imperial Lane that does not have a gate and fence to prevent someone from crossing the property to access the Intracoastal Waterway. It should also be noted that the unique shape of this property makes it difficult for the property owner to construct a fence at the required distance from the front setback.

This criterion has been met.

2. *The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.*

Applicant Statement: Numerous occasions deputies have chased people to my house, only for them to go through my yard and swim away. Without a fence and gate police would not be able to stop law breakers from gaining access to the Intracoastal and getting away. This happened twice in November 2022 where once sheriffs chased a man on a motorcycle. He dropped the bike in my driveway, ran through my yard, jumped in the Intracoastal and swam away.

Also would match the 7-foot setback to the neighbor's fence and would add security to entire neighborhood, blocking access to the Intracoastal during police chases. This would also add beauty to the neighborhood.

Staff Findings: Staff contacted the Broward County Sheriff's Office to see how many times in the last year a report was made concerning the subject property being used as a pass-through to access the Intracoastal Waterway. They were aware of one such instance in November of 2022. The circumstances could be seen as peculiar to the Property on this street since it is the only property that provides direct access to the Intracoastal without a gate and fence.

This criterion has not been met.

3. *The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.*

Applicant Statement: The current setback law of 25 feet would be an eyesore and out of place as both neighbor's fences have 7-foot setbacks. Also, a 25-foot setback would put the fence 5-feet from my front door and garage, making it difficult to get down the steps. I am a 100% disabled vet and my sister had a stroke six years ago and walks with a walker and on a good day a cane.

Staff Findings: The Applicant's proposed fence and gate would line up to those of adjacent properties that were both granted variances in the past. However, this does not result in a particular hardship upon the owner. It should also be noted that the unique shape of this property makes it difficult for the property owner to construct a fence at the required distance from the front setback.

This criterion has not been met.

4. *The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.*

Applicant Statement: A fence proposed in 1996 around the time the house was built was never installed. But both neighbors installed their fences and gates with a 7-foot setback after the approval of their variances.

Staff Findings: A prior owner of the subject property applied for a variance to install a fence and gate within the front setback but was denied (**Exhibit 6**). However, the adjacent parcels on both sides of the subject property applied for and received variances for their fences and gates (288 Imperial: #91-04 (**Exhibit 7**), 287 Imperial: #93-01 (**Exhibit 8**)).

This criterion has not been met.

5. *The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Applicant Statement: The new fence and gate would match the neighbors' 7-foot setback. It will be in harmony with the neighbors and will add security for the residents living on Imperial Lane. The new fence will be constructed of black metal to match 288 Imperial Lane.

Staff Findings: The installation of the gate and fence will eliminate access onto the Property as well as cutting off access to the Intracoastal Waterway. However, installation of a gate and fence at the front property line is not in harmony with the intent of the zoning regulations. The zoning code requires fences to be installed at a distance of twenty-five (25) feet from the front setback line.

This criterion has not been met.

6. *The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.*

Applicant Statement: Fence allowed on north and south sides of my house.

Staff Finding: Fences and gates are permitted in the front yard at a distance of twenty-five (25) feet from the front setback.

This criterion has not been met.

7. *Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.*

Applicant Statement: Safety is the priority for owner of property as 3 times in last 6 months sheriff deputies have chased people only for them to escape through my open yard to water.

Staff Finding: Financial hardship is not the basis for granting the variance.

This criteria has been met.

STAFF RECOMMENDATIONS:

The Board has the following options:

1. Recommend approval of the Variance to the Town Commission;
2. Recommend approval of the Variance to the Town Commission with conditions; or
3. Recommend denial of the Variance to the Town Commission.

Staff believes that the granting of the is not justified based on the requirements of the Town Code and recommends **DENIAL**. The criteria to grant the request have been met.

Should the Board recommend approval of the request to the Town Commission, staff recommends the following conditions of approval:

1. All construction shall be in accordance with the plans, incorporated into an approved Development Order as **Exhibit 1**, which are listed in this report, which incorporate all modifications and conditions approved by the Town Commission. If changes occur as part of the building permit and/or architectural review process, that Applicant will be required to provide this information to Staff to determine if a modification of the Site Plan approval is required.
2. 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.
3. The approved site 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.
4. All applicable state and federal permits shall be obtained before commencement of construction.

In any case, the Board should list its findings and conclusions to support its recommendation to the Town Commission.

The Variance request is scheduled for the Town Commission meeting of May 23, 2023.

Exhibits:

1. 2023 V-01 Zoning Variance Application and Plans
2. Public Notice and Notice Requirements 30-139
3. Section 30-313(d)(1)h – Fences and Gates
4. Variance Requirements 30-127
5. Applicant narrative
6. Prior Variance Denial for 291 Imperial Lane
7. Variance #91-04 for 288 Imperial Lane
8. Variance #93-01 for 287 Imperial Lane

Z:\- PLANNING & ZONING BOARD\ Meetings\2023\3-May\2023-V-01 291 IMPERIAL LANE- FENCE\2023-V-01 Variance (291 Imperial Lane) Staff Report_rvs- 46D8374.docxZ:\- PLANNING & ZONING BOARD\ Meetings\2023\3-May\2023-V-01 291 IMPERIAL LANE- FENCE\2023-V-01 Variance (291 Imperial Lane) Staff Report_rvs- 46D8374.docx

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: Fence 291 Imperial

Folio Numbers: 4943 18 04 0240

Street Address: 291 Imperial Lane

Legal Description: Lauderdale Surf & Yacht Estates 22-46 Blot 21 Blk 1

Name of Property Owner: Edward Maslanka Property Owner's Phone #: 954-701-3931

Address of Property Owner: 291 Imperial Lane

Property Owner's Email Address: EMASL28341@AOL.com

Name of Applicant: Edward Maslanka Applicant's Phone #: 954-701-3931

Applicant's Address: 291 Imperial Lane

Applicant Email Address: EMASL28341@AOL.com

Name of Agent (e.g. Contractor Representing the Project): Caribbean Roofing and General Construction LLC
RALPH Paula
(772)-812-1820

Agent's Email Address: RalphPaula.rp@gmail.com Agent's Phone #: 772-812-1820

Agent's Address: 352 SW BUSWELL AVE; Port St. Lucie, FL 34983

Land Use Plan Designation: _____ Zoning District: _____

Existing Use of the Subject Property: 01-01 Single Family Residence

Proposed Use of the Subject Property: 01-01 Single Family Residence

APPROVAL OF WAIVER OF TIME ALLOWED TO REVIEW APPLICATION

I E. Maslanka (Applicant/ Property Owner) hereby waive my rights as to the required review time stated in House Bill 7103 as it relates to time limits to review applications for approval of a development permit or development order.

Print Name of Property Owner: Edward Maslanka Date: 01/12/2023

Signature of Property Owner: X Edward Maslanka

DEVELOPMENT APPLICATION SIGNATURE SECTION

Property Owner

Print Name of Property Owner: Edward Maslanka Date: 01/12/2023

→ Signature of Property Owner: X Edward Maslanka

State of Florida:

County:



RALPH PAULA
Commission # GG 910987
Expires October 6, 2023
Bonded Thru Budget Notary Services

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 13th of Jan, 2023.

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

Print Notary Name: Ralph Paula My Commission Expires: Oct 6th, 2023

Notary Signature: Ralph Paula

Applicant

Print Name of Property Owner: Edward Maslanka Date: 01/17/2023

Signature of Property Owner: Edward Maslanka

State of Florida:

County: Broward



RALPH PAULA
Commission # GG 910987
Expires October 6, 2023
Bonded Thru Budget Notary Services

5/28/2020

Universal Application



MARTY KIARD
BROWARD
 COUNTY
 PROPERTY APPRAISER

Site Address	291 IMPERIAL LANE, LAUDERDALE BY THE SEA FL 33308	ID #	4943 18 04 0240
Property Owner	MASLANKA, EDWARD EDWARD MASLANKA LIV TR	Millage	0211
Mailing Address	291 IMPERIAL LN LAUDERDALE BY THE SEA FL 33308	Use	01-01
Abbr Legal Description	LAUDERDALE SURF & YACHT ESTATES 22-46 B LOT 21 BLK 1		

The just values displayed below were set in compliance with **Sec. 193.011, Fla. Stat.**, and include a reduction for costs of sale and other adjustments required by **Sec. 193.011(8)**.

* 2022 values are considered "working values" and are subject to change.

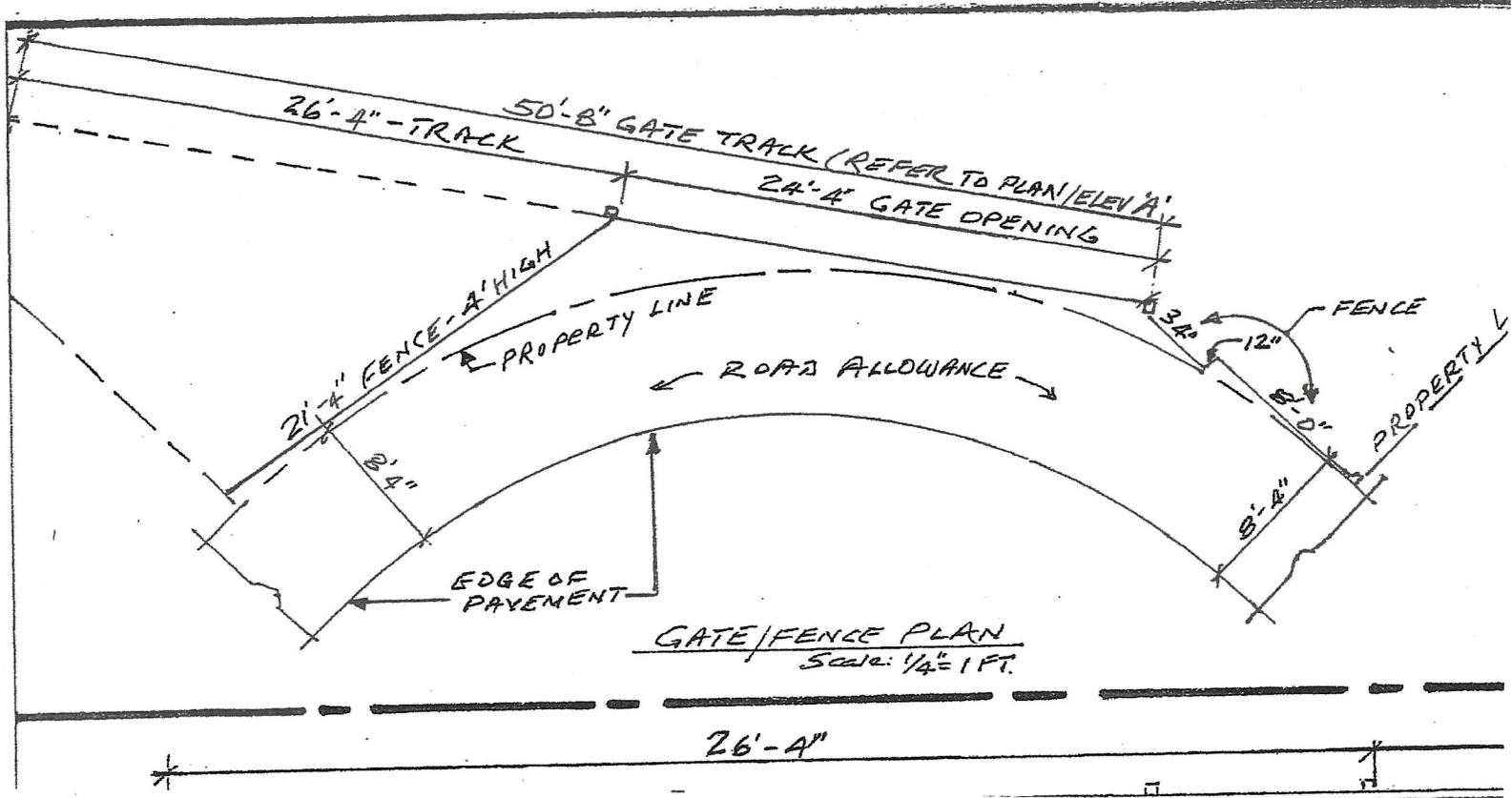
Year	Land	Building / Improvement	Just / Market Value	Assessed / SOH Value	Tax
2022*	\$666,820	\$1,557,600	\$2,224,420	\$1,548,110	
2021	\$666,820	\$1,177,870	\$1,844,690	\$1,503,020	\$129.85
2020	\$666,820	\$1,042,420	\$1,709,240	\$1,482,270	\$129.85

2022* Exemptions and Taxable Values by Taxing Authority

	County	School Board	Municipal	Independent
Just Value	\$2,224,420	\$2,224,420	\$2,224,420	\$2,224,420
Portability	0	0	0	0
Assessed/SOH 13	\$1,548,110	\$1,548,110	\$1,548,110	\$1,548,110
Homestead 100%	YES	YES	YES	YES
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type 03	\$1,548,110	\$1,548,110	\$1,548,110	\$1,548,110
Taxable	0	0	0	0

Sales History				Land Calculations		
Date	Type	Price	Book/Page or CIN	Price	Factor	Type
12/20/2012	WD-Q	\$1,500,000	49366 / 1399	\$59.40	11,226	SF
8/26/2008	QCD-T	\$100	45670 / 352			
2/7/2003	WD	\$1,500,000	34552 / 901			
10/30/2002	WD	\$750,000	34043 / 363			
4/28/1998	WD	\$1,150,000	28191 / 15			
				Adj. Bldg. S.F. (Card, Sketch)		3859
				Units/Beds/Baths		1/3/3
				Eff./Act. Year Built: 1996/1995		

Special Assessments								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc
02						LB		
R								
1						1		



Sec. 30-139. Notice of Public Hearings.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the DSD shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
- (1) Applicant's name;
 - (2) The date, time, and place of the public hearing;
 - (3) A description of the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law;
 - (4) The nature, scope and purpose of the proposal being noticed;
 - (5) The Town departments where the public may inspect the application, staff report and related materials during normal business hours;
 - (6) A statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application; and
 - (7) Other information as may be required by law.
- (b) *Mailed notice.*
- (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property owners within a 300 foot radius of the subject property, and shall include the subject property owner(s) and Town Development Services Department.
 - (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
 - (3) Property owners shall be determined by the ad valorem tax records of Broward County.
 - (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall be responsible for mailing the notices, with the exception of public participation meetings which shall be the responsibility of the applicant as set forth in section 30-114 of this Code.
 - (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.
 - (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice.
- (c) *Published notice.* When the provisions of this chapter require published notice, the DSD shall provide that the notice be:
- (1) Published in the non-legal section of the local newspaper of general circulation that has been selected by the Town and in accordance with applicable Florida Statutes.
 - (2) Follow the timelines and ad type established in Table XXX in this article.
 - (3) For the purposes of this section and Table XXX:
 - a. "Display ad" shall be no less than two columns wide by ten inches long and the headline of the required notice shall be in a type no smaller than 18 point font size. If the ad is for a zoning map amendment, it shall also include a map pursuant to Florida Statutes 166.041(3)(c)2.

-
- b. "Standard ad" shall be in the legal ad section of the classified ads of the newspaper and shall be in a type no smaller than 5 point font size.
- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the DSD shall provide the required sign to the applicant who will be responsible for posting the property, as set forth below:
- (1) Signs shall be placed on the property that is the subject of the application in accordance with timelines prescribed in Table XXX in this article prior to a required or requested hearing.
 - (2) If the subject property fronts on more than one right-of-way, then a sign shall be posted facing each right-of-way.
 - (3) Signs shall be placed no more than five feet from the street or if there is a sidewalk, no more than two feet beyond the property side edge of the sidewalk, so that the lettering is visible from the street.
 - (4) If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign from the Town and posting the new sign on the property.
 - (5) The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, or requirement for review or hearing by another body. The sign information shall be updated to include any additional public hearings or public hearing deferrals consistent with Table XXX.
 - (6) No less than five days prior to the public hearing, the applicant shall execute and submit to the Department an affidavit of proof of the posting of the public notice sign in accordance with the provisions of this section. Updates as provided in (5) above shall also require such affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the application until the next public hearing after the affidavit has been supplied.
- (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's Website no later than ten days prior to any public hearing related to the application. Website Notice is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to be posted.
- (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates, substantive changes to an application request during the period an application has been continued, or more than two continuances on the application, shall require re-noticing for the new public hearing date.
- (g) *Development applications requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances shall be noticed as follows in accordance with Table XXX.
- (h) *Applicant bears burden of costs.* When the provisions of this chapter require that notice be provided, the costs of Town staff preparing the content of the notice and providing such notice shall be billed through cost recovery.
- (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements not in conflicting with the Florida Statutes.

Table XXX. Notice Requirements

Application Type	Florida Statute Reference	Public Participation Meeting	Board Notice Date (as applicable)	Commission Notice Date	Type of Notice			
					Website	Posted	Mailed 300'	Published (Ad Type)
Administrative adjustments, appeals from administrative decisions, plats, site plans, variances		n/a	10 days	10 days	X	X	X	n/a
Conditional uses for signs		10 days	n/a	10 days	X	X	X	n/a
A variance for a single-family home		n/a	10 days	10 days	X	X	X	n/a
Conditional uses, site plans, Level 2 site plan modifications, variances		10 days	10 days	10 days	X	X	X	n/a
Right-of-way vacations		10 days	10 days	10 days	X			X (Standard)
Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification		n/a			n/a	n/a	n/a	n/a
Comprehensive Plan - Text	163.3184	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)
Comprehensive Plan - Map	163.3184	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X	X	X	X (Display)
Land Development Code - Text Amendments changes to actual list of permitted, conditional, or	166.041(3)(c)2	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)

prohibited uses within a zoning category).								
Land Development Code - all other Text Amendments	166.041	n/a	10 days	10 days	X			X (Standard)
Zoning Map Change (chapter 30)—Town (less than 10 contiguous acres)	166.041(3)(c)1	10 days	10 days	30 days	X		X	X (Standard)
Zoning Map Change (chapter 30)—Town (10 or more contiguous acres)	166.041(3)(c)2	10 days	10 days	7 days - 1st public hrg 5 days - 2nd public hrg	X	X	X*	X* (Display, with map)
Zoning Map Change (chapter 30)—Owner	166.041(3)(a)	10 days	10 days	10 days	X	X	X	X (Standard)

(Ord. No. 2022-05, § 3, 8-24-2022)

Sec. 30-313. General provisions.

- (a) Drainage facilities.
- (b) Use of buildings.
- (c) Moving of buildings.
- (d) Fences, walls and hedges.
- (e) Regulations applicable to El Mar Drive.
- (f) Use, public areas.
- (g) Aesthetic design.
- (h) Standards for driveways and swales.
- (i) Capacity restrictions.
- (j) Queuing of vehicles.
- (k) Paving drainfield areas.
- (l) Satellite television antennas and dishes.
- (m) Lighting.
- (n) Control of lighting for protection of sea turtle nesting areas.
- (o) Elevation of filled land.
- (p) Swimming pools, pool decks, patios, hot tubs and spas; [setbacks and enclosure required].
- (q) Decks.
- (r) Other mechanical and plumbing equipment [setback requirements].
- (s) Accessory buildings and structures.
- (t) Generator [and fuel storage tank] regulations.
- (u) Window screening for vacant storefronts.
- (v) Rooftop photovoltaic solar systems.
- (w) Groins, seawalls and breakwaters.
- (x) Rooftop passive recreation.

These general provisions shall govern development within the corporate limits of the Town, as follows:

- (a) *Drainage facilities.* All improved property, whether new construction or renovation or repair of present property, must provide adequate drainage facilities and drainage fields and all well and drainage locations must be shown on a site plan in accordance with all applicable regulations.
- (b) *Use of buildings.* No building or structure shall be erected on any lot for any purpose or use other than as applicable in said district. Non-use variances may be granted pursuant to section 30-127, Variance Procedures and Requirements of the Town Code.
- (c) *Moving of buildings.* A conditional use permit is required for structures being moved into the corporate limits of the Town or for structures being relocated from one location within the Town to another location within the Town.

(d) *Fences, walls and hedges.*

(1) Height, design, and location of fences, walls, hedges.

- a. Height. The maximum height of any fence or wall shall be six feet, except where the fence or wall abuts property with business zoning, in which case the maximum height is eight feet. The height of fences, walls, hedges or plantings of whatever composition shall be measured from the natural contour of the ground on adjoining lots.
- b. Construction. All fences and walls shall comply with the Florida Building Code.
- c. Cement or concrete walls:
 1. Cement or concrete walls are permitted in all zoning districts, and must comply with the standards outlined in subsection 2., below.
 2. Except when a new wall directly abuts an existing wall or fence preventing compliance with this requirement, walls shall be finished on both sides with materials satisfying industry standards, such as painted stucco, prefinished block, or other prefinished materials, shall be compatible with proposed or existing buildings, and shall meet the following design guidelines:
 - i. Cement or concrete walls in the RS-4, RS-5 and RD-10 zoning districts which exceed four feet in height must provide a minimum of 25 percent openings to allow air circulation.
 - ii. Walls shall be designed with changes in material, color, texture, or profile to avoid the massive, linear aspect and monotony of otherwise plain walls. Walls over two feet in height shall not form a continuous straight line without an offset, change of direction, or significant vertical feature every ten feet to break up the length of the wall.
 - iii. Walls shall include finishing features such as, but not limited to, changes in texture or color, variety of materials, capstones, decorative painting or bands of tile.
- d. Fence/wall top features. The top of a fence or wall may contain architectural features and light fixtures. However, such features shall not extend more than 18 inches above the maximum height of the fence or wall, and the combined width of the features shall not exceed 20 percent of the total linear length of the fence or wall.
- e. Gates. A fence or wall may have a pedestrian entrance with a gate. Such an entranceway, including any archway, may be no greater than eight feet in height, and no more than eight feet in width. Gates must swing or slide in a manner which does not obstruct public rights of way.
- f. Maintenance. All fences and walls shall be maintained in good repair and in a secure manner. All defective structural and decorative elements shall be repaired or replaced in a workmanlike manner, to match as closely as possible the original materials and construction of the fence or wall. All surfaces shall have all graffiti and loose material removed. Any damaged portion of a fence or wall shall be repaired or replaced in a manner consistent with these standards. Any patching or resurfacing shall match the existing materials and shall be impervious to the elements, when possible.
- g. Hedges.

EXHIBIT 3

1. All hedges shall be planted and maintained by property owners within the property lines and shall not encroach into the adjacent properties or right-of-way (ROW).
2. The height of a hedge shall be maintained not to exceed 12 feet in all zoning districts, except in the RM-25 district, where the height of a hedge is limited to four feet in the front yard, except as otherwise provided in subsection "h." below.

h. Visibility limitations.

1. No fences or walls shall be constructed within 25 feet of the front property line or within 30 feet of the clear site triangle at the corner of the property on residential lots.
 2. No walls, fences, hedges or plantings shall be planted or maintained:
 - a. To a height exceeding 30 inches above the crown of the roadway within sight visibility triangles,
 - b. Within 25 feet of the intersection of the front and side street property lines,
 - c. Within ten feet of any driveway, within ten feet from the intersection point of the edge of a driveway and alley or street, or
 - d. Within 15 feet from the intersection point of the extended property lines at an alley and a street.
 - i. Chain link fences. Chain link fences shall be completely hidden from view when viewed from any portion of the right-of-way in residentially zoned property. Chain link fences are prohibited in any business zoning district. Notwithstanding the non-conforming use and structure regulations set forth in section 30-137 of the Town Code, non-conforming chain link fences shall be required to comply with the above regulations within a two-year time period commencing on August 27, 2019.
 - j. Placement of finished side. Except when a new wall or fence directly abuts an existing wall or fence preventing compliance with this requirement, fences and walls finished on only one side shall be placed to have the finished side facing out. If a fence or wall is erected and any portion is placed with an unfinished side facing out due to an abutting obstacle, then that portion shall be finished within 180 days of the obstacle being removed.
 - k. Prohibited fence types. Barbed wire, electrified or razor wire fences, and fences or walls topped with barbed, electric or razor wire are prohibited, and shall not be erected or maintained on any property.
 - l. Reserved.
- (e) *Regulations applicable to El Mar Drive.*
- (1) Parking. It shall be unlawful to use the central park area of El Mar Drive for parking purposes, unless so designated by a sign and ordinance.
 - (2) Walkways. Walkways that cross El Mar Drive must:
 - a. Comply with the requirements of section 17-9 of the Town Code;
 - b. Be accompanied by an agreement to provide maintenance; and
 - c. Be reviewed and approved by the Town Commission.

EXHIBIT 3

- (3) Failure to meet the criteria of subsection (e)(2) above may result in a fine and removal of such walkway upon written prior notice.
- (f) *Use, public areas.* It shall be unlawful for any person or group of persons to use any public area, park, street or thoroughfare as the site or location for the temporary or permanent construction, erection, or installation of any structure of any kind, or removal of any vegetation or structure thereon without express permission, upon written application, from the Town Commission. See chapter 17 of the Town Code of Ordinances.
- (g) *Aesthetic design.* No structure shall be of an exhibitionistic character. Examples of which might portray, in form and coloring, a milk bottle, bean pot, articles of food, clothing, a windmill or the like. See article II, development review, section 30-51, architectural review standards of the Town Code.
- (h) *Standards for driveways and swales.*
 - (1) *Driveways for single-family, two-family and townhome dwellings.*
 - a. All grading and paving of the swale on Ocean Drive (A1A) shall be subject to the Florida Department of Transportation specifications and permit requirements.
 - b. Driveways shall be constructed of non-asphalt pavement such as concrete pavers, stamped concrete, brick, or other material approved by the Town Commission.
 - c. Asphalt driveways permitted and constructed prior to July 28, 2009, shall be allowed to continue as a legal nonconformity subject to the following provisions:
 - 1. A nonconforming asphalt driveway may be maintained and repairs and alterations may be made so long as the nonconformity is not increased.
 - 2. New development or redevelopment on the property exceeding 25 percent of the current replacement cost of the primary building on the site in a consecutive three-year period, shall provide a driveway in conformity with the provisions of this section and any other applicable land development regulations.
 - d. Gravel driveways are prohibited.
 - e. Pervious pavement and pavers.
 - 1. The use of solid surface pervious pavement and solid pervious pavers is encouraged.
 - 2. Failure to maintain the solid pervious pavement and/or solid pervious pavers to industry standards, may result in the required removal of the pervious pavers and/or pervious pavement and the installation of a drainage system approved by the Town Engineer for the property pursuant to the Town's code enforcement procedures.
 - f. *Maintenance of driveways.* The property owner is responsible for maintaining and repairing the entire driveway including any portion in or crossing the swale.
 - g. *Driveway design for single-family, two-family and townhome dwellings.*
 - 1. The driveways, except for the radius or flare provided below, shall be setback at least two and one-half feet from the side property line and shall provide a connection to the roadway that includes a maximum of either a:
 - (i) Two and one-half foot radius, or

- (ii) Flare that is a 45 degree angle and no more than two and one-half feet beyond the extension of the driveway street edge.
 - 2. Maximum width.
 - (i) For properties less than 75 feet in width, the maximum total pavement width in the swale is limited to 30 feet, exclusive of subsection g.1. above.
 - (ii) For properties 75 feet or greater in width, the maximum total pavement width in the swale is limited to 40 percent of the property frontage or 40 feet, whichever is less, exclusive of subsection g.1. above.
 - 3. Unless the street adjacent to the property has a curb and gutter, driveways shall be designed with a grade as defined in subsection (3)d. below.
- (2) *Driveways for all other properties.* Driveways for all other properties are subject to the standards provided in section 30-122, "Site plan requirements."
- (3) *Standards for swales for single-family, two-family and townhome dwellings.*
- a. The property owner shall not create a berm in the swale.
 - b. If a swale area outside of a proposed or existing driveway is currently covered with any other material other than landscaping as outlined in subsection (5) below, then the material shall be removed when constructing, reconstructing or replacing the driveway.
 - c. All grading and paving of the swale on Ocean Drive (A1A) shall be subject to the Florida Department of Transportation specifications and permit requirements.
 - d. *Grading requirements.* For properties without a curb and gutter, the following grading standards shall be met and maintained:
 - 1. All grassed areas and other permeable areas within the public right-of-way shall be graded so that the final grade is a minimum of three inches lower than the adjacent street and driveway pavement. Town Engineer approval of the design specifications for the grade must be obtained.
 - 2. The grade of driveways within the swale area shall be constructed so that the final grade matches the adjacent landscaped swale area and shall slope from the driveway to the adjacent landscaped swales according to the cross section standard adopted by the Town Engineer, unless a specific modification has been approved by the Town Engineer because of field conditions or the use of pervious pavement or pervious pavers.
- (4) *Standards for swales for all other properties.*
- a. All grading and paving of the swale on Ocean Drive (A1A) shall be subject to the Florida Department of Transportation specifications and permit requirements.
 - b. All properties that are: (a) not located on Ocean Drive (A1A), and (b) not adjacent to a curb and gutter street, shall meet the grading requirements established in subsection (3)d.1. and 2. above.
 - c. All properties that: (a) are not located on Ocean Drive (A1A), and (b) include a landscaped area, shall meet the landscaping requirements established in subsection (5) below.
 - d. All properties that submit a permit application to resurface or restripe their parking area shall provide a drainage plan that indicates the minimum Broward County water quality stormwater requirements for runoff will be maintained onsite. Stormwater runoff can be

EXHIBIT 3

maintained through the creation of a graded swale, the redirection of stormwater to landscaped areas, a trench drain or by other means, subject to review and approval from the Town Engineer.

(5) *Landscaping standards for swales:*

- a. Landscaping or other materials shall not be used in swale areas in any manner that may interfere with surface drainage.
- b. Landscape criteria.
 1. Consistent with section 17-5, landscaping other than ground cover shall be planted or removed only under permit from the Town.
 2. Prior to the issuance of any permit, the abutting property owner shall execute an agreement to hold the Town harmless for any damages and/or costs caused by the maintenance and repair of utilities or future right-of-way improvements.
 3. Except in those areas that are paved to connect driveways to the roadway, or where a sidewalk exists or installation of a sidewalk has been approved by the Town, swales shall be fully sodded grass, ground cover or xeriscape landscaping.
 4. Landscaping, with a maximum height of 30 inches, may be planted no closer than six feet to the edge of pavement.
 5. Trees.
 - (i) Single trunk trees or palm trees may be planted with a minimum horizontal distance of six feet to the edge of pavement on streets without a curb and four horizontal feet to the edge of pavement on streets where there is a curb.
 - (ii) Trees shall be a minimum of six feet in height at the time of planting.
 - (iii) Trees shall not be planted:
 - i. Closer than 20 feet from the intersection of any street.
 - ii. Closer than 20 feet from a street light pole, utility pole, fire hydrant, traffic sign, traffic signal pole or street name sign.
 6. Round concrete buttons that meet the following criteria are allowed in the swale:
 - (i) Not exceeding 12-inch diameter;
 - (ii) Not exceeding four-inch height;
 - (iii) No exposed edges; and
 - (iv) A minimum of two feet from the street pavement edge.
 7. Non-native species and hedges are prohibited.
 8. In those instances where the abutting property owner plants trees and/or landscaping materials within the swale area of the public right-of-way, any damage caused by roots or broken branches shall be the responsibility of the abutting property owner.

(6) *Maintenance standards for swales.*

EXHIBIT 3

- a. The property owner adjacent to the swale shall be responsible for maintaining the swale in good condition, with the lawn regularly watered and mowed and any other landscaping properly maintained.
 - b. The adjacent property owner shall maintain and trim swale trees so that there is:
 - 1. A minimum eight-foot clearance between the lowest hanging branch or foliage and the existing grade of the swale or sidewalk, and
 - 2. A minimum ten-foot clearance between the lowest hanging branch or foliage and the roadway pavement.
 - c. No landscape material shall encroach into the paved roadway or public sidewalk.
 - d. Town removal. In addition to all other remedies available including code enforcement, the Town may remove landscaping within the swale in accordance with section 17-5 of the Town Code.
- (i) *Capacity restrictions.*
- (1) All businesses shall provide adequate indoor seating for their customers, clients, patients and business invitees.
 - (2) Except for customers seated in approved sidewalk café areas, customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or wait outside of the building where the business is operating, including in any parking areas, sidewalks, rights-of-way, or neighboring properties.
 - (3) Pedestrian queuing at any time, including before or after business hours, outside of a business' building is prohibited.
- (j) *Queuing of vehicles.* All businesses shall ensure that there is no queuing of vehicles in the adjacent rights-of-way, drive aisles of the property's parking lot or on any adjacent properties.
- (k) *Paving drainfield areas.*
- (1) Paving over drainfields or drainage facilities with asphalt or any other hard surface materials shall be prohibited.
 - (2) Paving shall be prohibited in any setback area where such paving would:
 - a. Interfere with the natural drainage necessary for the area or for the roof water from any construction located on the lot, or
 - b. Cause the surface water to drain upon adjoining property or the public right-of-way.
- (l) *Satellite television antennas and dishes.*
- (1) Definitions. The term "Satellite Television Antenna" shall mean any (i) device used for the receipt of video programming services; (ii) a device used to receive or transmit fixed wireless signals; or (iii) a reception antenna that has limited transmission capability designed for the viewer to select or use video programming as a reception antenna provided that it meets the Federal Communications Commission standards for radio frequency emissions. A mast, cabling, or other accessory necessary for the proper installation, maintenance, and use of a reception antenna shall be considered part of the antenna. A "Satellite Television Antenna" within the meaning of this section expressly excludes a Small Satellite Dish as defined herein.
 - (2) "Small Satellite Dish" or "Satellite Dish" means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow parabolic dish, cone, horn, or

Created: 2023-01-03 10:52:00 [EST]

cornucopia. Such device is used to receive radio or electromagnetic waves between terrestrially and orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as receive-only satellite earth station antenna, satellite microwave antennas or fixed wireless service antennas that are two meters or less in diameter and located or proposed to be located in any area where commercial or business uses are generally permitted by non-Federal land-use regulation, or any receive-only satellite earth station antennas, satellite microwave antennas or fixed wireless service antennas that are one meter or less in diameter in any area regardless of land use or zoning category.

- (3) Requirements in RS-4, RS-5 and RD-10 districts. All Satellite Television Antennas located in RS-4, RS-5 single-family and RD-10 duplex residential districts shall comply with the following:
 - a. Setback requirements for Satellite Television Antennas shall be consistent with the setback requirements set forth in section 30-262.
 - b. The maximum diameter of Satellite Television Antennas shall be ten feet.
 - c. Satellite Television Antennas will be installed to minimize the height thereof and shall not exceed 12 feet.
 - d. All Satellite Television Antennas shall be screened from view from abutting properties and public rights-of-way.
 - e. No roof-mounted Satellite Television Antenna shall be permitted.
 - f. No Satellite Television Antenna shall serve more than one single-family home.
 - g. Satellite Television Antennas shall be permitted in side yards or front yards.
- (4) Requirements in other districts. Satellite Television Antennas located in districts other than single-family districts shall meet the following requirements:
 - a. Installation of any Satellite Television Antenna shall conform to all zoning setback requirements for the district in which such antenna is to be installed. The Development Services Director may require a Satellite Television Antenna to be installed in a location where its visibility is minimized to nearby properties and rights-of-way, provided that such location will not preclude reception of an acceptable quality signal.
 - b. No roof-mounted Satellite Television Antennas shall be permitted.
 - c. A Satellite Television Antenna which has been unused for reception for a continuous period of six months or more shall be removed by the owner of the antenna. The removal of any unused Satellite Television Antennas located on the same premises shall be required prior to the issuance of a permit for the installation of a new Satellite Television Antenna.
- (5) Application for a permit for installation. All applications for Satellite Television Antenna installations shall be submitted to the Development Services Director and shall include the following:
 - a. Three copies of the survey and three copies of a site plan or sketch plan showing the exact location of the Satellite Television Antenna on the property in compliance with all the codes and ordinances of the Town;
 - b. Two sets of signed and certified engineering plans by an engineer registered in the State detailing all installation requirements and specifications mandated by the building code or this Code;
 - c. Three copies of a landscaping plan showing placement, size and type of landscape material;

- d. Sufficient information, as determined by the Development Services Director, that the installation of a Satellite Television Antenna will not be erected over a sewer pipe, underground conduit, cable lines, wire or apparatus or within a public easement or utility easement; and
 - e. Any additional information that may be requested by the Development Services Director consistent with this section and applicable law, as required to process the application.
- (6) Application fee. All applications for the installation of a Satellite Television Antenna shall be accompanied by an application fee. The Town shall not require an application fee for the placement of a Small Satellite Dish, as defined in this section.
- (7) Grounding. All Satellite Television Antennas shall be grounded against direct lightning strike.
- (8) Contest of provisions. Any person wishing to contest the application of any term or provision of this subsection may do so before the Planning and Zoning Board.
- (9) Small Satellite Dishes.
- a. Location and placement regulations.
 - 1. Small Satellite Dishes shall be permitted within all zoning districts and shall comply with the minimum setback requirements established for a principal building within the applicable zoning district, pursuant to this chapter. No additional permit shall be required for installation of a Small Satellite Dish, except for an electrical permit. The installation of a Small Satellite Dish shall be in accordance with the following:
 - (i) Ground-mounted Small Satellite Dishes are permitted as an accessory use in RS-4, RS-5, RD-10, RM-25, and RM-50 zoning districts subject to the following conditions:
 - (a) No installation shall exceed 15 feet in height.
 - (b) Ground-mounted Small Satellite Dishes shall conform to the minimum setback requirements established for the principal building.
 - (ii) No ground-mounted Small Satellite Dishes shall be permitted as an accessory use in B-1, B-1-A, CF and P zoning districts.
 - (iii) Roof and wall-mounted Small Satellite Dishes shall be permitted as an accessory use in all zoning districts subject to the following conditions. Whenever possible, Small Satellite Dishes shall be installed in locations where their visibility is minimized to nearby properties and rights-of-ways, while maintaining reception of an acceptable quality signal as follows:
 - (a) It is preferred that roof-mounted Small Satellite Dishes be mounted to the rear or side of the non-street side of the principal building.
 - (b) It is preferred that wall-mounted Small Satellite Dishes be mounted on the rear or side of the non-street side wall of the principal building.
 - (c) No installation shall exceed five feet in height from the roof or wall surface to the highest point of the dish in its most extended position, and in accordance with section 7.1(1) of the Town Charter,

EXHIBIT 3

shall not exceed four feet in height above the maximum allowed building height.

- (iv) The Town may inspect the installation to determine if it complies with the requirements of this section and all other applicable provisions of the Town Code.
 - (v) A Small Satellite Dish which has been unused for reception for a continuous period of six months or more shall be removed by its owner.
- (10) **Signage.** Signage of any type, except for the provider's name, is prohibited on the Small Satellite Dishes and Satellite Television Antennas regulated in this section, unless required by Federal law.
- (11) **Inspections.** Under the lawful exercise of the police power of the Town, all installations of Small Satellite Dishes and Satellite Television Antennas may be subject to inspection by the Building Official after the installation has been completed to determine compliance with this section and the Town Code.
- (12) **Penalty for violation.** If a Small Satellite Dish or Satellite Television Antenna is deployed and increases the likelihood of harm to persons or property, or does not comply with this section, the Code or both in any respect, the Town shall not be responsible for any costs incurred in connection with any alteration, modification, redeployment or reinstallation of a Small Satellite Dish or Satellite Television Antenna for the safety of Town residents and property or as necessary for it to achieve full compliance with the Code. Any violation of any of the provisions of this section shall be grounds for revocation of any applicable permit and punishable by a fine in accordance with section 6.5-7 of the Code. Each day that a violation is permitted to exist shall constitute a separate offense. Any continuing violations of the provisions of this section may be enjoined and restrained by injunctive order of the Circuit Court in appropriate proceedings instituted for such purposes.
- (13) **Compliance with regulations.**
 - a. Every reasonable effort must be made to locate Small Satellite Dishes and Satellite Television Antennas in a manner where they are near a structure or near another protective barrier which will decrease the likelihood of a broken or dislodged Small Satellite Dish or Satellite Television Antenna becoming a windblown hazard. The design and construction of each Small Satellite Dish and Satellite Television Antenna shall be in compliance with the requirements of this section, and must meet the minimum wind load capacity as provided for in the Florida Building Code.
 - b. Nothing in this section shall affect the ability of a condominium association, cooperative association, apartment landlord, or homeowners' association to restrict, to prohibit, or to permit lawfully the installation of Small Satellite Dishes or Satellite Television Antennas in common areas or in areas that are not within the exclusive control of the unit owner, tenant or single-family homeowner.
 - c. The Town Manager or his or her designee shall have the authority to enforce any and all provisions of this section. Failure of the Town Manager or his/her designee to enforce any requirements of this section shall not constitute a waiver of the Town's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies provided by applicable law.
- (m) **Lighting.** Where lighting facilities are provided for parking areas, they shall be designed and installed so as to reflect the light away from any contiguous residential zoned property (see subsection 30-317(i) for parking facility lighting requirements).

- (n) *Control of lighting for protection of sea turtle nesting areas.*
- (1) No lighting shall be installed, maintained or illuminated on public or private property that would directly illuminate the beach from sunset to sunup during the sea turtle nesting period from March 1 through October 31 of each year.
 - (2) Property owners are responsible for ensuring that all lighting along the beach is controlled so as not to illuminate the beach from sunset to sunup during this period.
 - (3) Measures to be employed by property owners for the installation, maintenance and control of all lighting in a direct line of sight of the beach, including interior lights visible from the beach through windows, shall be consistent with the standards and guidelines contained in Chapter 62B-55 of the Florida Administrative Code, and in Technical Report 97-06 of the Broward County Beach Lighting Management Plan, as amended from time to time. All site plans for new development and redevelopment along the beach shall be required to demonstrate that the proposed development or redevelopment will comply with this section by identifying the specific measures that will be employed to control lighting.
- (o) *Elevation of filled land.* There shall be no land filled or elevated resulting in the elevation of the area in question above the natural elevation of the adjacent ground surface without first obtaining the approval of the Floodplain Administrator. In order to obtain review and approval by the Floodplain Administrator the applicant must first obtain the following:
- (1) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;
 - (2) A depiction of the elevation in relation to the adjacent property; and
 - (3) Engineering calculations confirming that stormwater runoff will be retained on-site and that the proposed development will not create flooding issues on adjacent properties.
- (p) *Swimming pools, pool decks, patios, hot tubs and spas; setbacks and enclosure required.*
- (1) No swimming pool, hot tub or spa shall be constructed within a front yard setback, unless the lot is a corner lot. Swimming pools, hot tubs and spas shall have the following minimum setback regulations:
 - a. All water bearing wall surfaces shall have a minimum five-foot setback from the property lines.
 - b. All water bearing wall surfaces shall have a minimum five-foot setback from any public right-of-way.
 - c. Notwithstanding any other regulation of this Code, fencing to enclose a swimming pool, hot tub or spa is permitted in the front setback, but shall not obstruct the view within any sight distance triangle.
 - d. Screen enclosures, pool decks, patios, porches and terraces:
 1. Shall be permitted in the required side yard or rear yard only or in the front yard of a corner lot with a pool located in the front yard, and shall be located at least two and one-half feet from lot lines.
 2. In addition, the location of screen enclosures, pool decks, patios, porches and terraces shall not obstruct the view within any sight distance triangle and will need to be located outside of any utility easement areas, unless the property owner obtains consent from the applicable utility(s) to allow any of these structures in the easement area.

- (2) All swimming pools shall be enclosed by an open mesh screen enclosure or a fence or wall a minimum of five feet in height of such design and material as will prevent unauthorized access to the pool area. All screen doors and fence gates shall be equipped with a self-locking mechanism.
 - (3) Swimming pools or spas on lots that directly abut a waterway or other water area shall not require enclosure along such waterway or water area.
- (q) *Decks.*
- (1) Decks that abut a plot line that is a waterway may be allowed, but are not required, to extend to the waterway.
 - (2) There can be a gap between the deck and the dock provided the spacing between the deck and dock is properly secured.
 - (3) Decks need not be constructed to be flush with any dock or seawall area. However, any portion of a deck located within five feet of the seawall cannot be constructed higher than the seawall.
- (r) *Other mechanical and plumbing equipment setback requirements.*
- (1) Notwithstanding any provision of the Land Development Code which prohibits the use of setback areas, mechanical and plumbing equipment, including, but not limited to, air conditioner units, lawn irrigation pumps, water purification devices, and swimming pool or spa accessories, may be installed on the roof and in a side or rear setback in all zoning districts, provided that no portion of the equipment may:
 - a. Be within five feet of the adjacent property line;
 - b. Exceed six feet high above grade unless installed on a roof;
 - c. Exceed eight feet in length; or
 - d. Occupy more than 40 square feet of the property.

For properties which contain legal nonconforming mechanical or plumbing equipment located within a setback area less than five feet from the adjacent property line and installed prior to March 25, 2003, such equipment may be replaced or relocated. However, in no case may the equipment be located within a setback area less than three feet eight inches from the adjacent property line.
 - (2) Screening. Equipment installed after November 10, 2020, shall be completely screened from the public right-of-way and adjacent properties.
 - (3) Nonconforming. For properties which contain legal nonconforming mechanical and/or plumbing equipment located within a setback area less than five feet from the adjacent property line and originally installed prior to March 25, 2003, such equipment may be replaced or relocated. However, in no case may the equipment be located within a setback area less than three feet eight inches from the adjacent property line.
- (s) *Accessory buildings and structures.*
- (1) On a non-waterfront lot containing a single-family, duplex or townhouse dwelling, side and rear yard setbacks not abutting a street may be reduced to five feet for accessory buildings and structures.
 - (2) On a waterfront lot, side and rear setbacks abutting the water shall be the same as for the primary structure.
 - (3) Accessory buildings and structures may not exceed 12 feet in height on any lot.

EXHIBIT 3

- (4) The aggregate floor area of all accessory buildings or land area under an accessory structure shall not exceed five percent of the plot area.
- (5) No accessory building shall contain more than 50 percent of the floor area of the principal building.
- (6) Accessory buildings and structures in commercial zoning districts may be allowed, subject to Town Commission approval. Staff shall apply the standards listed above as best as possible before the Town Commission reviews the accessory buildings and structures in the commercial zoning district.
- (t) *Generator and fuel storage tank regulations.* Generators and related fuel storage tanks are allowed within the Town subject to the following requirements:
 - (1) *Temporary generators.* No more than two temporary emergency power generators or one construction generator may be utilized by each single dwelling unit subject to the following:
 - a. Temporary emergency power generators shall:
 - 1. Be located:
 - (i) On the roof or the ground.
 - (ii) In such a way that the exhaust is, as much as practically feasible, vented upwards and directed away from neighboring properties.
 - (iii) In the front yard or at least five feet from the side or rear property lines.
 - (iv) On the property in such a way as to have the least noise impact to the neighbors.
 - (v) In an area completely screened from the public right-of-way and adjacent properties when not in use.
 - 2. Not be stored on trailers except following the declaration of a state of emergency by the Governor and all trailers must be removed no more than seven days after the power has been restored unless stored within a fully enclosed building.
 - 3. Be utilized only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to return power back to a power company.
 - 4. Be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes or occur before 8:00 a.m. or after 5:30 p.m. There shall be no testing on legal holidays or Sundays.
 - 5. Where a single generator is operating, the generator shall not, at any time or for any purpose, exceed 70 decibels when measured 25 feet in any direction from the generator. When two generators are operating on the same property at the same time, they shall, collectively, not exceed 75 decibels when measured 25 feet in any direction from the generator(s).
 - b. *Construction generators.* Construction generators may only be utilized on construction sites with active Town building permits that do not have electric service. Such construction generators shall:

EXHIBIT 3

1. Be operated only until the 30th day after the building permit is issued or the date that an electrical power drop is installed, whichever is soonest.
2. Be operated during the hours of construction established in section 13-3 (11) of the Town's Code.
3. Be operated for a period of not more than four hours each work day. The four-hour period starts when the first generator is turned on and ends four hours later, regardless of how many times the generator is turned off or how many generators are used during that time period.
4. Be removed from the site or if there is any enclosed space on the construction site, stored within the enclosed space during non-construction hours.
5. If stored on a trailer:
 - (i) Be completely screened from the public right-of-way and adjacent properties or removed from the site during non-construction hours; and
 - (ii) Be removed no more than 37 days after the building permit is issued or the date that an electrical power drop is installed, whichever is soonest.
6. The Town Manager, in consultation with the Building Official, may extend any of the time limitations herein upon demonstration of good cause by the property owner.
7. The generator shall not, at any time or for any purpose, exceed 70 decibels when measured 25 feet in any direction from the generator.

(2) *Permanent generators.*

- a. *Permit required.* The property owner shall obtain a building permit from the Town for the installation of a permanent generator unit. The Town shall review all such permit applications to minimize the visual and acoustical impact on adjacent and neighboring properties.
- b. *Permanent generators not exceeding 60 KW output.* One permanent generator with an output of not more than 60 KW shall be allowed in a required side or rear yard setback provided said generator meets the following conditions:
 1. The generator is set back a minimum of five feet from the side or rear property line.
 2. Prior to the final inspection of the permit, the Town shall test the generator under load to ensure it does not exceed 70 decibels as measured 25 feet in any direction from the generator.
 3. The generator shall not, at any time or for any purpose, exceed 70 decibels when measured 25 feet in any direction from the generator.
 4. The highest point on the generator shall not exceed a maximum of five feet above grade.
 5. *Screening.*
 - (i) The generator shall be completely screened from the public right-of-way and adjacent properties.
 - (ii) Properties with solid opaque landscaping or a solid opaque fence or wall enclosure that acts to completely screen the generator consistent with

EXHIBIT 3

the requirements of subsection 5.(i) above, will be considered sufficient to meet the screening requirement. Removal of the landscaping, fence or wall will require screening as required in subsection (iii) below.

- (iii) Properties without solid opaque landscaping or a solid opaque fence or wall enclosure shall screen the generator from the public right-of-way and adjacent properties with landscape material, subject to approval by the Town, that:
 - i. Surrounds the generator on three sides;
 - ii. Is offset no greater than one foot from the permanent generator pad; and
 - iii. Stands a minimum of 18 inches at time of planting, installed with irrigation and shall be maintained at a height of at least four feet or the height of the generator itself, whichever is greater.
- 6. The permanent generator's exhaust shall be, as much as practically feasible, vented upwards and directed away from neighboring properties.
- 7. The permanent generator shall be utilized only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to return power back to a power company.
- 8. The permanent generator may be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes or occur before 8:00 a.m. or after 5:30 p.m. There shall be no testing on legal holidays or Sundays.
- 9. Generators are not permitted on the roof of a building in single-family and duplex zoning districts. In all other zoning districts, generators may be located on the roof if screened from the right-of-way, set back at least five feet from any roof edge that faces a private property line shared with a detached building and approved as a site plan amendment.
- c. Permanent generators exceeding 60 KW output. Permanent generators producing an output of 60 KW or more may be installed subject to the following requirements:
 - 1. The generator shall be housed in an enclosed building.
 - (i) The enclosing building shall be located in conformance with the setback requirements applicable to a principal structure; and
 - (ii) If the building is visible from the right-of-way or adjacent property, then the building shall be landscaped with landscape material that surrounds the building on three sides and is offset no greater than one foot from the building, subject to approval by the Town.
 - (iii) The generator shall not, at any time or for any purpose, exceed 70 decibels when measured 25 feet in any direction from the generator.
 - (iv) Prior to the final inspection of the permit, the Town shall test the generator under load to ensure it does not exceed 70 decibels as measured 25 feet in any direction from the generator.

2. The location shall be subject to site plan level 2 review as defined in section 30-119 of the Town Code with evidence substantiating each of the following conditions:
 - (i) The output of a 60 KW or less generator is incapable of providing enough electricity for the basic necessity of occupying a building and/or protecting interiors or possessions in a building from the damaging effects of prolonged loss of power;
 - (ii) The proposed location is not merely for the convenience or preference of the applicant, but that the location of the permanent generator provides for safe and adequate placement and reduced sound attenuation.
 3. The building's venting and generator's exhaust shall, as much as practically feasible, be vented upwards and directed away from neighboring properties.
 4. The permanent generator shall be utilized only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to return power back to a power company.
 5. The generator may be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes or occur before 8:00 a.m. or after 5:30 p.m. There shall be no testing on legal holidays or Sundays.
- (3) *Fuel storage tanks for single-family and duplex properties.* The following requirements shall apply to fuel storage tanks for generators for single-family and duplex properties:
- a. *Above ground fuel storage tank.* One above ground tank not to exceed five feet in height and 250 gallons shall be permitted in the side or rear setback provided said tank meets the following conditions:
 1. Up to two above ground tanks, not to exceed a total collective capacity of 250 gallons, and subject to the requirements of this subsection, shall be allowed in lieu of one 250-gallon above ground tank.
 2. Fuel storage tanks shall be subject to the same setback and location regulations for permanent generators less than 60 KW.
 3. Above ground fuel storage tanks shall be completely screened from the public right-of-way and adjacent properties by one of the following:
 - (i) A solid opaque hedge, solid opaque fence or wall; or
 - (ii) Landscape material that is a minimum of 18 inches at time of planting, irrigated, trimmed, and maintained at a height of at least four feet high or the height of the tank itself, whichever is greater. Landscaping must surround the tank on three sides and be offset no greater than one foot from the tank.
 - b. *Underground fuel storage tank.* An underground fuel storage tank, not to exceed 500 gallons, shall be permitted within the required front, rear and side yard setback provided it is not located within five feet of any public right-of-way or utility easement or three feet of any other property line.
- (4) *Fuel storage tanks for all other properties.* The following requirements shall apply to fuel storage tanks for generators for all other properties (excluding single-family and duplex properties):

EXHIBIT 3

- a. All above ground tanks shall be subject to the same regulations for permanent generators not exceeding 60 KW output provided in this subsection. Fuel storage tanks shall comply with the Florida Building Code (FBC) and the Florida Fire Prevention Code (FFPC).
 - b. Any tank over 1,000 gallons, not located within an enclosed building or underground, shall be subject to site plan review as defined in section 30-119 of the Town Code.
 - c. Underground fuel storage tanks may be located within the required, side, rear or front yard setback provided they are not located within five feet of any public right-of-way or utility easement or three feet of any other property line.
- (5) All fuel storage tanks shall be properly permitted in accordance with all applicable Town, County, State, and Federal regulations.
- (u) *Window screening for vacant storefronts.*
- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:
- a. *Door* means a swinging or sliding panel that closes an opening in a wall and provides passage through it.
 - b. *Transparent* means easily seen through, so that bodies, objects and materials situated beyond or behind the glass can be clearly seen.
 - c. *Vacant* means buildings or individual storefronts that are:
 - 1. Not open to the public, or to clientele, for a period of more than 21 consecutive days due to lack of business operation, repair or renovation; and
 - 2. Not being used for the display or merchandising of any product.
 - d. *Window* means an opening in an exterior wall to admit light and air, typically with glazing in a frame that may or may not be operable.
- (2) *Required screening specifications.* All transparent windows and doors in commercial uses, including hotels and motels, that are vacant, which are visible from the right-of-way, regardless of floor elevation, are required to be screened to prevent the interior of the building from being viewed from the public right-of-way. Decorative window treatments that were in place during the business occupancy, such as shutters (excluding hurricane shutters), shades, curtains, Venetian or vertical blinds may be used if they prevent viewing of the interior of the building from the public right-of-way. Decorative window treatments must have a clean and neat appearance, and be kept in good repair.
- a. Screening material requirements:
 - 1. If paper is used, it shall be no less than 46 pounds [in] weight, or of similar durability and opacity, as determined by the Town Manager or his/her designee;
 - 2. If fabric or any other material is used, it shall be of comparable or greater opacity as in subsection 1. above, so as to prevent visual sight into the business;
 - 3. Each piece of screening material shall have a width no less than 36 inches and a length sufficient to completely screen the opening from its lowest point to a level no less than the height of the window or door opening or a level six feet above the finished floor and have a seamless appearance;

4. Screening material shall be maintained in a clean and neat appearance; and
 5. Screening material shall be affixed to the interior side of the window or door glass. If utilizing tape, tape must have a continuous edging.
 - b. Screening material shall include artwork/photography but not text, including, but not limited to:
 1. Historical pictures of the Town of Lauderdale-By-The-Sea;
 2. Historical post cards of the Town of Lauderdale-By-The-Sea;
 3. Art work of a professional nature;
 4. Designs or drawings provided by the Town of Town projects;

Pictures and artwork on, or incorporated into, the screening materials must be a minimum of 16 inches × 20 inches.
 - c. As an alternative, and if available, windows and doors may be covered by pre-printed materials provided by the Town.
- (3) Timing. All window screening is required to be installed within seven business days of vacancy. A time extension of up to seven business days may be given by the Development Services Director if the property owner submits a written request for an extension to the Development Services Department.
- (4) Nothing in this section shall prohibit the placement of otherwise legal signs in windows, including, but not limited to:
 - a. Announcing or contractor signs as described in subsections 30-508(3)(h)1. and 30-508(3)(h)3. of the Code; and
 - b. Seasonal window treatments as described in and subject to the regulations of subsection 30-502(16).
- (v) *Rooftop photovoltaic solar systems.*
 - (1) *Intent.* The provisions contained herein are intended to promote the health, safety, and general welfare of the residents by removing barriers to the installation of alternative energy systems and encourage the installation of rooftop photovoltaic solar systems on buildings and structures within the Town.
 - (2) *Definitions.* For purposes of this section, the following terms shall have the meaning prescribed herein:
 - a. *Roof line:* The top edge of the roof which forms the top line of the building silhouette or, for flat roofs with or without a parapet, the top of the roof.
 - b. *Rooftop photovoltaic solar system:* A system which uses one or more photovoltaic panels installed on the surface of a roof, parallel to a sloped roof or surface- or rack-mounted on a flat roof, to convert sunlight into electricity on rooftops.
 - (3) *Permitted accessory equipment.* Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment to residential and commercial conforming and nonconforming buildings and structures in all zoning categories. Nothing contained in this chapter, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of rooftop photovoltaic solar systems as accessory equipment to conforming and nonconforming buildings, including buildings containing nonconforming uses.

EXHIBIT 3

- (4) *Height.* In order to be deemed permitted accessory equipment, the height of rooftop photovoltaic solar systems shall not exceed the roof line, as defined herein. For flat roofs with or without a parapet, in order to be deemed accessory equipment, the rooftop photovoltaic solar system shall not be greater than five feet above the roof, subject to the height limits of the Town Charter.
 - (5) *Permits.* Prior to the issuance of a permit, the property owner(s) must acknowledge, as part of the permit application, that: (a) if the property is located in a homeowners' association, condominium association, or otherwise subject to restrictive covenants, the property may be subject to additional regulations despite the issuance of a permit by the Town; and (b) the issuing of said permit for a rooftop photovoltaic solar system does not create in the property owner(s), its, his, her, or their successors and assigns in title, or create in the property itself a right to remain free of shadows and/or obstructions to solar energy caused by development adjoining on other property or the growth of any trees or vegetation on such property or the right to prohibit the development on or growth of any trees or vegetation on such property.
 - (6) *Tree maintenance and removal.* To the extent that the Town has discretion regarding the removal or relocation of trees, solar access shall be a factor taken into consideration when determining whether trees can be removed or relocated.
 - (7) *Maintenance.* The rooftop photovoltaic solar system shall be properly maintained and be kept free from hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare.
- (w) *Groins, seawalls and breakwaters.*
- (1) The approval of the U.S. Army Corp of Engineers must be obtained for any encroachment into the waters of the Atlantic Ocean or any other navigable waterway.
 - (2) Seawalls shall be of the sloping, high energy-absorbing type, or of a vertical type with high energy-absorbing, rubble mound on the ocean or waterway side of the vertical wall. The top or bottom of a sloping seawall shall not be located closer than 100 feet from mean low water shoreline.
- (x) *Rooftop passive recreation.* The rooftop of a building located in the RM-25 district, or in the B-1 or B-1A district, may be used for passive recreation subject to the following.
- (1) *Definitions.* For purposes of this section, the following definitions will apply:
 - a. "Balcony" shall mean an unenclosed area that may or may not be covered in whole or in part by a roof, and that is directly accessible from, and an extension of the habitable space that is at least 100 square feet in floor area on the same floor level and is for the private use of that living area.
 - b. "Passive recreation" shall mean activities such as walking, sitting, swimming, eating and scenic observation that can be carried out with no disruption to the atmosphere or ambiance in the area or impact on adjacent properties. Restaurant seating is not considered passive and is not permitted.
 - c. "Rooftop" shall mean the exterior surface on the top of a building. "Rooftop" does not include:
 - 1. A balcony; or
 - 2. An enclosed space, as defined by the Florida Building Code, on the top floor of a building.

EXHIBIT 3

- d. "Rooftop activity area" shall mean an area of a rooftop that does not exceed 75 percent of the total square footage of the floor area below the rooftop, including balconies which may be used for passive recreation.
- (2) *Setbacks.* Rooftop activity areas must be setback a minimum of five feet from the front building façade and five feet from any contiguous private property under separate ownership and shall be demarcated by physical barriers to restrict access to non-designated areas.
- (3) *Structures permitted in the rooftop activity area.*
 - a. Permanent awnings and canopies.
 - b. Outdoor kitchens no larger than 30 square feet.
 - c. Hot tubs.
 - d. Swimming pools and pool decks-limited only to waterfront hotel uses permitted as a conditional use in the B-1 zoning district.
- (4) *Temporary objects and furniture.*
 - a. All parapets, railings and code-required safeguards shall remain free from towels or other temporary objects at all times.
 - b. All temporary objects or furniture are the responsibility of the property owner and shall be secured or removed from the rooftop when not in use so as to prevent them from being blown from the roof. Temporary objects and furniture shall be removed from the roof any time the building will be unoccupied, whether temporarily or permanently, for more than 14 days.
 - c. Upon the issuance of a "Hurricane Warning or "Hurricane Watch" by the Broward County Office of Emergency Management, the permittee shall forthwith remove and place indoors all tables, chairs, planters, umbrellas and other temporary objects or furniture located on the rooftop.
- (5) *Hours of use.* The use of rooftop activity areas shall be limited to 7:00 a.m. to 10:00 p.m. except for emergency access or repairs or as otherwise regulated pursuant to a conditional use approval for a waterfront hotel use.
- (6) *Zoning district limitations.* In addition to the requirements above, rooftop activities are only permitted in the following districts, subject to the specific requirements below:
 - a. RM-25 zoning district.
 - 1. Commercial rooftop activities. The use of rooftops for restaurants and hotel bars are prohibited.
 - b. B-1 and B-1A zoning districts.
 - 1. Commercial rooftop activities. The use of rooftops by commercial or business uses is prohibited, except for waterfront hotel uses permitted as a conditional use in the B-1 zoning district.
 - 2. Mixed use rooftop activities. Rooftop activities in mixed use properties are permitted solely by the residential occupants for passive recreation.
 - c. All other zoning districts. Rooftop activity areas and the passive or active recreational use of a rooftop or the roof of a structure is prohibited.

EXHIBIT 3

(Ord. No. 316, § 1, 1-9-1990; Ord. No. 326, § 1, 6-25-1991, Ord. No. 374, § 1, 3-7-1996; Ord. No. 402, § 2, 6-9-1998; Ord. No. 431, § 2, 1-25-2000; Ord. No. 485, § 2, 4-9-2002; Ord. No. 495, § 1, 12-10-2002; Ord. No. 500, § 2, 10-8-2002; Ord. No. 501, §§ 2, 3, 10-8-2002; Ord. No. 03-506, § 2, 2-11-2003; Ord. No. 03-508, § 2, 3-25-2003; Ord. No. 03-512, § 2, 4-22-2003; Ord. No. 03-515, § 2, 7-22-2003; Ord. No. 2005-06, § 2, 2-22-2005; Ord. No. 2005-10, § 2, 6-14-2005; Ord. No. 2007-14, § 2(Exh. A), 9-25-2007; Ord. No. 2008-03, § 1, 3-25-2008; Ord. No. 2009-10, § 7, 7-28-2009; Ord. No. 2009-35, § 2, 8-25-2010; Ord. No. 2011-02, § 2, 3-22-2011; Ord. No. 2010-16, § 2, 5-24-2011; Ord. No. 2011-03, § 2, 4-27-2011; Ord. No. 2011-06, § 2, 4-27-2011; Ord. No. 2012-11, § 2, 8-21-2012; Ord. No. 2012-15, § 3, 10-9-2012; Ord. No. 2012-16, § 2, 11-13-2012; Ord. No. 2013-03, § 2, 3-12-2013; Ord. No. 2014-13, § 2, 10-28-2014; Ord. No. 2015-09, § 4, 9-8-2015; Ord. No. 2017-03, § 4, 3-28-2017; Ord. No. 2017-12, § 2(Exh. A), 11-14-2017; Ord. No. 2018-24, § 3, 9-12-2018; Ord. No. 2018-27, § 2, 10-23-2018; Ord. No. 2019-05, § 2, 8-27-2019; Ord. No. 2019-07, § 3, 9-12-2019; Ord. No. 2020-08, § 4, 10-13-2020; Ord. No. 2020-09, § 2, 11-10-2020; Ord. No. 2022-08, § 2, 10-25-2022)

Editor's note(s)—Ord. No. 2013-03, § 2, adopted March 12, 2013, set out provisions intending to amend subsection 30-313(26). To preserve the existing style of subsection numbering, and at the editor's discretion, these provisions have been included as amending subsection 30-313(m).

Sec. 30-127. Variances procedures and requirements.

- (a) *Purpose.* The purpose of this section is to:
- (1) Provide for minimum standards for consideration of variance applications;
 - (2) Provide for an orderly system of review of application for variances from the effect of zoning regulations on property within the Town in order to accord the owners and users of such property with the due process of law guaranteed by the Constitution of the United States of America and the State of Florida; and
 - (3) Provide for a set of procedures and standards to guide the DSD, Planning and Zoning Board and Town Commission in the review of an application for variance and the approval or denial thereof.
- (b) *Application.* Application shall be made as provided in section 30-112.
- (c) *Recommendations of the Planning and Zoning Board.*
- (1) The Planning and Zoning Board shall review applications for variances from the Town's Land Development Regulations in accordance with the procedures set forth in article IV, division 1 of this chapter.
 - (2) After receiving all relevant materials and information, the Planning and Zoning Board recommendation shall be by vote of a simple majority of the quorum present and voting.
 - (3) Decisions of the Planning and Zoning Board are advisory to the Town Commission.
 - (4) A recommendation for approval by the Planning and Zoning Board confers no legal right to the applicant in the absence of subsequent approval by the Town Commission.
- (d) *Action by Town Commission.*
- (1) The Town Commission shall make express findings on the elements necessary for the granting of a variance as provided in subsection (e) below.
 - (2) The decision of the Town Commission is not final until the filing of a development order with the Town Clerk which shall be recorded in the official records of Broward County.
- (e) *Criteria for considering an "application for a variance."* In considering an application for a variance, an application shall be evaluated by considering the following criteria:
- (1) Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.
 - (2) The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.
 - (3) The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
 - (4) The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.
 - (5) The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

-
- (6) The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.
 - (7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.

(f) *Duration.*

- (1) Such rights and privileges shall be terminated at such time as designated in the conditions of the approval of the variance, or upon any interruption or cessation of the use permitted by the variance for one year or more.
- (2) The Town shall have continuing jurisdiction over all variances and may revoke, modify or suspend the approval of the variance, after a public hearing before the Town Commission and notice given in the same manner as required for approval of a variance under article IV, division 9 of this chapter, under the following conditions:
 - a. The variance was obtained by fraud or misrepresentation:
 - b. The variance has been exercised contrary to the conditions of its approval; or
 - c. The exception permitted by the variance has been exercised so as to be detrimental to the public health, safety or welfare, so as to constitute a nuisance.

(Ord. No. 2014-08, § 3, 7-7-2014; Ord. No. 2020-08 , § 4, 10-13-2020)

Variance application for 291 Imperial In

Edward Maslanka
emasl28341@aol.com
954 701-3931

1. Due to being on a dead end street, the end house and on the Intercoastal a fence and gate is required to keep intruders and police chases from access.
2. Without a fence and gate police would not be able to stop law breakers from gaining access to Intercoastal and getting away. This happened twice in November 2022 where once Sheriffs chased man on motorcycle. He dropped bike in my driveway, ran through my yard, jumped in Intercoastal and swam away.
Also match 7ft set back to neighbor's fence would add security to entire neighborhood blocking access to Intercoastal to police chases. This would also add beauty to neighborhood.
3. The current set back law of 25 ft would be an eye sore and out of place as both neighbor's fences have 7 ft set backs. Also a 25 ft set back would put fence 5 ft from my front door and garage. Making it difficult to get down steps. As I am a 100% disabled vet and my sister had a stroke 6 years ago and walks with a walker on a good day a cane.
The original grandfathered set back called for a 7 ft set back I'm 1996.
4. The original fence from 1996 was not installed that was approved for the 7 ft set back. But both neighbors installed their fences and gates with 7 ft set back.
5. The new fence and gate would match neighbor's 7 ft set back. It will be in harmony with neighbors. Adding security for the residents living on Imperial In. The new fence will be constructed of black metal to match 288 Imperial In.

Exhibit 5



291 Imperial Lane (center), with gated properties on both sides.

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION MEETING**

MEETING MINUTES

TUESDAY, JULY 8, 1997

7:00 P.M.

I. CALL TO ORDER, MAYOR THOMAS D. MCKANE, III

Mayor McKane called the meeting to order at 7:00 p.m. with Vice Mayor Parker, Commissioner Pollock, Commissioner Fontaine, and Commissioner Yanni present. Town Attorney Cherof was also present. Town Manager Baldwin was not in attendance.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. PRESENTATION - C.O.P.S. GRADUATION

Mayor McKane announced that the first order of business would be a presentation of the C.O.P.S. graduates. Mayor McKane stated that these citizens have gone through a ten week course and will be participating in patrolling our neighborhoods. Mayor McKane introduced Lieutenant Eastwood to make the presentation.

Lieutenant Eastwood stated that on behalf of Chief Patten and the Lauderdale-By-The-Sea Police Department, he was pleased to have this second group graduating tonight. Lieutenant Eastwood stated that he hoped this group will be just as helpful to the Town as the first group that graduated. Lieutenant Eastwood reiterated to the group that they would learn some things that they were not aware. From what they have now learned, they would see that there is really a difference between how civilians and citizens interpret law enforcement and the Police Department. Lieutenant Eastwood said that he was looking forward to this group patrolling our streets and helping the police officers of this department. Lieutenant Eastwood thanked Commissioner Yanni; a lieutenant from the first class, Lieutenant Polyasko, and Captain Bernhart Eckhardt for helping with the implementation of the program, and donating their time and supervision. Lieutenant Eastwood then turned over the graduation to Captain Eckhardt, and Lieutenant Robert Polyasko.

Captain Eckhardt welcomed the graduating class, and stated that he hoped that they will be committed to perform like the former class. Captain Eckhardt presented the following graduates from the second C.O.P.S. class:

Charles Stooer, Lisa Trakavic, Patricia Dubois, Bunny Horton, Emily Kerver, Margaret Richenstein, George Reingard, Shirley Russotti, Judy Swaggerty, Marie White, Bob Terrian.

Mrs. Marie White, President of Citizens On Patrol, thanked Police Chief Patten, Sergeant Brown, Officer Darryl Polyasko and all of the instructors on behalf of the Police Academy graduates. Mrs. White also thanked the C.O.P. class and Commissioner Yanni. Mrs. White stated that it was an honor and a privilege to participate in the great challenge. Mrs. White also stated that she has lived in Lauderdale-By-The-Sea since 1965 and has

learned more at the academy and patrolling that she ever knew. Mrs. White asked Lauderdale-By-The-Sea residents to please join in this endeavor.

Mayor McKane announced that Town Manager Baldwin was not present this evening due to being diagnosed with pneumonia. Mayor McKane said he hoped that everyone would keep Mr. Baldwin in their thoughts and prayers.

IV. APPROVAL OF MINUTES - June 24, 1997 Regular Commission Meeting
June 28, 1997 Special Commission Meeting

Vice Mayor Parker moved to approve the minutes of the June 24, 1997 Regular Commission Meeting. The motion was seconded by Commissioner Yanni and carried unanimously.

Commissioner Fontaine moved to approve the minutes of the June 28, 1997 Special Commission Meeting. The motion was seconded by Commissioner Pollock, and carried unanimously.

V. OLD BUSINESS

A. Public Comments

Mrs. Sunny Eckhardt, 4453 E Tradewinds Avenue, thanked Everett Sorenson, from the Lauderdale-By-The-Sea Car Rental on behalf of the Property Owners Association, and the C.O.P.S., for donating cars for use in the July 4th parade. Mrs. Eckhardt also thanked the Fire Department for a nice parade.

Joe Padden, 262 Oceanic Avenue, stated that he operates a broker/dealer for Preferred Securities on Commercial Blvd in Lauderdale-By-The-Sea, and is an independent insurance agent. Mr. Padden introduced Mr. Rick Magill, President of Service Planning Corporation. Mr. Padden expressed his gratitude to the Town for allowing him to act as agent for the employee benefits plan since August, 1995. Mr. Padden stated that he realizes the Town has absolute discretion in choosing an agent to offer these benefits. Mr. Padden also stated that he understood that Finance Director Helen Short, and Town Manager Baldwin may have had satisfactory results in the past at the Broward Sheriff's Office with the agent that is presently under consideration. However, after Mr. Padden spoke with Mr. Baldwin regarding the Benefit Committee's reasons for not choosing him, or Service Planning Corp., he asked the Commission to reconsider their decision for the following reasons:

- 1) Never receiving a complaint regarding services during the period of being an agent.
- 2) The current carrier could still be used, and premiums will be the same for any carrier. Mr. Padden stated that he had joined Service Planning Corp. to better service the Town.
- 3) Mr. Padden stated he was not given the opportunity to join Service Planning Corp during the interview, therefore unable to offer any input regarding services to be provided.
- 4) Mr. Padden stated that in the future he would be able to handle all enrollments, disenrollments, and personally assist the Town with all COBRA related issues.

Mr. Padden stated that any agency handling COBRA administration for the Town would not release the liability of the Town with compiling with Federal required guidelines. Mr. Padden stated that the COBRA issue was the reason Mr. Baldwin and the Committee felt that Service Planning Corp. was deficient. Mr. Padden stated that he did not expect

special consideration because he is citizen and business man in Town, but his ability to respond quickly is a big advantage. Mr. Padden thanked the Commission for having the opportunity to address this issue, and hoped that the Commission would have the Town Manager reconsider his decision.

Ken Wardlaw, 279 Capri Avenue, commended the Commission and management of the Town for making the provisions for annexing the Sea Ranch condominiums into Lauderdale-By-The-Sea. Mr. Wardlaw stated his purpose of being here tonight is to discuss the buoy project. Mr. Wardlaw stated he received a petition in 1991 to establish a safe swim area off shore in Lauderdale-By-The-Sea. Mr. Wardlaw stated that numerous letters were received encouraging the implementation of the project. Mr. Wardlaw stated that the petition was sent to the Department of Environmental Protection, and he was not in agreement with some aspects, for example, the provision for corridors, which opened it up to commercial use. Mr. Wardlaw said that he believed that would fragment the beach and create a worst situation. Mr. Wardlaw said he was also concerned about the liability to the Town. Upon allowing corridors, the Town indemnifies the Trustees through the Department of Environmental Regulations, and assume the liability of anyone injured within the various corridors. Mr. Wardlaw stated he was opposed to the amendment of the ordinance at the last meeting that allowed for corridors and rental units. Mr. Wardlaw stated that he would like the Town Attorney to research the contradictory aspects of this ordinance and that he resolves himself of any responsibility for the manner in which is presently being enacted.

Rosa Michailiuk, 4621 Bougainvillea Dr., stated she was here to discuss Pelican Square. Ms. Michailiuk stated that she has been a member of Main Street, Inc. for two years and is very excited about this project. Ms. Macaulik said that she felt the square should be named after one the pioneers of the Town or something pertaining to Town history.

Margaret Richenstein, 254 Algiers Avenue, stated she was designated to suggest honoring one of the founders of our Town. Mrs. Richenstein stated that this is Mrs. Demko's sincere attempt to commemorate her father's love and respect for the town. Mrs. Richenstein stated that as a life long resident of this town, Mrs. Demko's point is well taken asking for the following: 1) A plaque with her father's name, and 2) having his name on the area designated. Mrs. Richenstein stated that in the past the Commission has named Friedt Park, Sylvia Neely Tennis Courts, and a plague in front of Town Hall honoring Mr. Anglin. Mrs. Richenstien asked for the Commission's support in honoring Mrs. Demko's request.

Shirley Russotti, 4315 West Tradewinds Avenue, stated that she was speaking on behalf of Mrs. Demko. Ms. Russotti said that in 1924, Melvin Anglin and his family were the first residents of the Town. Ms. Russotti said that after Mr. Anglin discovered pristine peerless ocean front, he decided to buy the land and develop our beautiful Town. Ms. Russotti stated that Margaret Demko; Mr. Anglin's daughter has indeed inherited her father's pride and has offered a very generous gift to help with the revitalization of Pelican Square. Ms. Russotti asked on Mrs. Demkos behalf, for the Commission's approval to rename the square at El Mar Drive and Commercial Blvd., Melvin I. Anglin's Pelican Square.

Mae Gibson, 4553 El Mar Drive, stated that Margaret Demko is one the most honored people in the Town, and the Town must honor her request. Mrs. Gibson stated that she has lived in the Town for 23 years and has never heard the Anglin's ask for anything; they have always given.

Alan Gibson, 4553 El Mar Drive, stated that there must be some closure to the advertisements from Sandy Shoes Cafe. The problem has existed for approximately nine years. Mr. Gibson stated that the Town can not continue to allow Villas By The Sea to break the law.

Caroline White, deferred comment to the variance hearing.

Toby White, deferred comment to the variance hearing.

Robert Polyasko, 262 Pine Avenue, and Lord's Realty; 4402 Ocean Drive, spoke on the ordinance regarding real estate signs. Mr. Polyasko stated that he has gone through numerous changes over the years regulating real estate signs. Recently, Mr. Polyasko stated he was told that his current sign which is 6 feet high does not comply to the code. Mr. Polyasko stated he was given two weeks to comply. Mr. Polyasko stated that he was opposed to having a fee charged every time a sign is put up. Mr. Polyasko stated that he could put up 30 signs in a year. Mr. Polyasko stated that property owners will be charged a fee everytime they rent a unit. Mr. Polyasko stated he did not have a problem with regulating the size of the signs. Mr. Polyasko stated if the Commission is considering charging a owner or realtor \$50.00 every time a sign is changed, he personally would rather see no signs at all. Mr. Polyasko stated that \$50.00 would be a hardship on the small offices in town.

Susan Beatty, 230 Garden Court, stated that on the agenda tonight is a discussion and/or action concerning enacting a curfew Curfew Ordinance to combat juvenile crime. Ms. Beatty stated that she was gratified to see it on the agenda because she has seen evidence in her area. Ms. Beatty said a similar ordinance is being enforced in surrounding areas. Ms. Beatty also stated that she hopes the Town will take similar vocal action against domestic violence.

Anna Mae French, 230 Garden Court, asked the Commission if they remembered several years ago when the parking meters were put in, if the Commission at that time said that 50% of what was collected would be used after the cost of the meters were paid for, to beautify Lauderdale-By-The-Sea. Ms. French stated that since this is budget time, and the Town would have some extra money due to the annexation. This might be the time for the Town to make a resolution to put 50% of the parking money aside each year to help beautify Lauderdale-By-The-Sea.

Diane Boutin, 4244 El Mar Drive - Windjammer Resort, stated as the former secretary of the Solid Waste Task Force, she would like to remind everybody the task force recommended that all businesses and residents have a minimum refuse removal. Ms. Boutin stated that people are still putting loose bags on the sidewalk. Ms. Boutin stated that the Town should consider cross referencing business licenses with the waste hauler's client list.

Ms. Boutin also addressed item E in New Business; the Merchant's Association request to fund a summer weekday/weekend parking study. Ms. Boutin stated that as a member of the Chamber of Commerce and Mainstreet, Inc. she has found that it is good to gather the proper information. Ms. Boutin stated that she supports the parking study.

Cindy Geese, deferred comment until the variance hearing.

B. Lauderdale-By-The-Sea Main Street Inc. (Revitalization Task Force Report)
Mr. Dave Wessels, President

Mr. Wessels said that on behalf of Main Street, Inc., he was elated to learn of Mrs. Demko's generous gift of \$35,000.00 to help create the Pelican Square project. Mr. Wessels stated that Mainstreet would be honored to have the name of Melvin I. Anglin added to this project. Mr. Wessels stated that it is appropriate that Mr. Anglin be a part of the project; a founder and pioneer of this town. Mr. Wessels stated that Main Street supports Mrs. Demko's offer. Mr. Wessels presented the pedestrian scaled drawing of the project. Mr. Wessels concluded in saying that he hoped the Commission would accept this offer, and it would be a plus to the Town.

VI. NEW BUSINESS

A. Discussion and/or action concerning acceptance of a contribution to the Lauderdale-By-The-Sea Main Street Inc. Pelican Square Project from Mrs. Margaret H. Demko. (Commissioner Yanni)

Commissioner Yanni stated that you can see the support for this project and how beautiful it will be. Commissioner Yanni stated that we have one of our pioneers that wishes to make a donation on behalf of her father. Commissioner also read a letter written by Mr. Saul Rubinoff for Mrs. Demko. The letter states that Mrs. Demko wishes to donate \$35,000 toward the Pelican Square improvements, subject to the following conditions:

- 1) Pelican Square be named Melvin I. Anglin Square,
- 2) By Ordinance be designated in the public records.
- 3) The Town Commission pass a resolution acknowledging Mrs. Demko's gift.
- 4) A plaque with appropriate wording be placed in a visible and prominent setting.

Mrs. Demko stated in the letter that if the Commission agreed to the above conditions with her contribution to the revitalization of Pelican Square, that she would be indebted to them for the great honor given to her father's memory. Mrs. Demko congratulated the Town Commission and the Main Street Committee on the new spirit of progress being shown by so many dedicated citizens.

Commissioner Yanni made a motion to accept Mrs. Demko's contribution with the conditions that she has stated in her letter. Seconded by Commissioner Pollock.

Vice Mayor Parker asked Mr. Wessels are we doing this to honor the Anglins or are we doing this because they are making a \$35,000.00 contribution?

Mr. Wessels responded that it was an offer brought to Main Street, Inc; there was no solicitation.

Commissioner Yanni stated that Mrs. Demko is just trying to honor her father.

Mr. Wessels stated as he did earlier, it is an honor to have Mr. Anglin's name attached to this project. Mr. Wessels also stated that he can not think of a more appropriate thing to do.

Vice Mayor Parker stated that the Mrs. Demko's letter stated the square be renamed Melvin I. Anglin Square which seems to be in conflict with the name in the oral presentation; Melvin I. Anglin Pelican Square.

Mr. Wessels responded that he hoped that there would be some flexibility, and would like to pursue naming the square Melvin I. Anglin Pelican Square with Mrs. Demko.

Commissioner Fontaine stated that when Revitalization was first started, Mrs. Demko was approached regarding the history of the Town and on ideas on how to improve things. Commissioner Fontaine stated that if any solicitation was done, it took place approximately two (2) year ago.

Mrs. Demko was always available for anything Main Street, Inc needed. Commissioner Fontaine stated that now, Mrs. Demko is asking for a memorial to her dad. Commissioner Fontaine stated that he feels it is appropriate , especially at this location; near the pier.

Vice Parker stated that he has a problem with completely renaming the square from the name Pelican Square to Anglin Square.

Commissioner Yanni stated that there is no way the request could be revised tonight. Mrs. Demko would have to made aware of the revision to the name.

Commissioner Pollock stated that Mrs. Demko made a simular request a few years back in reference to naming a pavillion in the memory of her father. Commissioner Pollock stated that he feels Mrs. Demko's is making this contribution out of the goodness of her heart and kindness to her family. Commissioner Pollock said that Mrs. Demko's intentions are geniune.

Commissioner Fontaine made a motion to amend the motion made by Commissioner Yanni to change the name to Melivn I. Anglin's Pelican Sqaure. The motion was seconded by Vice Mayor Parker.

Mayor McKane stated the motion may put the whole contribution in jeopardy. Mayor McKane suggested that the Commission first take a vote on whether to change the name as submitted by the person making the contribution.

Commissioner Fontaine stated that he did not want Mrs. Demko to get the impresssion that the Commission is negative toward anything she is doing. Commissioner Fontaine stated that the Commission needs to thank her for considering giving the town a donation. Commissioner Fontaine withdrew his motion to change the name to Melvin I. Anglin's Pelican Square.

Mayor McKane asked the Town Clerk to call the question on the first motion that was made and properly seconded. The motion passed unanimously.

B. Discussion and/or action on the completed annexation of the Sea Ranch Condominiums and the preliminary annexation study for Area "B". (Town Manager Baldwin/Russ Klenet)

Russ Klenet stated it was a pleasure working for the Town of Lauderdale-By-The-Sea. Mr. Klenet stated that the professionalism of the Commission, Town Staff, and Town Attorney was equal to that of any community that he has worked with. Mr. Klenet also said the Town has some distinction. It is a small family oriented community that chose to be the little engine that could. Mr. Klenet stated that this town accomplished something that no other community has done in Broward County; that is an annexation of an area without a referendum. The reason this was accomplished is:

- 1) The government of this community was united in it's commitment toward moving forward with the annexation of the Sea Ranch Condominiums.
- 2) Much time was given by the Town Commission and Town Manager to visit and communicate the benefits of this community to the residents of the annexing area.

Mr. Klenet stated the Legislative delegation, particularly Senator Scott and Representative Sanderson are to be congratulated.

Mr. Klenet stated that the Town carried off perhaps the most high profiled annexation of the last legislative session. Mr. Klenet stated that he believes the Town has taken a first step in ensuring the financial viability of this community many years into the future. Also, Mr. Klenet stated that the Town has given his firm the opportunity to address the State, the county, and other governmental entities on the Town's behalf to look at the Town favorably for grants, beautification projects, and those things that are available to cities of larger stature than the Town was originally.

Mr. Klenet stated that the Legislative Delegation asked him to convey it's appreciation to this community and the Commission for stepping to the plate. Mr. Klenet stated that Broward County wants out of the business of providing municipal services. The Legislative Delegation wants there to be no unincorporated areas by the year 2010. This community happens to border several of the remaining unincorporated areas. The communities will be directed by the Legislative Delegation to join an existing city. Mr. Klenet stated that property taxes in the unincorporated areas will increase dramatically from 24 to 28 percent. The property taxes for unincorporated areas will be more than this communities. In closing, Mr. Klenet said he would answer any questions anyone may have. Mr. Klenet again said the Town should be congratulated on a significant annexation, a high profile annexation. Mr. Klenet stated that the good news is that residents of this community were benefited as well as the unincorporated area. Mr. Klenet stated that he looked forward to the Town's considerations and talks in the future. Mr. Klenet said he would be working with Town Staff on obtaining grants, direct appropriations, perhaps Anglin Sqaure could be impacted in providing some DOT help.

Commissioner Yanni said he would like to thank Mr. Klenet for all the hard work he put in and making it a good annexation.

Mr. Scot Menke said that Town Manager Baldwin had instructed him to provide a status report for the Commission on the work in one of unincorporated areas the Town borders. Mr. Menke stated he had prepared a formal report. Mr. Menke asked the Town Clerk to enter this report into the record. Mr. Menke stated he would highlight the report for the Commission. Mr. Menke stated that this is a preliminary report in which the numbers are in summary form. The report summarizes the financial information that has been gathered to date on the North Beach Area, the area south of Pompano Beach and north of Village of Sea Ranch Lakes. This data in the report is compared to the fiscal year 97 Town budget. The report excludes the recently annexed condos, due to not being a part of the fiscal year end 97 budget. The data is incomplete, and does not support a conclusion one way or the other. The preliminary estimate revenues from the North Beach area total 2.3 million dollars, based on the current Town millage rate of 4.85. If the millage rate were reduced to 3.5, the revenues would be cut by approximately \$400,000. The preliminary estimated operating expense is roughly \$508,000.00. Mr. Menke stated he has no figures yet on water and sewer costs, fire costs, legal costs, professional consultants, which is primarily a planner, liability and workers compensation insurance. Preliminary estimate initial (first year) capital costs that would be associated with annexing North Beach are just under \$200,000.00; \$189,936.

Commissioner Pollock asked what would be the net revenue based on a millage rate of 3.5 millage rate or the trim of 4.0.?

Mr. Menke stated the net would be roughly about 1.2 million dollars. Mr. Menke pointed out that some of the open items could swing that decision substantially.

Mayor McKane asked Town Clerk Polyasko to update the Commission on where they were with Jane Carroll's office. Mayor McKane stated that this was in regard to the straw vote. Mayor McKane asked if there was an update beyond the Town Manager's memorandum.

Town Clerk Polyasko responded no. Town Clerk Polyasko stated that Mr. Baldwin has called Jane Carroll's office and is awaiting a response as to whether questions will be allowed on the special election on November 4th.

Mayor McKane asked Town Attorney Cherof to try to get an answer tomorrow.

Vice Mayor Parker asked if the Town Attorney could get a firm cost. Mayor McKane responded that he believes it is a dollar a ballot.

Vice Mayor Parker stated that it might be more cost effective simply to take a poll of everyone in Town.

C. Consideration of Variance 97-05, Sundowne Enterprises, request to construct a six foot high wall and gate at front property line per Town Code of Ordinances Sections 24-5.148(4)(c). (William Mason, Director of Public Works)

Town Attorney Cherof stated that this is a quasi judicial proceeding due to it is site specific. Town Attorney Cherof stated that anyone wishing to speak must be sworn in. Town Attorney Cherof stated the applicant did not need to be sworn in. Town Attorney Cherof asked anyone wishing to testify to raise their right hand to be sworn in. Town Attorney Cherof stated if anyone had documents they want made part of the record, they must leave them with the Town Clerk this evening. Town Attorney Cherof also stated that any one having special qualifications to testify, if you are an Architect or Engineer, please state your qualifications on the record before you begin.

Mr. Mason stated that this is a variance request for a four foot wall rather than a six foot high wall in the front twenty four foot setback of the property, with two feet of rod iron picket on top of the four foot high wall, and an electric gate across the driveway.

Mayor McKane asked to note the misprint in public record that was sent out. The wall is four feet high with stucco finish, topped by a black aluminum fence which is two feet high. Mayor McKane stated it really totals out to six feet.

Mayor McKane stated this came before the Board of Adjustment of July 7, 1997. There were 3 members present. The Board voted unanimously to deny this request.

Vice Mayor Parker stated that virtually the same request was presented before the Commission approximately 2 years ago. It was turned down due to lack of showing a hardship.

Mayor McKane asked the representatives of the property to come forward and state their case.

Mr. John Wilkes stated that he was the attorney for the applicant and will be providing testimony to the extent of visiting the site on many occasions. Mr. Wilkes stated he visited the site next door and has represented the owner next door who applied for the same request in 1991 and was granted a variance.

Mr. Wilkes stated that he has been an attorney in Fort Lauderdale since 1978. Mr. Wilkes stated he is familiar with development and revitalization of some older structures, (Sunrise Shopping Center, Old Burdines Building, Downtown, Galleria Shopping Center) and more recently some development of residential areas. Mr. Wilkes has served on the GOB Committee for the City of Fort Lauderdale, particularly their neighborhood revitalization. Mr. Wilkes stated that he has met the people who reside at the premises, Yolanda and Theo Stamm. Mr. Wilkes stated they are not in the country and have made a substantial investment at this location.

Mr. Wilkes stated that the property at 291 Imperial Lane, had asked for a similar design back in 1994. However, that was pre-construction. Mr. Wilkes stated that there was some anxiety and fear as to what would be needed at the location. There was also hysteria from the neighbors as to the construction. Mr. Wilkes stated that there are neighbors that still do not like the idea, however, there are fewer than in 1994. Mr. Wilkes stated denial of the various in 1994 was an injustice in light of the hardship for the identical reasons were granted to the properties to the north and to the south. Mr. Wilkes stated that there should be equal application of the law applied as to the adjoining properties.

Mr. Wilkes presented photographs for the record of the property at 291 Imperial Lane and the adjoining properties to the north and south. Mr. Wilkes stated the zoning was listed in the application as R-1 and it is actually RS-5.

Mr. Wilkes submitted the application with its numerous exhibits; pictures of the proposed design and a sketch. Mr. Wilkes stated the design allows air flow, it does not block or obscure visibility. Mr. Wilkes stated that is inconsistent with allowing ficus that obscure vision and prevent air flow. Mr. Wilkes stated that the variances that have been granted in the past have walls in the front 25 feet setback.

Commissioner Fontaine stated the wall that Mr. Wilkes is referring to on the north is actually a wooden fence.

Mr. Wilkes stated as you drive down Imperial Lane it appears that you are driving into the entrance of this property. It is in a cul de sac. Mr. Wilkes stated that headlights shine right in the front door of the property. Also, people think it's a way to turn around on the property. People also use this property as a pass for viewing the Boat Parade. Mr. Wilkes stated that due to security and safety reasons, this is unique and different from the other lots in the subdivision.

Mayor McKane asked Mr. Wilkes approximately how long is his presentation? Mr. Wilkes stated approximately 45 minutes.

Mayor McKane stated that he would put Mr. Wilkes on hold to allow the next variance request to be heard. Mayor McKane stated that the next request would not take long, and he would get back to Mr. Wilkes immediately after, if he did not mind.

Continued on page 11

D. Consideration of Variance 97-06, Monika Lent, request for approval of enclosed carport built by a previous owner approximately seven (7) feet into the front set back per Town Code of Ordinances Section 24-5.36(c)(1) (William Mason, Director of Public Works)

Mayor McKane stated this went before the Board of Adjustment on July 7, 1997, and was approved unanimously.

Town Attorney Cherof stated that anyone wishing to testify, the same rules apply to this case as to the previous one. Attorney Cherof swore in persons wishing to testify.

Mayor McKane asked the Commission for questions or comments on the request.

Commissioner Pollock asked if the Board of Adjustment had unanimously approved the variance request? Mayor McKane responded yes.

Vice Mayor Parker asked if the Chairman of the Board of Adjustment could provide the Commission with the basis of the Board's decision.

Chairman Gibson stated that the board had heard testimony from both sides and much testimony from the neighbors. Mr. Gibson stated that all the neighbors agree that this occurrence, the filling in of the carport, and making it a garage had happened three or four owners ago. Mr. Gibson stated that the owner wants to sell her home, and had bought it in good faith. Mr. Gibson stated that the applicant should not have to tear down the garage and loose a sell.

Vice Mayor Parker stated that 1) the Board found that this problem was not of her own making. 2) The hardship is that she would have to loose part of her property. Vice Mayor Parker asked Mr. Gibson is that correct. Mr. Gibson responded yes.

Commissioner Fontaine stated that the six criteria to grant a variance have been met and moved to grant the variance request. Seconded by Vice Mayor Parker, the motion passed unanimously.

Cynthia Van Alstyne Geese, 4146-50 Seagrape Drive, has lived in the area since 1954 with her parents. Ms. Geese stated that she has been back and forth from Atlanta and was looking forward to moving back to this small community. Ms. Geese thanked the member of the Board of Adjustment who attended the meetings, along with Public Works Director Bill Mason, Code Enforcement Director Danny Stallone, and Mayor McKane. Ms. Geese stated that she understood that there has not been a quorum to meet for two (2) months with the Board of Adjustment. Ms. Geese stated that there was barely a quorum yesterday and the meeting started late. Ms. Geese stated she was affected by the failure to meet in June. Ms. Geese stated that it costed her \$2,400.00 as the buyer of the property in rent, double moving, phone moving, and extra interest due to not closing at the end of the month. Ms. Geese stated there is no excuse for people who are appointed to a committee, not taking it seriously and not meeting. Ms. Geese stated that she understands the Board has adopted a method so this will not happen again. However, Ms. Geese would like to encourage the Commission to look at the performance and attendance records of this and all appointed committees. Ms. Geese stated that serving this Town is an honor and people should take responsibility.

Mr. Toby White, 264 Imperial Lane, stated that he thought a variance request can not be granted based on economic hardship.

Vice Mayor Parker stated that the request was not granted based on economic hardship. Vice Mayor Parker stated that having a portion of house torn down is not an economic hardship.

Mr. White stated that 3 years ago he asked for the same variance, citing that same property. Mr. White stated his request was denied. Mr. White stated that the neighbors signed a petition against the request. Mr. White also stated that the same people are now supporting this request. Mr. White stated that he would like to know the exact reason why this request was granted.

Vice Mayor Parker stated that Ms. Lent bought the house not knowing the garage extended into the setback area. Vice Mayor Parker stated it is a hardship for a person to have to tear down a part of their house.

Mr. White stated that Mr. Jones, next door to him, built a lift and had to tear it down. Vice Mayor Parker stated that he was the one who built it.

Commissioner Fontaine stated that Mr. Jones appeared before the Commission and went back and constructed a safe lift.

Mayor McKane suggested that Mr. White discuss this with the Town Manager or Mr. Stallone to come to some agreement.

At 8:35 p.m., Mayor McKane stated that the Commission would take a ten minute recess and then continue with Mr. Wilkes.

Mayor McKane reconvened the meeting at 8:45 p.m.



Mr. Wilkes continued with Variance Request 97-05 stating that there are primarily two (2) streets in the Lauderdale Yacht & Surf Subdivision; Imperial Lane and Codrington Drive. Mr. Wilkes stated that there are approximately 80 lots. Mr. Wilkes stated that lots 22 and 20 are similarly situated as the subject property and have been granted variances. Lots 18 and 20 on Codrington Drive. The fence surrounding the tennis court on lot 20, Codrington Dr. is within 25 feet of the setback. Mr. Wilkes stated because of the size and location of the subject lot, it is different. Mr. Wilkes stated that the ordinance refers to air circulation and visibility. Mr. Wilkes stated that air circulation is not prohibited by the design. Mr. Wilkes states that this particular request meets all other criteria. Mr. Wilkes submitted into evidence picture boards exhibits C & D. These exhibits show cars and utility vehicles blocking the street with or without a wall. Landscaping on properties within the subdivision not only go to the front line, but on city property onto the street. These conditions exist today. Mr. Wilkes also stated that post, blocks, and concrete curbs are permitted. Mr. Wilkes also stated that there are lightposts and, in one case, lions on a property on Codrington in the front yard. Exhibit D shows parking in the cul de sac at 267 Imperial Lane on Sunday night. Mr. Wilkes stated putting up a wall on the subject property does not create a condition that does not already exist.

Mr. Wilkes called Mr. Doug Dovonovich, the owner's company president to testify. Mr. Dovonovich stated the property lot was acquired on January 29, 1993. The construction was substantially complete at the end of March, 1995. Mr. Dovonovich stated that the approximate cost of the land and construction of the home is 1.1 million dollars. The 1996 tax bill in November was 16,551.04. Mr. Dovonovich stated there is a constant problem with cars going into the driveway thinking they can turn somewhere. Lights shine right into the front door. The occupants are Swiss citizens and live there 3 or four months a year. Mr. Dovonovich stated that people park on the lot and go fishing, use the

pool and jacuzzi, and garbage is being left in the absence of the occupants. Mr. Dononavich stated that there should be some type of security measures taken because the wife is afraid because of trespassing.

Vice Mayor Parker asked if the Commission should consider hearsay.

Mr. Dononavich stated that he has been to the property and observed some of these things.

Mr. Wilkes stated that he has shown the Commission the neighborhood and there are two letters submitted by property owners that support the wall.

Mr. Wilkes stated that he would like to call an architect he has had review the plans to testify.

Mr. Pete Ebersol stated that he is an architect in Fort Lauderdale and he is employed with the Architectural Alliance firm. Mr. Ebersol stated that he is a registered architect in the state of Florida. Mr. Ebersol stated that he has inspected the site and plans to construct the wall. Mr. Ebersol stated that hedges would take up two to three feet of ground space. Mr. Ebersol stated from his reading of the code, a hedge could be put up to the edge of the property line. This would lessen the ability to park in front of the property. Mr. Ebersol stated with the proposed wall approximately eight (8) cars could pull inside the wall and park. Mr. Ebersol stated that there would be area to park outside of the proposed wall between the paved area of the right of way and the wall to be constructed.

Mr. Wilkes submitted into evidence a sketch showing cars that fit in that location. Mr. Wilkes stated that the right of way is not completely asphalted; approximately five feet is not.

Mr. Ebersol stated that the house is not constructed to the maximum setbacks lines that are permitted under the code. The square footage of the house could have been doubled without too much trouble. Mr. Ebersol stated that location of the proposed wall is optimum to allow the occupants to have greater use of the front yard. If the wall was brought in closer to the garage doors it would block the driveway.

Mr. Wilkes reviewed the applications for variance request for the adjoining properties to show the hardships or unusual circumstances going back to 1991. Mr. Wilkes stated that the Board of Adjustment found a hardship and approved one of the variances unanimously. Mr. Wilkes also stated that the Commission approved it unanimously. Mr. Wilkes also stated that Mr. Gibson was the same chairman as now. Mr. Wilkes also added that Mrs. French, not in favor of the current application, voted in favor of the application in 1991. In 1993, the neighbor to the north was approved unanimously. Mr. Wilkes stated the situation and hardships are not different than in the past. Mr. Wilkes stated that an equal application of the law at this particular location include a reasonable use of this property, and a hardship in which the applicants did not create be applied. Mr. Wilkes asked the Commission to grant the variance request at this time.

Dr. Joseph Pastura, 279 Imperial Lane, said the letters sent out by the Town stated the variance meeting would be July 2, 1997 and was shocked to find out it had been moved up two (2) weeks. Dr. Pastura stated that more neighbors would be in attendance. Mr. Pastura stated the wall would create a hardship for him. Dr. Pastura said the applicants guests and service people come to their house, they must park in the street. Mr. Pastura stated he believes that most of the people will park in the cul de sac. The entire width of the cul de sac is needed to turn around. Dr. Pastura stated that when most of the

motorist approach the cul de sac, they think there is a bridge. They realize they can not turn, and make the turn on his driveway. Dr. Pastura stated if vehicles are parked in the cul de sac it will be very difficult for the trash hauler and emergency vehicles to turn around. Dr. Pastura also added that the wall would create a complex look. Mr. Pastura stated that burglars are attracted to wall. Dr. Pastura stated that allowing the other two walls on the street was a mistake. Dr. Pasture asked the Commission not to grant this variance request.

Mayor McKane stated that the variance meeting was moved up because there was not a quorum to meet when the request was initially made.

Caroline White, 264 Imperial Lane, stated that are some unique characteristics of this property. Mrs. White submitted a drawing showing what she feels the problem is on Imperial Lane. Mrs. White stated that many people come down Imperial Lane thinking there is a way across the intracoastal. Mrs. White stated this time of the year, there are 3 cars an hour, and in the season about 5 an hour. Mrs. White said there is a dip in the road and speed is gained as cars come down the road. Mr. White stated cars come straight down the street into the subject property. Mrs. White stated the applicants really need a gate. Mrs. White said lawn care vehicles park on the street, there is no place else to park. Mrs. White stated that there are certain people in the neighborhood who are upset that the subject lot is a place where they could watch the Boat Parade for several years. Mrs. White stated that this is private property. Mrs. White stated that she does not want to see the Town hit with a lawsuit because there is a certain group on her street that are opposed to change. Mrs. White stated if the Commission finds that there is a hardship, and she believes there is, they should grant the variance.

Anna Guiso, 252 Imperial Lane, stated that it is not true what Mrs. White says about the neighborhood opposed to change. Ms. Guiso stated that if you build a castle in a small place you can not have everything. Ms. Guiso said that the applicants could have made better use of the property. The cul de sac is small and the wall will make it smaller. If permission is given to construct the wall, then others will want to construct walls and all of Imperial Lane will be behind walls.

Mayor McKane asked Mr. Wilkes if he wanted a 5 minute rebuttal. Mr. Wilkes stated that he would answer any questions. Mr. Wilkes stated that he objected to the opinions stated not based on facts. Mr. Wilkes stated that the property is not over built. Mr. Wilkes stated that with or without a wall, emergency vehicles would turn vehicles in the street, not on property of others. Mr. Wilkes stated that two people testified based on conjecture; this would happen if.... Mr. Wilkes stated that their testimony was not based on it has happened. Mr. Wilkes asked that the Commission be consistent with its decisions.

Vice Mayor Parker stated that in reviewing the other variances, they seem to have been granted because the two owners have small children. Vice Mayor Parker asked if the applicants have children?

Mr. Wilkes stated it is a corporation, and technically no. Mr. Wilkes also stated that the applicant in 1991 also did not have children living on the premises.

Vice Mayor Parker said that the principal hardship is people pulling into the applicant's driveway and pulling out due to other two (2) gates at the adjoining properties. Mr. Wilkes stated the other hardship is security; people trespassing on the property. Mr. Wilkes also said the headlights shining in the front door was a hardship.

Vice Mayor Parker stated that a wall will not prevent headlights from being seen. The major hardship is because of the difficulty of turning, when there are parked cars, causing other cars to turn into the driveway. Vice Mayor Parker asked if Mr. Wilkes is asking the Commission to allow his client to shift this hardship to his other neighbors.

Mr. Wilkes responded that the wall and landscaping would prevent the headlights from shining inside the house. Mr. Wilkes said that the burden should not be shifted to anyone. There is sufficient space to turn in the cul de sac if people would use it.

Commissioner Fontaine asked if the property is not overbuilt, then why do they need to go into the twenty five foot setback. Commissioner Fontaine stated that he did not feel that would be fair to other property owners.

Mr. Wilkes stated that the variance here is the wall. Columns and six foot structure could be put in that would not need a variance.

Commissioner Fontaine stated that you can only put vegetation in the setback area.

Mr. Wilkes stated that he was told by Mr. Mason that columns could be put into the setback.

Mayor McKane asked Mr. Mason to come forward. Mr. Mason stated that he said that there were lampposts currently in the setbacks.

Commissioner Fontaine stated that a lamppost is an easily removal structure; unlike a wall. Commissioner Fontaine stated that there are problems on Imperial Lane which need to be looked into. Commissioner Fontaine said he did not believe that putting a structure would elevate the situation of slowing traffic.

Vice Mayor Parker asked if the applicant had applied 2 1/5 years ago and if the variance was denied before the house was constructed. Mr. Wilkes stated yes. Vice Mayor Parker stated that since the house was built the same way after denial, that the hardship is self imposed.

Commissioner Yanni asked what the sign says on the pole? Mr. Wilkes responded no parking. Mr. Wilkes stated they park even with the sign up.

Mr. Wilkes stated the Town ordinance does not serve any particular purpose and the ordinances of Dade, Broward, and Palm Beach Counties, Fort Lauderdale, and Deerfield Beach do not prohibit this use.

Vice Mayor Parker made a motion that based upon the testimony presented this evening, the adoption of the findings of the Board of Adjustment together with tonight's findings, the Commission finds that the six criteria for granting a variance have not been shown, and the variance be denied. Seconded by Commissioner Fontaine, the motion passed with Vice Mayor Parker, Commissioner Pollock, Commissioner Fontaine, and Mayor McKane voting yes. Commissioner Yanni voted no.

Mayor McKane thanked Mr. Wilkes for his presentation.

E. Consideration of request of the Lauderdale-By-The-Sea Merchant's Association to fund a Summer weekday/weekend parking study.
(Town Manager Baldwin)

Mayor McKane asked if Mr. Baldwin had given Mr. Mason any direction in regard to this item. Mr. Mason stated that he and Mr. Baldwin have discussed the letter received by the Lauderdale-By-The-Sea Merchant's Association. Mr. Mason stated that they have found that the association does not have approval from the merchants in the area that will be effected by the study. Mr. Mason stated that Mr. Baldwin desires to increase the parking meters in this area, east of A1A to create uniformity among the parking areas. Mr. Mason said that Mr. Baldwin suggested that revenue generated from these meters be designated to parking improvements in this area.

Vice Mayor Parker made a motion to table this item until the next meeting. Seconded by Commissioner Fontaine, the motion carried unanimously.

F. Consideration of Special Events Application for the 9th Annual 5K Run By The Sea (William Mason, Director of Public Works)

Mr. Mason stated that this is the annual 5k run in which all restrictions are the same as have been over the past nine years. Mr. Mason stated that the Police Department has recommended approval for the run. Mr. Mason stated that Administration has also recommended approval. Mr. Mason stated he does not anticipate any problems with traffic.

Commissioner Fontaine stated that we need proof of insurance and suggested to get a letter of intent.

Vice Mayor made a motion to grant the application. Seconded by Commissioner Yanni, the motion carried unanimously.

G. Discussion and/or action concerning enacting a Curfew Ordinance to combat juvenile crime. (Police Chief Patten)

Mayor McKane stated that he would like to table this item due to a recent court ruling that might put all curfews in jeopardy. Mayor McKane stated that he would like some more time to review this item.

Vice Mayor Parker made a motion to table this item until the next meeting. Seconded by Commissioner Fontaine, the motion carried unanimously.

H. Discussion and/or action to set Fiscal Year 1997-98 Budget Timetable.
(Town Manager Baldwin)

Vice Parker made a motion to adopt the budget timetable for discussion. The motion was seconded by Commissioner Pollock.

Vice Mayor Parker suggested to amend the date and time of the first workshop of the budget timetable from July 24, 1997 to July 23, 1997 and from 5:00 p.m. to 7:00 p.m., to change the meeting on the July 29, 1997 to July, 26, 1997 at 9:00 a.m.

Vice Mayor Parker made a motion to adopt the amended calendar. Seconded by Commissioner Pollock, the motion carried unanimously.

VII. ORDINANCES (1ST READING)

A. An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 24, of the Code of Ordinances of the Town of Lauderdale-By-The-Sea, Florida entitled "Land Development Code, Article VI, Signs, creating a new Section 24-6.29 entitled "Real Estate Signs-Special Provisions"; providing for severability; providing for conflict; providing for the inclusion in the Code of Ordinances of the Town of Lauderdale-By-The-Sea, Florida; providing for an effective date.

Town Attorney Cherof read the ordinance by title only. Vice Parker stated that paragraph seven reads that no real estate sign may be placed on any property within the Town without application for issuance of a sign permit from the Town. The permit fee for each sign shall be \$50.00 to be renewed annually until the property is sold or leased which occurs first.

Vice Mayor Parker stated that fifty dollars seemed to be alot, could this be amended to \$5.00. Vice Mayor Parker moved to amend the ordinance to delete the last sentence of paragraph 7, to strike the words starting with the permit fee shall be fifty dollars, and replace that language with there should be no permit fee for any such sign. Seconded by Commissioner Yanni, the motion carried unanimously.

Vice Mayor made a motion to adopt the ordinance as amended. Seconded by Commissioner Pollock, the motion carried unanimously.

B. An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Section 9, Boundaries, of the Charter of the Town of Lauderdale-By-The-Sea to amend the boundaries of the Town to properly reflect the annexation of those properties commonly known as the Sea Ranch Condominiums; providing for severability;codification, and an effective date.

Town Attorney Cherof read the ordinance by title only. Commissioner Pollock made a motion to adopt the ordinance on first reading. The motion was seconded by Vice Mayor Parker.

Mayor McKane said that the Town had stated in the proposals to Sea Ranch Condos that after the annexation was completed that the Commission would make amendments to our ordinances that would include them with zoning. Mayor McKane asked is this the time to include them or in other ordinances to follow.

Town Attorney stated that there would be other ordinances to follow.

Mayor McKane asked the Town Clerk to call the question. The motion was passed unanimously.

C. An Ordinance of the Town of Lauderdale Sea Florida, amending Chapter 24, Land Development Regulations, Article V, Subdivision K of the Zoning Ordinance of the Town of Lauderdale-By-The-Sea, Florida, by creating article 24-5,182, Telecommunications Towers and Antennas; providing intent and definitions; providing minimum standards for location and approval of Telecommunications Towers; providing minimum standards for location and approval of Communication Antennas, providing additional uses; providing for shared use of Communication Antennas, providing for inspections; providing for conflict; providing for severability; providing for inclusion; providing for an effective date.

Town Attorney Cherof read the ordinance by title only. Commissioner Pollock made a motion to approve the ordinance. Seconded by Vice Mayor Parker, the motion carried unanimously.

VIII. ORDINANCES (Public Hearing - 2nd Reading)

A. An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 24, Division 5, Section 24-5.242, Board of Adjustment; providing for the appointment of alternate members of the Board to serve in the absence of regular board members; providing for severability; codification; and an effective date.

Town Attorney Cherof read the ordinance by title only.

Mayor McKane opened the public hearing to address the ordinance.

Shirley Russotti stated that she felt hat this is important and she would fill in for anybody so we could move forward.

Mayor McKane closed the public hearing. Vice Mayor Parker moved to approve the ordinance. Seconded by Commissioner Pollock, the motion carried unanimously.

IX. RESOLUTIONS

A. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing and directing the Mayor and Town Clerk to execute a renewal consultant agreement with the Rubin Group for Legislative Consulting Services; and providing an effective date.

Town Attorney Cherof read the resolution by title only. A motion to approve the resolution was made by Vice Mayor Parker. Seconded by Commissioner Pollock, the motion carried unanimously.

B. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing and directing the Mayor to execute a Municipal Checking Plus Interest Agreement and a Zero Balance Account (ZBA) Implementation Agreement with Sun Trust, South Florida, N.A.; and providing an effective date.

Town Attorney Cherof read the resolution by title only. A motion to approve the resolution was made by Vice Mayor Parker. Seconded by Commissioner Fontaine, the motion carried unanimously.

IX. TOWN MANAGER REPORT

X. TOWN ATTORNEY REPORT

Town Attorney Cherof had nothing to report.

XI. COMMISSIONERS COMMENTS

Commissioner Fontaine stated that we had some parking problems with the Blue Moon Fish Company a couple of meetings ago. The Blue Moon Fish Co. was using public property for valet parking. Commissioner Fontaine stated that the Commission deemed it necessary to install parking meters. Commissioner Fontaine stated if you go by in the daytime, no one is using the meters. After 7:00 p.m. the Blue Moon valet personnel are parking the cars at the meters. Commissioner Fontaine said that he thought the meters were going to be 24 hours.

Mr. Mason stated that west of A1A the meters are from 7:00 a.m. to 7:00 p.m.

Vice Mayor Parker stated that he thought the meters were authorized for 24 hours in the area of the Blue Moon Fish Co. Vice Mayor Parker said he also recalls authorizing these meters at \$1.00 an hour.

Commissioner Fontaine stated that they need to go back and review the meeting minutes.

Commissioner Pollock thanked the Fire Department and everyone from the Town that assisted in putting together the Fourth of July Parade. Commissioner Pollock said it was a good parade and well conducted. Commissioner Pollock thanked Fire Chief Jon Case for his efforts.

Commissioner Yanni stated that he would like to thank Mrs. Demko for her donation to Main Street, Inc. Commissioner Yanni said he thinks its going to be addition to our Town.

Vice Mayor Parker stated that an advertisement for the Sandy Shoes Cafe was handed out at the beginning of the meeting and asked the Town Attorney what is the status of this.

Town Attorney Cherof stated he sent a letter to the owner of Villas By The Sea Resort indicating the Town Administration felt that the previous add did constitute a violation of the development order. Town Attorney Cherof stated he expects to hear back from them.

Vice Mayor Parker asked if what they saw tonight is a violation? Town Attorney Cherof stated it appears to be an unequivocal violation.

Vice Mayor Parker stated that he received a letter regarding the company doing our tree trimming service. Vice Mayor Parker stated it appears that they do not have insurance. Mayor McKane responded that there was a letter from Mr. Mason indicating that they do.

Vice Mayor Parker asked Mr. Mason to send a copy of the insurance certificate to the individuals who wrote the letter.

Vice Mayor Parker stated that so far he has 13 children who have signed up for the Firefighter's Basketball League. Vice Mayor Parker stated that he will have another sign-up this Saturday from 10:00 a.m to 12:00 p.m. in the Fire Hall.

Mayor McKane thanked the Fire Department for the parade. Mayor McKane stated it was one of the best. Mayor McKane thanked all the volunteers, everyone who helped out with the free sodas and hot dogs.

Mayor McKane stated there is a continual problem with parking everytime an event is held in Jarvis Hall. Mayor McKane stated that this situation needs to be corrected. A possible solution is putting bags over meters when these functions are held. Town Clerk Polyasko was asked to put this item on the next agenda.

XII. ADJOURNMENT

With no further business, the meeting was adjourned at 10:00p.m.

Attest:


Karen Polyasko, Town Clerk


Thomas J. McKane, III, Mayor

1. Date of Application: July 3, 1991
2. Application No: 91-04
3. Name of Applicant: STEPHAN RUPP
c/o JOHN P. WILKES, P.A.
4. Address: 150 N. Federal Hwy., Ste. 200, Ft. Lauderdale, FL 33301
5. Telephone Number: (305)467-9200
6. Are you the property owner? Yes
7. Zoning District: R-1
8. Code Citation Variance Requested: Sec. 23-148(4)
9. Describe Your Request Here: _____
(See attached sheet)

10. *You must attach a sketch describing your request to this application.
11. Date of Board of Adjustment Hearing: 8-8-91 - 8-12-91
12. Date of Town Commission Hearing: 8-13-91
13. All property owners within 300 feet notified of both hearings by certified mail within 10 days of Board of Adjustment Hearing?

14. Fee Paid \$ 2000
15. Indicate your reason for a variance by checking one or more of the following:

The Town Commission shall review an application for variance according to the procedures and standards described herein and in light of the recommendation of the Board of Adjustment. The Town Commission shall not approve a variance unless and until it finds that:

- ☐ A. Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of said land, structure or building.
- ☐ B. The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute marked exception to other properties in the district.
- ☐ C. The literal interpretation of the provisions of the applicable regulation would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same district. (It is of no importance whatever that the denial of the variance might deny to the property use in a more profitable way or to sell it at a greater profit than is possible under the terms of the regulations.)

- D. The hardship is not self-created or the result of mere disregard for, or ignorance of, the provisions of the regulations.
- E. The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be

APPLICATION FOR ZONING VARIANCE - page two

injurious to the neighborhood or otherwise detrimental to the public welfare.

- F. The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the district in which the affected property lies.

Applicants Affirmation: I do hereby attest that all the information on this application is true and all facts presented are represented accurately.

Signature of applicant: X

Notary

Commission expires

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES APRIL 26, 1991
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Recommendation of the Board of Adjustment: Approved 5-0 vote 8-12-91

Findings of the Town Commission are: Approved 5-0 vote 8-13-91

Special conditions imposed are: None

Signature of Town Manager: James D. Dally

ATTEST: Samuel Green

Town Clerk

* NOTE: Sketch must be attached hereto.

ATTACHMENT TO APPLICATION FOR ZONING VARIANCE

Construction of a ventilated concrete block wall along the side lines of the property; finished in a professional quality; 6 ft. in height; and 4 ft. in height in the front setback area and the rear 25 ft., with an additional 2 ft. of decorative metal grillwork affixed to the top thereof; matching grillwork would be utilized for purpose of a 5-ft. automatic entrance gate at the front property line.

**MINUTES OF THE LAUDERDALE-BY-THE-SEA BOARD OF ADJUSTMENT -
AUGUST 8, 1991**

The meeting was called to order at 3:00 P.M. by Chairman Allan Gibson. Present were Boardmembers Katherine Cramer, Bill Littrell, and Ray Glynn, with George Reingard of the Planning and Zoning Board substituting for absent member Hank Kapelka.

Chairman Gibson read the application for Variance #91-04 which was presented by Mr. Stephen Rupp, owner of the property located at 288 Imperial Lane, Lauderdale-By-The-Sea, Florida, for a 4 foot solid wall with 2 feet grill work attached to the top to be located along each side property line from the rear to the front property line, with a grill work gate.

Mr. John P. Wilkes, attorney for Mr. Rupp, was recognized. He explained the purpose of wanting the entire property fenced was for the most part, security. Mr. Rupp has spent considerable amount of money on this house and feels he needs the wall for security. He feels it will also add to the aesthetics of the property.

A very lengthy discussion was entered on the explanation of a ventilated wall. Mr. Gibson feels ventilation should be at least 40%. This will be approximately 33%. The code does not address the percentage of ventilation.

The overall opinion of the boardmembers was they wanted to see what the wall would look like and Mrs. Cramer would like to see the material it would be made of.

There was also a lengthy discussion on having the fence set back 25'. Mr. Rupp stated he would have a gate even if he had to set it 25' back. This would leave a considerable gap, which space could not easily be utilized. It would also cause very close quarters for cars inside the gate.

The members agreed to have the builder prepare a sketch of how the fence and gate will appear and return on Monday, August 12, 1991 at 3:00 P.M. to present this to the board. They will then execute the vote.

Meeting adjourned at 4:20 P.M.

Monday August 12, 1991, 3:00 P.M.

The meeting was called to order by Chairman Allan Gibson. All members were present.

Mr. Wilkes presented the rendering of the wall and a photo of how the gate will be. The gate will match the grill on the wall.

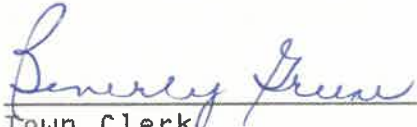
After a short discussion, Bill Littrell moved the variance be

granted as proposed on the plan and application. Motion was seconded by Mrs. Cramer which carried with a vote of 5 to 0 for the variance.

Meeting adjourned at 3:45 P.M.


Chairman

Attest:


Town Clerk

VAR-RUPP/080891

August 12, 1991

MEMORANDUM

TO: TOWN COMMISSIONERS AND TOWN MANAGER
FR: BEVERLY GREENE, TOWN CLERK

RE: VARIANCE AT 288 IMPERIAL LANE PER NOTICE ATTACHED

The Board of Adjustment, after considerable discussion, asked the builder to present a picture of what the fence and gate would look like. These pictures are attached. They come back today at 3:00 for the vote on this variance. They voted 5-0 for the variance.

Also find attached two letters were received concerning this variance.

Minutes will be forthcoming.

Signed:



Pictures not in file -- April 6, 2023

**TOWN OF LAUDERDALE-BY-THE-SEA REGULAR COMMISSION
MEETING - AUGUST 13, 1991**

Mayor Joseph Barbara opened the meeting at 8:00 A.M. with the pledge of allegiance to the Flag. Commissioners present were Davis, French, Kilday and Wardlaw. Also present was Town Manager Joseph Daly.

Minutes of the previous meeting, having been delivered to each Commission prior to this meeting, was approved as written. After the Clerk read the financial statement, Vice-Mayor Davis moved the bills payable be approved, seconded by Commissioner Kilday. Motion carried unanimously.

Mayor Barbara read by title for second and final reading, AN ORDINANCE CREATING SECTION 24-1 OF THE CODE OF ORDINANCES OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA RELATING TO PUBLIC NUISANCE-OBSCENITY IN PARTICULAR THE COMMERCIAL EXPLOITATION OF EXPLICIT SEXUAL CONDUCT THROUGH THE PUBLIC EXHIBITION OF LEWD FILMS AND THE SALE OF LEWD PUBLICATIONS; PROHIBITING PERSONS MAINTAINING, OWNING OR OPERATING SUCH ESTABLISHMENTS FROM SUFFERING OR PERMITTING SUCH PROHIBITED ACTIVITY; MAKING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDED AN EFFECTIVE DATE. A public hearing was opened by Mayor Barbara.

Jamie Benjamin, attorney representing Michael Rogers who is the owner of Hollywood Videos stated that he believes the ordinance is unconstitutional and if it is used in any way against his client, he will take the matter to Federal Court. He will seek every legal recourse, even legal fees.

Mayor Barbara responded that if Mr. Rogers breaks the law, he will be cited.

Oliver Parker, resident, and also an attorney, stated he feels the ordinance is constitutional.

Robert Polyasko, resident, asked if the ordinance will stop another business of the same nature as Hollywood Videos, from opening in town.

Mr. Daly stated that the ordinance only stops anyone violating the ordinance.

After the public hearing was closed, Commissioner Kilday moved the ordinance be approved on second and final reading. The motion was seconded by Commissioner Wardlaw which passed unanimously.

Mayor Barbara read on second and final reading AN ORDINANCE AMENDING SECTIONS 23-224, 23-196(e), AND 23-242 OF THE TOWN CODE TO PROVIDE FOR DECREASED FEES FOR ZONING VARIANCES.

After public hearing was opened, Allan Gibson, resident, stated

he feels it's a mistake to lower the fee to ask to break the Code of Ordinances.

Mayor Barbara stated the board should be sure hardship is proven before variance is granted.

Morris Schwarz, resident, stated he believes if a resident wants to appeal an ordinance he should have the right.

After the public hearing was closed, Commissioner Kilday moved the ordinance be approved on second and final reading, seconded by Commissioner French. Motion passed with 3 affirmative votes and Commissioners Wardlaw and Davis voting no.

Mr. Robert Polyasko reported the Chamber is having a meeting Thursday morning with the Fort Lauderdale Beach Kiawias to organize something for the park fund raiser.

As a report on the tennis committee activity, Mr. Daly reported that their recommendations are completed and \$6,000 for new equipment has been included in the budget. The clerk was asked to read the recommended key fee schedule.

Charlotte Polyasko asked for the cost of the lighting for the tennis courts. Mr. Daly reported approximately \$6000 which will be paid for by the key fee. The entire report will be part of these minutes.

Commissioner Kilday moved the new key fees be approved, seconded by Commissioner Wardlaw. Motion passed unanimously.

Mr. Robert Polyasko, President of the Chamber of Commerce, reported the Chamber requests \$5000. for operating of the Chamber for the new fiscal year. He reported that he and Mrs. French met with Commissioner Nikki Grossman and were told that no funds were available for the individual Chambers. This town will be included in the advertising they do.

After a short discussion, Commissioner French moved that \$3,000. be in the Town's budget to be used by the Chamber of Commerce. Motion was seconded by Commissioner Kilday and passed unanimously.

With respect to Variance #91-04, Stephen Rupp, 288 Imperial Lane, applied to be allowed to construct a 4 ft. solid wall with 2 ft. of grill work along the top from the rear property line to the front property line on both sides and a 5 ft. grill gate on the front property line. Mr. John Wilkes, attorney for Mr. Rupp, presented this variance to the Commission. After a very short discussion, Commissioner Kilday moved this variance be granted,

seconded by Commissioner French. Motion carried unanimously.

Town Manager Daly reported that two bids for the additional brick veneering work was received. One bid was \$19,800 and the other did not follow the specs. Commissioner Kilday moved the bid be rejected and to go out for a new bid. Motion was seconded by Commissioner Wardlaw which passed unanimously.

Commissioner Kilday moved to allow to go out for bid for handicapped facilities in Jarvis Hall and new garage doors. Motion was seconded by Commissioner Wardlaw which passed unanimously.

After a short discussion, Town Manager Daly was asked to report the next meeting how much money is left in the account that can be used for new drainage along Seagrape Drive. He was also asked to present approximate cost of this work.

Howard Johnson's request for extended hours was postponed until the next meeting.

Mayor Barbara appointed Commissioner French to be the town's representative on the Erosion Board.

Aruba Beach Cafe presented their request to have a party on the beach for their employees of all three establishments on September 30th and October 1st from 1 to 6 P.M. A schedule of activities were presented to the Commission. After some discussion, Commissioner Wardlaw moved they be allowed to have the party per their schedule. Motion was seconded by Commissioner Kilday which carried unanimously.

In his report, Town Manager Daly reported that Dudley Greene attended a meeting concerning the interlocal agreement on recycling and was told that the Town will get \$12,200. grant for new recycling equipment. Prior to this an application was prepared to include \$10,000 for a new recycling truck, which was granted.

Mr. Daly reported that the League of Cities reported that Southern Bell has overcharged and a refund will be forthcoming.

He also reported that Wachenhut donated several pieces of office equipment, and H. Johnson donated a new tennis net.

Mr. Daly reported that Sgt. Russell French is resigning to take a position in Maine.

The owner of the Postal Stop has requested a Post Office substation to be located at her location and asked the Town to help her accomplish this. Mr. Daly suggested a resolution be prepared asking for the post office. Commissioner Wardlaw moved the resolution be prepared, seconded by Commissioner Kilday. Motion carried unanimously.

Commissioner Wardlaw reported he attended the Planning and Zoning Meeting and they are preparing a tree abuse ordinance. He reported that is an ordinance is not enacted before October 19th, the Town is obligated to be governed by the County ordinance.

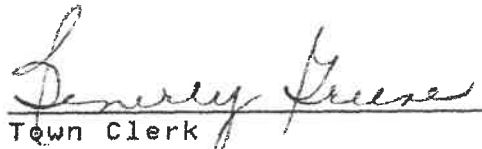
It was reported that Mr. Harter of Howard Johnsons, Police Chief Fitzgerald and Town Manager Daly have arrangements to police the watercraft situation that has become a serious problem on the beach. It was suggested that buoys be dropped 100 ft. off shore along the Lauderdale-By-The-Sea shore line.

Commissioner Kilday moved the meeting adjourn at 10:00 P.M., seconded by Commissioner Wardlaw. Motion carried unanimously.



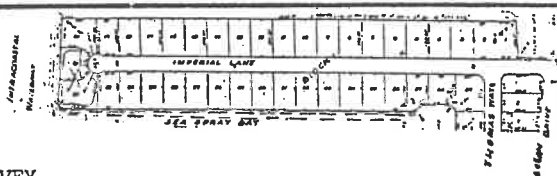
Mayor-Commissioner

ATTEST:



Town Clerk

MCL. CAP INDICATES MCLAUGHLIN ENG. CO. PLASTIC CAP.
O INDICATES MARKERS
SCALE: 1" = 30'



CERTIFICATE OF SURVEY

Lots 21 and 22, Block 1, LAUDERDALE SURF AND YACHT ESTATES, according to the plat thereof, as recorded in Plat Book 22, Page 46, of the public records of Broward County, Florida.

BROWARD COUNTY, FLORIDA

We hereby certify that we have this day completed a survey of the above described premises; that markers have been set as indicated and that this drawing is a true and correct delineation thereof, and meets the minimum technical standards set forth by the Florida Board of Land Surveyors, Department of Professional Regulation.

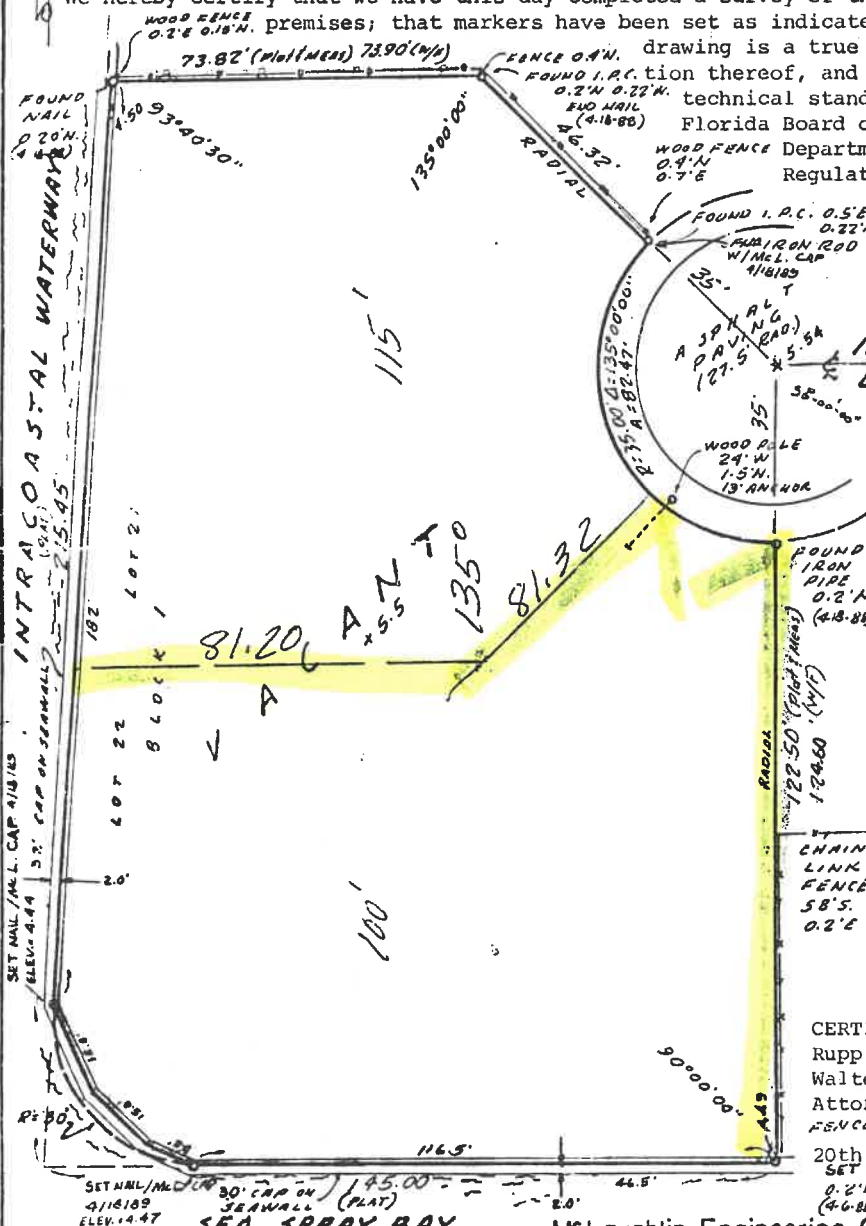
Dated at Fort Lauderdale, Florida, this 10th day of June, 1987.

Resurveyed this 8th day of April, 1988.

CERTIFIED TO: DRK Investment Company, a Kentucky general partnership; Ticor Title Insurance Company; and Kuden, Barnett, McClosky, Smith, Schuster and Russell, P. A., this 19th day of April, 1988.

Resurveyed this 18th day of April 1989.

CERTIFIED TO: Stephan Rupp; Hermann Schwyter; Walter Friedrich; and Attorneys Title Insurance Fund, Inc., this 20th day of April, 1989.



- NOTES:
- THIS PROPERTY WAS NOT ABSTRACTED BY MCLAUGHLIN ENGINEERING CO. FOR EASEMENTS, RIGHTS-OF-WAY, OR RESERVATIONS OF RECORD.
 - ELEVATIONS SHOWN REFER TO NATIONAL GEODETIC VERTICAL DATUM (1929) AND ARE INDICATED THUS: $\times$ 0.0'
 - REFERENCE BENCH MARK: BROWARD COUNTY B.M. # 5085 BRASS DISC IN S.E. CORNER OF SEAWALL N. OF P.M. DR. AT BENCH ELEV. = 11.606

McLaughlin Engineering Co.

Carl E. Albrechtsen
Registered Land Surveyor No. 4185
State of Florida. - Carl E. Albrechtsen
"Not Valid Unless Sealed with an embossed Surveyors Seal"

FIELD BOOK No. LB 107 P. 49
JOB ORDER No. P6270, P. 8877, Q-2125

DRAWN BY DES, S.A.M., B.S.
CHECKED BY JP, C.A.

MINUTES OF THE BOARD OF ADJUSTMENT - JANUARY 7, 1993

Allan Gibson, Chairman, opened the meeting at 2:17 P.M. Board members present were Bill Littrell and Henry Kapelka.

Mr. Gibson read the application for variance #93-01, Anthony LaMarca, 287 Imperial Lane, wishes to construct an electric gate in front set-back of his property to protect his two small children when playing in the driveway. Mr. LaMarca explained that cars use Imperial Lane thinking it is a through street. They turn around in his driveway since he lives on a culdesac and since his two small children play there, he is afraid they will be hit.

Mrs. Guieneri who lives on this street stated she objects to the gate because cars visiting his home will have to park on the street and it will be difficult for other cars to get through the street. After it was explained to her that the gate will not be right at the street and there would be room off the street for his guests, she was satisfied.

After more discussion and explanation of where the gate will be, Henry Kapelka moved the variance be granted, seconded by Bill Littrell. Motion passed unanimous.

2:45 P.M.

Mr. Gibson read application for Variance #93-02, Margaret Murphy wants to keep shed already constructed on her property at 262 Algiers Avenue which extends 2 feet into the side set-back.

It was explained the shed will be used to house bicycles and lawn equipment.

All board members did visit the site. Bill Littrell stated the shed does not protrude any further than the planter on the front of the lot. He also suggested the shed be stuccoed to match the house.

Henry Kapelka moved the shed be approved providing the surface is stuccoed, seconded by Bill Littrell. Motion passed unanimously.


Chairman

ATTEST:


Town Clerk

MINUTES OF THE REGULAR COMMISSION MEETING - JANUARY 12, 1993

Mayor Wardlaw opened the meeting at 7:30 P.M. with the pledge of allegiance to the Flag. Those present were Vice Mayor Barbara, Commissioner Margaret E. McKane, Commissioner David Wessels and Commissioner William Weyhmueller. Also present were Town Manager Joseph Daly and Town Attorney Joseph Mullen.

The minutes of the previous meeting were approved as written.

The Clerk read the financial statement and bills payable. Vice Mayor Barbara moved the bills be paid, seconded by Commissioner Wessels. Motion passed unanimously.

Mayor Wardlaw asked Chief W. Berger who conducted IA investigations and Management Study. He explained that when they got involved in the IA investigations they found a Management Study was necessary.

Commissioner McKane asked who helped Chief Berger with the investigations. Chief Berger responded that Major Paul Rantenen who is very experienced in conducting IA investigations.

After a lengthy discussion if Commission approval was need to proceed with the Management Study, Commissioner Wessels stated that when they got into the investigations it became a companion and he would have voted in favor of it.

Commissioner McKane replied she felt the Commission should have been notified that the Management Study was necessary.

Town Manager Daly explained the bids received for the fire equipment in the amount of \$23,446 and the low bid of \$21,782 which was submitted by Ten-8 Fire Equipment Company. He recommended the Ten-8 bid be accepted. Vice Mayor Barbara moved the low bid be accepted, seconded by Commissioner McKane. Motion passed unanimously.

Mayor Wardlaw read in it's entirety for the final reading, AN ORDINANCE REGULATING FEEDING OF PIGEONS IN LAUDERDALE-BY-THE-SEA. The Public Hearing was opened. With no response Mayor Wardlaw closed the Public Hearing. Commissioner Weyhmueller moved the ordinance be adopted on final reading, seconded by Vice Mayor Barbara. Motion passed unanimously.

Commissioner Wessels reported that a letter received from Richard Maxwell of King Tree Company stated asphaltting the south west area of the children's playground would damage the tree roots and the trees would die and need to be removed. He suggested paving further north of this area.

Vicki and Lori Pisto were consulted since the money for this project came from the Robert Pisto Foundation. They asked to delay the decision for 24 hours which was granted.

Vice Mayor Barbara to approve RESOLUTION ON DETERMINING TO PROCEED TO PROVIDE FOR THE CARE AND MAINTENANCE OF VACANT PROPERTY ON UNATTENDED PROPERTY IN THE TOWN OF LAUDERDALE-BY-THE-SEA, seconded by Commissioner McKane. Motion passed unanimously.

Copies of bids for installing hurricane shutters on the windows not already done were given to each Commissioner previous to this meeting. Dudley Greene, Public Works Director and Town Manager Daly recommended the bid of Broward Hurricane Panel Company, Inc. of \$14,380.00. After a short discussion, Commissioner McKane moved the bid of Broward Hurricane be accepted, seconded by Vice Mayor Barbara. Motion passed unanimously.

Anthony LaMarca applied for a variance to install an electric gate in the front set-back of his property on Imperial Lane. The purpose is to prevent cars from pulling into his driveway where his two small children play. After discussion, Commissioner McKane moved the variance be granted, seconded by Vice Mayor Barbara. Motion carried with four affirmative votes and Commissioner Wessels voting no.

Margaret Murphy requested to keep a shed already installed on her property which extended two feet into the side set-back. Vice Mayor Barbara stated that the resident living behind him had the same situation and was made to remove the shed and he feels everyone should be treated the same. Other residents have been refused. Commissioner McKane moved this variance be tabled until the next meeting, seconded by Mayor Wardlaw. Motion passed with four affirmative votes and Vice Mayor Barbara voted no.

None of the Commissioners wished to be appointed trustee to the Board of Trustees of Florida Municipal Trust, consequently no appointment was made.

Ron Malek reported he has three motels interested in installing beer machines and explained about the machines.

Mr. Murawski, motel owner, stated he believes it would not be good for the Town.

Mrs. Anna Mae French questioned the licensing.

After discussion, Commissioner Wessels moved the subject be tabled until next meeting until more research can be made, seconded by Commissioner Weyhmueller. Motion passed unanimously.

Dave Biba, President of the Chamber of Commerce, reported that several merchants have complained that time share solicitors are violating many rules in the downtown area. Town Manager Daly explained that written complaints must be obtained in order to charge these people with violations. He suggested Mr. Biba ask

the merchants to write these letters and the Town will take these complaints to court.

Mr. Biba reported the Blockbuster Beach Bash was a success with a few exceptions. A beer truck was on the beach and Hooters were there to feed football players not the public.

Commissioner Wessels explained he would like each Commissioner to study the copies of sign ordinances he gave to each of them and be prepared to discuss them the next meeting.

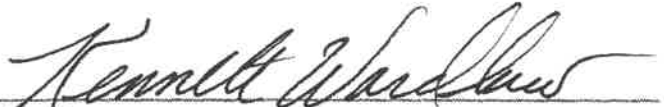
The Public Works Director explained he would like to build a concrete block bins for storage of different materials. He had a price of \$5200 to build the bins and \$1300 to renovate the police Department garage into a training room. Since the \$1300 is under the required price for bids, it is not necessary to go out for bid. Mr. Greene reported that Police Chief Leighton is inquiring if this \$1300 can be taken from the police training fund.

Commissioner McKane moved to go out for bid for the concrete bins, seconded by Commissioner Weyhmueller. Motion passed unanimously.

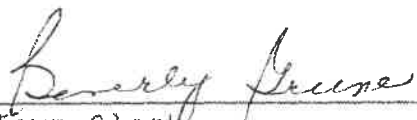
Town Manager Daly reported a Christmas ornament was sent to Homestead indicating the Town's support for the hurricane relief.

Town Manager Daly reported that Robert Soloff, the Town's labor attorney has changed firms and is now with Whitelock, Soloff and Rodriques. It was decided the Town, upon the recommendation of Attorney Mullen, would continue with him through the Behan and IA cases.

The meeting adjourned at 10:45 P.M.


Mayor

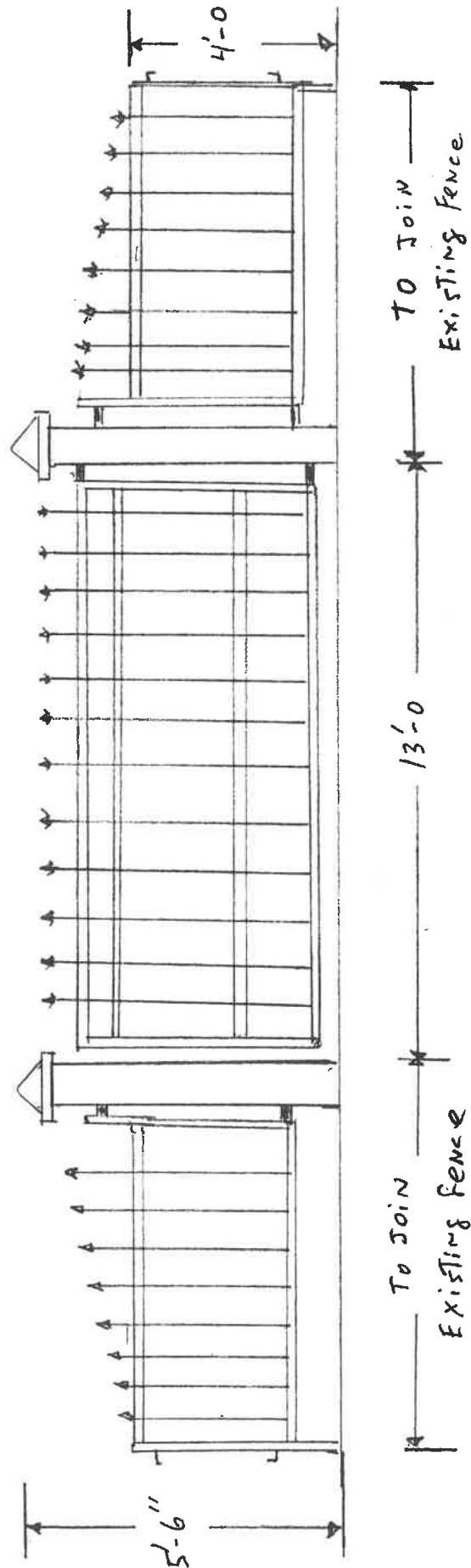
ATTEST:


Town Clerk

LA MARCA RESIDENCE
287 IMPERIAL LANE

FOR

ELECTRIC GATE



NOT TO SCALE