



**CITY OF BOYNTON BEACH  
PLANNING AND DEVELOPMENT BOARD  
MEETING AGENDA**

**DATE: Tuesday, November 29, 2022**

**TIME: 6:30 PM**

**PLACE: City Hall Commission Chambers**

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- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Agenda Approval**
- 4. Approval of Minutes**
  - 4.A. Approve board minutes from the 10/12/22 Planning & Development Board meeting.
- 5. Communications and Announcements: Report from Staff**
- 6. Old Business**
- 7. New Business**
  - 7.A. Approval of Variance (ZNCV 23-002) of Part III, Chapter 4, Article II, Section 4.B.3.c – Urban Landscape Buffer (Type 2), to grant a variance of seven (7) feet from the required twelve (12) foot buffer, to allow for a five (5) foot wide landscape buffer, and the elimination of the requirement to provide a six (6) foot tall masonry wall.
- 8. Other**
- 9. Comments by members**
- 10. Adjournment**

**The Board may only conduct public business after a quorum has been established. If no quorum is established within fifteen minutes of the noticed start time of the meeting, the City Clerk or her designee will so note the failure to establish a quorum and the meeting shall be concluded. Board members may not participate further even when purportedly acting in an informal capacity.**

**Decorum**

**Any person who disrupts the meeting while addressing the Advisory Board may be ordered by the presiding officer to cease further comment and/or to step down from the podium. Failure to discontinue comments or step down when so ordered shall be treated as a continuing disruption of the public meeting. An order by the presiding officer issued to control the decorum of the meeting is binding, unless over-ruled by the majority vote of the Advisory Board members present.**

**Notice**

**Any person who decides to appeal any decision of the planning and development board**

with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony, and evidence upon which the appeal is to be based. (f. S. 286.0105) The city shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the city. Please contact the City Clerk's office, (561) 742-6060, at least forty-eight (48) hours prior to the program or activity in order for the city to reasonably accommodate your request.



## CITY OF BOYNTON BEACH AGENDA ITEM REQUEST FORM

**PLANNING AND DEVELOPMENT MEETING DATE:** 11/29/2022

**REQUESTED ACTION BY PLANNING AND DEVELOPMENT BOARD:** Approve board minutes from the 10/12/22 Planning & Development Board meeting.

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**EXPLANATION OF REQUEST:**

**HOW WILL THIS AFFECT CITY PROGRAMS OR SERVICES?**

**FISCAL IMPACT:**

**ALTERNATIVES:**

**STRATEGIC PLAN:**

**STRATEGIC PLAN APPLICATION:**

**CLIMATE ACTION APPLICATION:**

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**Is this a grant?**

**Grant Amount:**

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**ATTACHMENTS:**

Type	Description
<input type="checkbox"/> Minutes	10/12/22 Minutes



MINUTES  
PLANNING AND DEVELOPMENT BOARD  
100 E. OCEAN AVENUE, BOYNTON BEACH, FLORIDA  
TUESDAY, OCTOBER 12, 2022, 6:30 P.M.

**PRESENT:**

Trevor Rosecrans, Chair  
William Harper  
Butch Buoni, Vice Chair  
Chris Simon  
Courtlandt McQuire  
Jay Sobel  
Thomas Ramiccio, Alternate

**STAFF:**

Amanda Radigan, Planning and Zoning Director  
Elizabeth Eassa, Senior Planner  
Andrew Meyer, Planner  
Jae Eun Kim, Principal Planner  
Sean Schwartz, City Attorney  
Leslie Harmon, Prototype, Inc.

**ABSENT:**

Tim Litsch  
Lyman Phillips, Alternate

**OTHERS:** - None.

The meeting was called to order at 6:33 p.m.

**1. Pledge of Allegiance**

**2. Roll Call**

Roll was called and it was determined a quorum was present.

**3. Agenda Approval**

Mr. Ramiccio requested an addition under New Business of Meadows PUD Park Discussion and Recommendation to the Commission.

**Motion** by Mr. Ramiccio, seconded by Mr. Simon, to amend the agenda to include Discussion and Recommendation to the Commission for the new Meadows PUD Park. In a voice vote, the **motion** passed unanimously. (7-0)

**4. Approval of Minutes**

**4.A. Approve board minutes from 08/23/22 Planning & Development Board meeting.**

Mr. McQuire advised his name was misspelled throughout the minutes; it should be McQuire, not McGuire.



**Motion** made by Mr. Buoni, seconded by Mr. Simon, to approve the August 23, 2022 meeting minutes as amended. In a voice vote, the minutes were unanimously approved. (7-0)

**5. Communications and Announcements: Report from Staff**

Amanda. Radigan, Planning and Zoning Director, made the following comments:

- Ms. Radigan thanked IT for letting her appear virtually.
- Ms. Radigan thanked the Board for input at the last meeting regarding the Parks & Recreation Master Plan.
- Ms. Radigan introduced a new staff member, Jae Eun Kim.
- Ms. Radigan went over the future meeting dates. There will not be a quorum for the next meeting date; however, there is business that needs to be conducted, so a special meeting will be scheduled.

Chair Rosecrans requested his email be updated. Several other members mentioned they may not have received the emails.

**6. Old Business - None.**

**7. New Business**

- 7A.** Approve modifications to reduce building heights in MU-C and MU-4 Zoning Districts (CDRV 22-004) amending Chapter 3, Art. III, Sec. 1.E, Table 3-4. Mixed Use Urban Building and Site Regulations.

Elizabeth Eassa, Senior Planner, provided a brief presentation regarding the building height amendment.

- The history of redevelopment planning over the last 20 years was provided from 2000 to present.

Ms. Eassa stated that on August 24, 2022, a Height Workshop was held with the Planning and Development Board, and there was supposed to be a meeting on September 27, 2022, but there was a hurricane, so tonight they are having the Code Amendment presentation. The Adoption Hearings will be on October 8, 2022, and November 1, 2022, with the City Commission.

Ms. Eassa explained the Amendment and pointed out that the presentation is incorrect as far as MU-1, it states that the maximum building height is 55 feet and it is 45 feet, but that is not the District that is currently affected. The change on the chart shows the current maximum height in MU-4 is 100 feet and the maximum height in Mixed-Use Core is 150 feet; the accompanying Ordinance proposes to change the maximum building height in MU-4 to 80 feet and the maximum height in Mixed-Use Core to 85 feet. Footnote #4 was referenced, which is being modified as part of this Amendment.

The footnote states that any use or structure with height in excess of the height maximum that was in lawful existence or vested in an approved Development Order at the time of the adoption of the Ordinance shall not be construed as nonconforming as a result of the Ordinance and can continue until such time as a major development application or major Site Plan Modification is approved or a Development Order or vested project expires.

Mr. Sobel commented that Boynton Beach is in many ways in competition with neighboring communities for development and for monies to come into the community. He questioned how Boynton Beach compares with the new proposed height limitations to Delray and Boca.

Ms. Eassa advised Delray has a maximum height in the Downtown for four stories or 55 feet and there is one Zoning District that allows up to 85 feet. Boca has a much higher maximum and goes up to 160 feet.

Mr. Sobel asked if Ms. Eassa spoke with any developers to determine what this would do to the viability of Boynton Beach to attract new money, new buildings, and new opportunities for the residents.

Ms. Eassa replied that she personally did not speak to anyone.

Ms. Radigan stated there was no discussion with developers. This is one entitlement in a slew of regulatory tools that need to shape density. The development seen in Boynton Beach overall has a maximum of 150 feet. Most buildings in the Downtown area range from 80 to 90 feet.

Mr. Sobel questioned the motivation for doing this.

Ms. Radigan indicated that the desire is from the Commission to lower heights.

Mr. McQuire asked for the Chapter 3 footnote to be clarified and questioned if this applies for projects on deck.

Ms. Radigan advised that anything currently existing is going to be legal, which allows existing structures to be rebuilt in case of hurricanes. Anything currently approved would be permitted to remain and be rebuilt in accordance with their approved plan. If a project is currently submitted, meaning not approved, they will be able to continue under the zoning they were submitted under. If someone wanted to demolish their property and rebuild, they would have to meet the current height limits.

Mr. McQuire mentioned the second part and questioned if there are projects that are currently submitted that will not be held to the new potential Ordinance or lower height limit.

Ms. Radigan replied it is possible. There are several projects, but she thinks there is only one in the Zoning District that may fall under the new modification.

Mr. McQuire thought there were nine projects; he attended the CRA meeting, and the height was nowhere near 150 feet.

Mr. Ramiccio mentioned the presentation given to the Commission at the last meeting. There was a lot of discussion, and the Board understands the will of the Commission is to lower the height and they want to support the Commission, but at the same time they want to continue to see projects move forward. One discussion was about Zoning in Progress, and he asked if they were to approve a Zoning in Progress if all the projects in the pipeline would then have to conform with the new regulations.

Ms. Radigan stated it is her understanding it would not affect projects in the queue.

City Attorney Schwartz advised that is correct.

Mr. Ramiccio indicated that the CRA Plan allows for a 25% increase in density if a Plan provides Workforce Housing. He questioned if the CRA Plan would be amended to reduce the 25% incentive for Workforce Housing or if the Commission will leave the incentive of 25% if developers come in with Workforce Housing.

Ms. Radigan indicated that the 25% density is intact and will remain unless there is other direction from the Commission.

Mr. Ramiccio commented that Delray has a maximum height of 55 feet and their core area was 55 feet. One of the suggestions he made was 48 feet, because he thinks the largest City buildings should be in the core area, so they are the anchors. There needs to be a conversation with the Commission regarding the TOD (Transit Oriented Development). Throughout the Comprehensive Plan, it continually refers to the policy of City of Boynton Beach, which is to focus on a TOD in the core area. There are 1,200 residents in the core area of the TOD, and they need 18,000 residents to meet the criteria to comply with the TOD. After 20 years, he thinks it is time to get off the TOD and be what they want to be. Mr. Ramiccio mentioned the 20-year Rail Transportation Plan for Coastal Link, Tri Rail, and Brightline, and Boynton Beach is not in that Plan. They need to focus on creating a Downtown and plan, as a City, to make the four blocks a destination with restaurants, shops, and hotels for patrons to enjoy. It is the Board's job to make a recommendation to the Commission to change the Zoning and he is going to support the 80 feet and 85 feet, but he would like them to be at 48 feet because there may be some opportunities for transit nodes west of town. Mr. Ramiccio believes they should say no to the developers; this Board and the Commission need to determine what they want the vision of Boynton Beach to be, and the developers can build it.

Mr. Simon concurred with many of Mr. Ramiccio's points, and he supports the Commission to make changes that benefit the aesthetics of Boynton Beach in a positive way. He referenced the footnote and asked if an existing nonconforming use is allowed to come in and go to 150 feet since the maximum height was 150 feet at the time of their permitting application.

Ms. Eassa advised if someone wanted to come back, they could not go to 150 feet after the adoption of this Ordinance.

Mr. Simon stated in a sense, they would be existing nonconforming.

Ms. Radigan indicated what is being considered as nonconforming is the existing building and their existing rights; however, if they come in to for a major Amendment or to get a new Development Order, it needs to conform to the Amendment.

Mr. Simon commented that a new application does not have any ties to the new Amendment.

Ms. Radigan stated whatever reason they want to build exactly what was approved is permitted. Nonconforming is important because it can lead to funding issues.

Mr. Simon mentioned MU-4 and MU-C and thinks there was a missed opportunity by the previous Commissions in capturing the identity of Boynton Beach. This has to do with the scale and the amount of workable space in the area, especially up and down Ocean Avenue and Seacrest to the bridge. As part of the development, he tasked the Commission to discern what options they have to adjust the Plan and capture an identity for the City that creates a destination. The businesses in place are not necessarily the type of businesses that generate foot traffic, which most businesses require to survive. There is an opportunity to redevelop some of the buildings and create a unique, Old Florida type of vibe that allows for a broad range of businesses. He questioned the date of permit approval for Marina Village and if they are locking in something that is permanent or if this is a short-term verbiage that will be amended in the future.

Chair Rosecrans indicated that the Commission needs to answer to the voters.

Ms. Radigan advised the CRA Board has requested the CRA reopen the CRA Plan, and the process will start soon. Tools will be put into place to realize the vision of the Plan. Because there is a CRA, any changes will be publicly vetted through charrettes and then formally adopted. In addition, the City is currently updating their Economic Development Plan.

Mr. Simon stated it would benefit the City to review new projects for functionality and longevity. Several projects have been completed and are in the works, and in his opinion, they will not allow a business to succeed. There is evidence in some of the completed buildings that businesses are not surviving and are turning over within a year or less because of visibility, parking, orientation, signage, etc. Many businesses rely on social media or marketing to let people know they are there, even though thousands of people per day drive in front of their door. There have been charrettes and the citizens lean towards a lower height restriction on development and the City and Commission say they want to allow what they want.

Vice Chair Buoni thanked the Commission and staff for having the vision to revisit the height restrictions.

Chair Rosecrans opened Public Comments:

Attorney Bonnie Miskel, 14 SE 4<sup>th</sup> Street, Boca Raton, FL, distributed a map to the Board members and noted that she is present on behalf of a property owner who owns the parcel on the east side of Federal Highway between Ocean Boulevard and Boynton Beach Boulevard to the north and NE 6<sup>th</sup> to the east; it is the entire block. This owner acquired the property approximately a year ago and was attracted to the parcel because of the level of intensity, density, and height. He has been working on a plan since he

purchased the property, which has a Phase 1 and Phase 2, but it was rejected. The intent was to attract a hotel, but it would not be able to fit on the site within the height prescribed. Her client is the only vacant site that is not fully entitled. He is experiencing the fact that this change will affect what he intended to do with the site dramatically. They are reworking the Plan in an attempt to meet some of the requirements of the new Code section.

Attorney Miskel provided a history of the Downtown area. She noted that the Mixed-Use Core parcels are the ones that would be affected by the change. All the parcels are either developed or entitled; they have rights to build under the Plan that came in with, and even a portion of her client's property is entitled, and it is about half of the site. When talking about compatibility, her client is surrounded by more intense higher development, and he hoped to be equal to his neighbors; he is the only vacant site that is not fully entitled. They are reworking the Plan to meet some requirements of the new Code section. Only two of the Mixed Use Districts are being effected, MU-4 and MU-C, and essentially the changes are going to impact her client, so they are the victim or the beneficiary of the change, but they do not view it as favorable because they will be singled out from those that are equally zoned as far as the MU-C. While the MU-4 looks at a 20% decrease in height, there is a 43% increase in the height that her client was expecting, so he would have the right to at least attempt to develop or design, but if this is approved, he will not be able to because they would be considered new development; they are coming in with a new Development Plan. This landowner develops land as well, but they are a property owner; they are paying taxes and the site is vacant, and they would like to make reasonable use of it. Attorney Miskel requested changes be made equitably; they are not affecting M1, M2, and M3, but her client has a minimum unit requirement of 60 to the acre and they only have 30, but they have the same height to fit in. There is little difference between MU-3 that has a minimum of 30 units to the acre and MU-C, which is required to do 60 units. This is not a practical transition from one height to another. This Ordinance was not drafted in a way that looks at other things. There is also minimum first floor requirements, which is 15 feet, so they are being given much less than 85 feet. Finally, they are granting someone FAR rights, but not if they have the box to fit it in, so they are losing FAR by this restriction.

Susan Oyer, Boynton Beach, FL, commented that residents of this City voted for a four-story maximum in 1989 and 93% of the residents said no to anything over four stories. The voters have spoken, and previous Commissioners broke their promise to the people. There is a need for a hotel, and she would be in favor of increasing the height for a hotel. She agreed with Mr. Simon regarding a problem with businesses having signage and visibility. She also concurred with Mr. Ramiccio and stated they do not need a TOD or a train station; they need to work on a Downtown destination. The City should be focused on owner/occupied housing and saying no to apartments and saying condominiums or townhomes only. This would solve a large portion of the Affordable and Workforce Housing crisis. They need to work with developers to find a way to make sure no one is losing and that the residents of the City are gaining. They also need to look at height and density; residents do not want either, it brings no good to Downtown; it does not make it walkable or livable. There is a lack of green space, and she questioned where the park is that was promised by the Cameleer Developer. Ms. Oyer mentioned how bad the water and sewer is in the Downtown area and stated they do not need any more homes; they need businesses. If the City is willing to bring taller buildings with office spaces, she is fine with 85 feet, but if they are not bringing jobs in, it needs to stay at 45 feet. They need to look at the entire environmental impact.

Kristine deHaseth, Executive Director of Florida Coalition for Preservation, represents residents on the barrier island and along the Coast from Boca through South Palm. They have a large constituency in Boynton Beach, and they keep their pulse on what affects them environmentally. From a growth management point of view, they are all interconnected because what one Township does has a ripple effect on everyone else. She applauded the Board for their vision and taking time to vet this. She agrees this is a wholeheartedly opportunity to try to start this visioning process of a new identity. In moving forward with the identity, she thinks the end goal is sustainability. When talking about height there are other things to think about such as traffic, reducing parking requirements, and traffic at the four corners which could potentially start to effect EMT response times. Flooding at the at the base of the bridges has been horrific and these King Tides also affect the barrier islands. She commented that adding density and height is moving in the wrong direction. She encouraged the Board to start with height, but not to stop there, and to look at other things like density; make developers have a certain level of LEED requirements for environmental sustainability, more open space, more green space, more trees, wider sidewalks for walkability, and stop using the TOD as a false planning assumption. She requested the Board think about their future generation, not only for the City, but of surrounding neighbors. She hopes the Commission heeds the Board's advice.

Attorney Barbara Hall was present on behalf of the owners of One Boynton. She mentioned a letter she sent to the Planning and Zoning Department. Attorney Hall understands the Board has wonderful goals for revitalizing areas of the City and keeping it walkable and encouraging employment, but what they are doing with height restrictions is only affecting a few properties. One Boynton is MU-4, and the current height is 100 feet. The owner of this property is looking to redevelop the central area of the project with additional units, and they will need the 100 feet to do so because of structured parking and the need to replace parking for commercial uses. The node of Woolbright and Federal Highway is important and creating height at nodes is what Planners do, especially in Downtown. She agrees that height and density everywhere is not consistent with sustainability practices, but where it is located is consistent with sustainability. Putting height in this location to accommodate the allowable density would not affect the City. The redevelopment of the central core would be consistent and not harm the City or deprive the City of their visions. It sounds like this would just affect Attorney Miskel's property and her client's property and create the inability for other redevelopment at that particular node. It does not prevent the City from doing all the good things they want to do, but it takes value from her client's property, clearly losing 20 feet. For the City to alter their property entitlements by 20 feet is significant to this property. They have the density and more than sufficient entitlement in terms of FAR in units. They could build 391 additional units, but 100 feet would not accommodate that, but losing 20 feet would clearly devalue the property and force her client to retrieve that value somehow. She does not think this accomplishes what the City wants, but it stops a project that would provide housing in a part of the City where housing should be. She hopes the Board will reconsider because what they are doing is small in terms of the parcels affected, but significant in terms of the property owners who have value in their property.

Chair Rosecrans closed discussion to the public.

Mr. Sobel mentioned the rules of order that this Board is governed by and questioned why the public was allowed to speak for more than the three minutes allowed.

Chair Rosecrans questioned if Mr. Sobel has an issue of being more informed to make a decision.

Mr. Sobel commented that they hear data that 1,000 people are moving to Florida every day and he asked if Boynton Beach is benefitting. He would like to see Boynton Beach be a destination and be a place to go with more choices. He asked if residents of Boynton Beach are going to support the restaurants and questioned if an uptick has been seen in the residents of Boynton Beach. He questioned what the income level over the last five years is for residents in Boynton Beach and if the City wants to create an environment that attracts the public. He is disappointed that there does not seem to be as much activity as in other surrounding Cities. He asked what it would take to have restaurants in the Downtown area that will attract people from other cities. He is disappointed that other cities have new restaurants opening and Boynton Beach does not.

Mr. Ramiccio mentioned convenient parking and destinations like restaurants that will attract people from outside the area. If the zoning were changed on Ocean Avenue to allow for wider sidewalks and outdoor street cafes, that will bring in restaurants that will allow a different al fresco type dining on the street that currently is not allowed. With the proper parking, marketing, and destination, is where the vision begins. With a vision, they can put those components together and the development community will help them realize the vision.

Ms. Radigan advised that the City is growing, the current population is about 80,308; there has been a 17% increase in ten years, and they are comparable to Palm Beach County, which increased about 13%. The uptick is concentrated in certain areas. Delray Beach is growing at 10% and West Palm Beach is growing at 17.5%. In 2020, there were 39,700 housing units and 5,000 vacant units. The median household income is \$61,000 and in relation to the County, that is on the lower side. Growth over the last ten years has been from development on the west side of town, not the Downtown.

Chair Rosecrans reopened Public Comments:

David Katz, 67 Midwood Lane, commented that discussion is not usually limited to three minutes during Quasi-Judicial meetings. If there were 50 to 75 people, the Chair might ask everyone to limit discussion to two minutes, with two or three speakers. In the past, the Board voted against the height limit for the node at One Boynton and the Commission approved it. This Board and Commission need to hide elevators or working units within the 45 feet and not continue to give exceptions.

Mr. McQuire stated the objective is to lower the height and what he gathers from everyone is that they are unanimous in that direction. There will be dissention from landowners no matter what they do. He referenced two parcels that were previously mentioned by legal; one is a fully built apartment building with retail on the bottom, with structured parking and nothing over it. He is unclear of the real intent and when this intent was submitted to the architect in terms of tearing down the existing structured parking because it is close to two and three-story townhomes and retail. He asked how that will happen and if the structured parking is included with the ability to build on top of it. As far as the other parcel, which is vacant, he questioned where the paperwork and vision are. He would be open to an addendum to allow for a hotel use only with retail. He thinks they need to get this moving.

**Motion** by Mr. Ramiccio, seconded by Mr. Simon, to approve the footnote as submitted by staff with the modification to the Amendment with the recommendation to decrease MU-C in the core area from 160 feet to 48 feet and MU-4 from 100 feet to 48 feet. There was no vote.

Mr. Sobel commented that the motion proposed reduces heights in the MU-C and MU-4 and there is 75 feet, 65 feet, and 55 feet in the other three areas; it is not consistent. He is bothered by the rush to judgment. Mr. Sobel stated spot zoning is a dangerous concept and he would prefer to push this back to staff for a clarification.

Mr. Ramiccio stated nothing has been built to 150 feet since 2002, which is 20 years. Currently, the tallest building is 80 feet as pointed out by staff. Recommending half a reduction has no correlation to where the 150 feet came from. He noted that he has a different vision for the City and everyone has an opportunity to have a say in where the City should go.

Mr. McQuire stated the reduction is over 50% and that is a slap in the face to the public. They want a vibrant Downtown, retail, less high density, and transient rental apartments. This is not only a step in the right direction, but also a huge step; 150 feet to 85 feet, and 100 feet to 80 feet. He thinks that shows the community that Boynton Beach is not Delray. He believes this is the right mix and the way the proposed modification was written, which was suggested by this Board, is good to go as is.

Ms. Radigan indicated it would be difficult to change height with density. If this is the direction the Board wants to go, then she will request staff revisit the Amendment.

Mr. Simon advised that the height directly correlates to density, and he thinks if they go greater or within the reduction considered, that density should be included within the verbiage of a Condition of Approval. He asked if the motion negates the opportunity to vote to approve the Amendment as presented by staff okay with it being at 85 feet.

City Attorney Schwartz replied that a new motion could be entered.

**Motion** by Mr. Ramiccio, seconded by Mr. Simon, to withdraw the motion.

**Motion** by Mr. Ramiccio, seconded by Mr. Simon, to approve the Amendment as presented by staff. In a roll call vote, the **motion** passed unanimously. (7-0)

- 7B.** Approve modifications (CDRV 22-005) amending the Part III LAND DEVELOPMENT REGULATIONS, Chapter 1, Article II. Use Definitions, Chapter 3, Zoning, and Chapter 4, Article III. Exterior Building and Site Standards (CDRV 22-005), to include requirements for commercial frontage.

Andrew Meyer, Planner, provided a brief presentation on proposed Code Amendments regarding commercial frontage minimums.



- Mixed-Use Zoning Districts and Overlays require a mixture of active and commercial uses along key corridors.
- The code requires active and commercial uses to be located on the ground floor of buildings that front an arterial roadway.
- The code does not provide a specific percentage of required commercial frontage and minimum design standards.
- The code allows applicants to satisfy the existing active/commercial use requirement by establishing resident or service type uses such as lounges, gyms, common rooms, and recreational spaces, in lieu of commercial public space and uses.
- The lack of clear commercial frontage standards limits staff's ability to require an adequate percentage of viable commercial space along the peak corridors.
- It also creates the possibility of commercial spaces that lack sufficient depth and/or width resulting in vacant storefronts.
- Amendments clearly define exactly what commercial uses and active uses are.
- Proposed Amendments define commercial uses as uses serving the public such as retail, restaurants, bars, entertainment, personal services, and offices.
- Active uses are defined as resident only serving amenities such as lounges, gyms, common rooms, and recreational spaces. This also includes entrances to individual dwelling units that incorporate features such as porches, stoops, landings, or foundation plantings within the adjacent pedestrian zone active area.
- Staff proposed Amendments which require a certain percental of commercial frontage along key rights-of-way within the City's Overlay Districts and properties west of I-95 zoned Suburban Mixed Use.
- The amount of required commercial frontage depends on the Overlay or Zoning District in which a project is located and the right-of-way which it abuts.
- For projects east of I-95, the commercial frontage is largely dictated by whether a project is located within an Overlay District.
- For projects west of I-95, the Overlay requirement is dictated by whether a project is zoned Suburban Mixed Use.
- The commercial frontage requirement is designed to compliment pedestrian zone requirements already established within the City's code for properties within the Overlay Districts.
- Staff developed a map to help illustrate the location of commercial frontage requirements and their associated percentage.
- It is important to note that for properties west of I-95, the commercial frontage requirement is only required of properties zoned Suburban Mixed Use, which is currently limited to developed areas along Congress Avenue between Old Boynton Road and Gateway Boulevard and the parcel located generally southwest of the intersection of Boynton Beach Boulevard and Knuth Road.
- Staff has also developed a diagram to help visualize the commercial frontage requirements.
- The first diagram shows the 50% commercial frontage requirement with the remainder of the frontage to be at the discretion of the property owner.
- The second diagram shows the 70% commercial frontage requirement and any frontage not set aside for commercial frontage must be designed to support active uses.

- Commercial frontages will also have a minimum depth of 40 feet and a minimum height of 13 feet, which is based upon Industry and Market Standards.

Chair Rosecrans opened Public Comments and limited discussion to three minutes.

Susan Oyer requested the Board provide examples of this modification.

Mr. Meyer explained that the Code requires any properties within the Overlay Districts have commercial and/or active uses fronting the first floor. It does not provide any minimums or standards, so they have seen a lot of designs skirting under the minimum, and this Code Amendment is to provide a set of design standards so they can have more effective commercial use thoroughfares to create more active pedestrian spaces along the pedestrian zone.

Ms. Oyer asked what 50% would look like.

Mr. Meyer did not have any specific examples, but he helped visualize what it would look like in concrete terms. When speaking to commercial frontage, they are speaking to uses that front the frontage, meaning the entrance; access is accessible from the street. An example would be like Hurricane Alley; it fronts Ocean Avenue and is accessible from Ocean Avenue. There are active uses within the active zone of the pedestrian zone requirement on Ocean Avenue. Other frontage in the 50% area would be up to the discretion of the property owner. Other frontage could be uses that are not necessarily active, but they are part of the building, and they must front the right-of-way in some capacity, so it could be a wall with windows; it does not contribute to any active or commercial frontage towards the street. It is limited to the main thoroughfares in the Map and Table but limited to streets that are not as focused as the main thoroughfares. The key is the 70% commercial frontage requirement, which sees the same kind of typical commercially fronted use like Hurricane Alley or another retail use that fronts the right-of-way, which would require 70% of the frontage, and then the remainder of that frontage. 70% is a minimum, and if they want to do 100% commercial, which would be within their ability to do so, but if only 70% was provided, the remainder would need to be filled with active frontage requirements. An example of that are uses that are not necessarily public, but they are active in the sense that they serve a Mixed-Use Development, like a gym, residential lobby, or an entrance to a residential on the second or third floors. If there are townhomes, there would be fronting to the entrances to those homes off the street to provide for stoops and some kind of interaction between the street and the façade.

Chair Rosecrans closed Public Comments.

Vice Chair Buoni questioned if Hurricane Alley is an example of using 100% of the frontage for a commercial purpose.

Mr. Meyer stated if Hurricane Alley is its own building on its own lot, which would be a 100% frontage.

Vice Chair Buoni commented that it would be acceptable if they only used half, but staff wants to make it at least 70%.

Mr. Meyer indicated in that location along Ocean Avenue, it would be the 70% commercial frontage requirement plus the remainder active. The minimum development standard would be 70% of the building being the commercial frontage and the remainder would have to be some sort of active use. There is an exception in the Code for public plazas, which would go towards that.

Mr. McQuire questioned if the objective of this proposed Amendment is critical foot traffic and retail commercial areas of the City, as they want to encourage landowners to have a more engaging first floor business.

Mr. Meyer replied that is correct.

Mr. Simon requested clarification on the Amendment and asked if they were going with 50% and 70% and if they are one over the other.

Mr. Meyer referenced the Table and showed a breakdown. The commercial requirements are being applied to the Overlay Districts. Within the Code language under each Overlay District, there will be a requirement for commercial frontage at those percentages for properties fronting those rights-of-ways.

Mr. Simon mentioned SE 4<sup>th</sup> Street, which is in the area south of 500 Ocean.

Mr. Meyer stated the property ends where the Downtown TOD District Overlay ends, which is just shy of Federal Highway.

Mr. Simon commented there is the thought of pushing commercial retail space against the road without providing a clear destination for parking areas. He thinks there needs to be more thought. This is one small piece they are trying to address without looking at the entire picture.

Mr. Sobel indicated there is a self-correcting factor; business owners will look at parking. Developers want to sell the property; they are businessmen, and they are going to make business decisions.

Mr. Simon disagreed. The only reason retail space is provided in the buildings is because it is required; there is no value to the use in those spaces.

Mr. Ramiccio believes one of the objectives staff is trying to bring to the Board's attention is what they have found, especially in Urban Redevelopment areas, which is professional office space, real estate offices, and things that do not generate the type of node of activity staff is looking for at the street level. By doing this, it will require the property owner to put the type of uses that will generate the type of node of activity on the street.

Chair Rosecrans mentioned parking problems and asked if they would be addressed later.

Mr. Simon thinks it needs to be considered when developing the verbiage.

**Motion** by Mr. Ramiccio, seconded by Vice Chair Buoni, to approve the Amendment as proposed by staff. In a voice vote, the **motion** passed unanimously. (7-0)

- 7C. Approve modifications (CDRV 22-006) to Part III. LAND DEVELOPMENT REGULATIONS amending Chapter 2 Land Development Process, Article II Planning and Zoning Division Services, Section 1.F to allow for an expiration of abandoned applications and Section 7.G to establish a process for Zoning Interpretations and; Chapter 3, Zoning, Article II. General Provisions Section 11 to create an exemption for City-owned telecommunication towers used for essential services and; Article III, Zoning Districts, and Overlay Zones, Section 2.B revising the parameters for permitted Administrative Adjustments; Article IV, Use Regulations, Section D, Footnote 23 to revise the regulations for industrial uses on arterial and collector roadways; Chapter 4. Site Development Standards, Article V. Minimum Off-Street Parking Requirements, Section 3.G to include a sustainable parking ratio for select industrial uses.

Jae Eun Kim, Principal Planner, provided a brief presentation regarding the current Code and proposed Text Amendments. The following highlights were noted:

- Allow for the expiration of abandoned applications.
- Create a process to request Land Development Regulations (Zoning) Interpretations.
- Allow for an exemption to the Land Development Regulations for emergency facilities and essential services.
- Adjust regulations for Industrial uses permitted on Congress Avenue.
- Adjust Sustainable Parking Reductions to include a reduction for Industrial uses.
- Revise the perimeter for permitted Administrative Adjustments.

Chair Rosecrans opened Public Comments:

Susan Oyer believes the time for expiration of abandoned applications should be shorter. There is never enough sustainable parking and there are not enough chargers. Her main concern is that there is not enough Industrial, and she thinks this adds more Industrial, which they desperately need, because it equals jobs and brings in money. She mentioned major versus minor regarding Site Plan Modifications.

Chair Rosecrans closed Public Comments.

Ms. Kim mentioned Site Plan Extensions and stated there is a Florida Statute that says, "Emergency Access". The Land Development Regulations also have provisions that allow 18-month extensions upon request prior to Site Plan expirations, which require active Building permits. This is two different issues, Site Plan Extensions versus abandoned applications.

Chair Rosecrans questioned how they came up with six months.

Ms. Radigan advised this is a separate issue from expiring Site Plans. This is specific to projects when designs are submitted and no other action is taken for six months, which is time to revise Plans.

Mr. McQuire requested bullet point #5 be clarified. He knows the Board previously discussed increasing sustainable recharging stations based on national statistics.

Ms. Radigan indicated that bullet point #5 is about meeting sustainable guidelines for Industrial uses.

Mr. McQuire asked if they currently have to install electric chargers in any of the spaces.

Ms. Radigan stated parking is being reduced to allow for more sustainable parking.

**Motion** by Mr. McQuire, seconded by Mr. Ramiccio, to approve Item 7C as written. In a voice vote, the **motion** passed unanimously. (7-0)

*(Mr. Sobel left the meeting at 9:00 p.m.)*

**7D. Meadows PUD Park Discussion and Recommendation to the Commission.**

Mr. Ramiccio distributed attachments to the Board and provided a summary of a community meetings he attended on September 17, 2022, organized by Pulte Homes, who requested the City donate a parcel of land between the Meadows and Nautica PUD's. Around 300 members of the community attended and voiced their concerns. After listening to the concerns, he heard that overall, when the Meadows was originally developed, the City required they donate five acres to be used for green space/recreation/a park. He repeatedly heard concerns from the residents that they were promised a park and never received one.

While conducting research, Mr. Ramiccio commented that he found a couple conclusions; one is in the Comprehensive Plan. The Comprehensive Land Use Plan contains the Future Land Use Element and the Recreation Element. In the Recreation Element, Policy 1.3.1, speaks to the compatibility and consistency with the said policy documents the City enforces. He referred to Item G, which specifically says the Recreation category shall include active and passive recreation facilities in parks that are both publicly and privately owned. It shall be the policy of the City that all land acquired is for public parks, excluding those in the Planned Zoning District, and that they shall be placed in the Recreation Land Use Zoning category within five years. This property was deeded to the City in 1995 and by the year 2000, the City was required to change zoning from Residential PUD to Recreation. To further support what residents are requesting, which is that they begin the process to ask the City Commission to recognize the Recreation Zoning that was originally approved and agreed by the homeowners and the City in their own policy.

Mr. Ramiccio presented three Exhibits. Exhibit A is a diagram of the PUD when it was originally granted to the City, and there is an outline that specifically states that this is Norwood's PUD Park Site, with a Map. Exhibit B is the legal description of the five-acre park site as granted to the City for the exclusive right of a park. Exhibit C is the codification field in the Clerk of Courts, so it becomes a legal binding document. In watching the last couple City Commission meetings, they put on future agenda items that this would be brought up, but they were doing legal research. The legal research has been done, and he thinks it is just a matter of the Board recommending that they recognize the Recreation Zoning that was originally granted to them. In the future, it seems that the Board should look at all PUD's because there might be other developments that also had this requirement to deed or reserve this property, and maybe it

was not codified. He recommended the Board recommend to the Commission that they codify the original Recreation Zoning when it was deeded to the property and to comply with the City's policy in the Comprehensive Plan to change Zoning to Recreation after receiving the property. He would like to make a motion to recommend to the City Commission that they begin the process of codifying the original Recreational Zoning that was afforded to the property when it was deeded to them with the Deed Restrictions and the City's policy in the Comprehensive Plan of requiring them to change Zoning to Recreation after they received the granted property

Chair Rosecrans opened Public Comments:

David Katz, resides in the Meadows, and, stated when he was on the Board, he would always ask that they budget the \$125,000 for the Meadows portion; there is a Nautica portion, which is divided by a tree line, and together, the properties equal about nine acres. Both properties are under the same Deed Restriction that was given when developed. He encouraged the Board to go along with Mr. Ramiccio's request and for staff to follow up, because this will be staff initiated as well as Commission initiated. He requested Chair Rosecrans follow up as Chair, and he asked Mr. Harper and Mr. McQuire what they bring to the Board as far as background.

Mr. Harper indicated he is a new resident in the City in the last three years and he graduated with a Bachelor's Degree in Urban Regional Planning.

Mr. McQuire stated he brings a wealth of experience in terms of business; he owns multiple businesses as well as an advertising agency in Orlando. In this City, he worked, developed, and did marketing materials for some of the largest PUD's in Palm Beach County.

Ms. Radigan advised staff is already looking into this. This does not necessarily need Board action if it is going to be resolved by the Commission; however, it does have to be notified and advertised. At the Commission meetings there are two options, one is to rezone parcels, and the other is to Deed Restrict parcels.

Chair Rosecrans questioned the timeline before this Board can see it and before it can move forward.

Ms. Radigan stated that staff is currently gathering information and then they will go back to the Commission to request a method to move forward.

Mr. Ramiccio indicated he will provide information on the Deed Restriction, which shows when it was granted to the City of Boynton Beach, to the Clerk. It was restricted and granted in the Clerk of the Court. There is not a lot of research to do other than to read the three documents. Zoning is currently PUD, so it is protected by law and by right because of the Deed Restriction. His concern is when someone looks at the Zoning Map and sees it zoned PUD and not Recreation, they get excited that there is a possibility to develop it and that is what brought forth the recommendation that the City donate the property for them to develop this project. Had the property been zoned Recreation, which is part of the policy adopted in 1995, and had they done the research, they would not have sent the developer to make a proposal to present to the community. He understands there is a bigger issue in looking at the other PUD's. He wants to make

a motion that this information be brought to the Commission and to staff, so it does not take long, and they can move it forward. They are going to initiate this here because it already came to the Commission and they heard comments from staff and the City Commission and it seemed like there was not a lot of confidence in understanding the Deed Restriction, the City's policy, the Land Use Regulations, and the Code; no one was handling the issue with clarity. As a Planning Board, this was brought to their attention, and to his attention as a Planning Board member living in the community, and he was asked to look at the basics of planning, which he did. Since this was not initiated by the Commission, he felt like it was the Board's job to start the process and make the recommendation to the Commission that they look at all Homeowner's Associations to see if there are others that may have this minor oversight. There is no fault of anyone, it is simply codifying and changing the Zoning to what it should be.

**Motion** made by Mr. Ramiccio, seconded by Vice Chair Buoni, to recommend that City staff review the Zoning for the PUD of Meadows and Nautica Park sites. In a voice vote, the **motion** passed unanimously. (7-0)

Ms. Radigan stated there are many players and there could be issues with the Land Use in general; it can be complex.

Mr. Simon questioned if staff is going through the process of researching every PUD within the City and not making any moves until research is complete and they rezone all of them at one time or if they are going to begin the process of codifying and rezone as research is completed for each PUD.

Ms. Radigan stated the conversation started specifically with Meadows Park, but as the project gets started, they will discuss different options.

## **8. Other**

Chair Rosecrans mentioned the holiday meeting and stated the dates to consider are December 7, 14, and 15, 2022. If they cannot commit, it can be done via email. He advised he is good on December 7 and 14, 2022.

Vice Chair Buoni stated he will not be able to attend.

Mr. Ramiccio stated he is only available on December 15, 2022.

Ms. Radigan will send out an email confirming the December 7, 2022 meeting.

## **9. Comments by Members – None.**

## **10. Adjournment**

Upon **Motion** duly made and seconded, the meeting at was adjourned at 9:22 p.m.

[Minutes prepared by C. Guifarro, Prototype, Inc.]



## CITY OF BOYNTON BEACH AGENDA ITEM REQUEST FORM

**PLANNING AND DEVELOPMENT MEETING DATE:** 11/29/2022

**REQUESTED ACTION BY PLANNING AND DEVELOPMENT BOARD:** Approval of Variance (ZNCV 23-002) of Part III, Chapter 4, Article II, Section 4.B.3.c – Urban Landscape Buffer (Type 2), to grant a variance of seven (7) feet from the required twelve (12) foot buffer, to allow for a five (5) foot wide landscape buffer, and the elimination of the requirement to provide a six (6) foot tall masonry wall.

**EXPLANATION OF REQUEST:** The applicant is requesting approval to provide a landscape buffer that varies from a minimum width of five (5) feet to a maximum width of eight (8) feet along the east property line in lieu of the required twelve (12) foot landscape buffer required by code, and the elimination of the requirement to provide a six (6) foot tall masonry wall. Within this reduced buffer, the applicant proposes a number of silver buttonwood canopy trees and sabal palm trees in excess of the code requirement with frog fruit groundcover. The first floor of the parking garage's east façade is pulled back approximately 6' 6" to provide landscaping consisting of a continuous red tip cocoplum shrub with frog fruit groundcover underneath the 2<sup>nd</sup> floor building overhang. The upper floors of the parking garage are proposed to extend over this landscaped area and will be supported by columns placed within the required twelve (12) foot wide landscape buffer. Staff has determined that there are possible design solutions that would eliminate the need for the requested relief and recommends DENIAL of the request.

**HOW WILL THIS AFFECT CITY PROGRAMS OR SERVICES?** N/A

**FISCAL IMPACT:** Non-budgeted N/A

**ALTERNATIVES:** Approval of Variance (ZNCV 23-002) subject to the recommended Conditions of Approval - Exhibit D.

**STRATEGIC PLAN:**

**STRATEGIC PLAN APPLICATION:** N/A

**CLIMATE ACTION APPLICATION:** N/A

**Is this a grant?**

**Grant Amount:**



**ATTACHMENTS:**

Type	Description
▣ Staff Report	Staff Report
▣ Exhibit	Exhibit A - Location Map
▣ Exhibit	Exhibit B - Justification Statement
▣ Exhibit	Exhibit C - Project Plans
▣ Exhibit	Exhibit D - Conditions of Approval

**DEVELOPMENT DEPARTMENT  
PLANNING AND ZONING DIVISION  
MEMORANDUM NO. PZ 23-002**

**STAFF REPORT**

**To:** Chair and Members, Planning and Development Board

**Thru:** Amanda B. Radigan, AICP  
Planning and Zoning Director

**From:** Craig Pinder, Planner II

**Date:** November 29, 2022

**Project:** The Pierce – 101 N Federal Highway Variance (ZNCV 23-002)

**Requests:** Relief from Part III, Chapter 4, Article II, Section 4.B.3.c – Urban Landscape Buffer (Type 2), to grant a variance of seven (7) feet from the required twelve (12) foot buffer, to allow for a five (5) foot wide landscape buffer, and the elimination of the requirement to provide a six (6) foot tall masonry wall.

**BACKGROUND**

The subject property is an assemblage of parcels totaling approximately 3.01 acres generally located south of E Boynton Beach Boulevard, north of E Ocean Avenue, west of N Federal Highway, and east of NE 4<sup>th</sup> Street within the Downtown Transit Oriented Development District and Urban Commercial District Overlay. Proposed on this assemblage of parcels is “The Pierce”, a planned mixed-use development currently under review for several concurrent applications, including a New Master Plan, New Site Plan, Rezoning, and three (3) Abandonments. The development proposal includes 301 dwelling units, approximately 17,556 square feet of commercial space (restaurants, retail, and offices), private and public open spaces including public plazas, and an eight (8) floor freestanding parking garage approximately 74’ 6” in height (Exhibit C – Project Plans – Elevations – Parking Garage).

Pursuant to Part III, Chapter 4, Article II, Section 4.3.c, the project is required to provide an Urban Landscape Buffer (Type 2) along the east side of the freestanding parking garage, which includes a minimum twelve (12) foot wide landscape buffer, comprised of trees, hedges, shrubs, and a six (6) foot tall masonry wall. The landscape buffer is intended to provide adequate buffering between the proposed freestanding parking garage and 209 N Federal Highway, known as The Boardwalk Italian Ice & Creamery, a one-story building approximately 8’-6” in height.

**PROPOSAL**

The applicant proposes to provide a landscape buffer that varies from a minimum width of five (5) feet to a maximum width of eight (8) feet along the east property line in lieu of the required twelve

(12) foot landscape buffer required by code. Within this reduced buffer, the applicant proposes a number of silver buttonwood canopy trees and sabal palm trees in excess of the code requirement with frog fruit groundcover. The first floor of the parking garage's east façade is pulled back approximately 6' 6" to provide landscaping consisting of a continuous red tip cocoplum shrub with frog fruit groundcover underneath the 2<sup>nd</sup> floor building overhang. The upper floors of the parking garage are proposed to extend over this landscaped area and will be supported by columns placed within the required twelve (12) foot wide landscape buffer.

### **ANALYSIS**

The City Commission has the authority and duty to authorize upon appeal such variance from the terms of a city ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the city ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of an ordinance, the applicant must demonstrate that the request meets the following criteria (a-g). The applicant's justification and response to these criteria is attached (see Exhibit B - Justification Statement).

- a. *That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.*

There are no existing special conditions or circumstances which are peculiar to the land or structure, as the proposed development will be newly-constructed upon an assemblage of parcels that share similar characteristics and challenges of comparable parcels located elsewhere within the downtown. The proposed parking garage has been designed to meet the minimum dimensional standards for parking structures, however, the garage is proposed to encroach up to seven (7) feet into the required twelve (12) foot wide landscape buffer.

The applicant states that locating the parking garage on the assemblage of parcels between E Ocean Avenue and NE 1<sup>st</sup> Avenue with the mixed-use building would eliminate and/or negatively impact the commercial uses and outdoor public spaces proposed along the Ocean Avenue and NE 4<sup>th</sup> Street corridors. Additionally, pedestrian circulation, courtyards, and private outdoor amenities for the future residents would also be impacted. The proposed central location assists in maintaining pedestrian connectivity between the proposed restaurant to the north end of the site and the proposed commercial uses to the south end of the site, promotes activation of E Ocean Avenue and NE 4<sup>th</sup> Street, and assists with effectively concealing the loading dock and back of house functions for the mixed-use building.

- b. *That the special conditions and circumstances do not result from the actions of the applicant.*

The request for a reduction in the width of the required landscape buffer from twelve (12) feet to seven (7) feet and the elimination of the requirement to provide a six (6) foot masonry wall is the direct result of the proposed footprint of the parking garage. Staff notes that there are possible design solutions that would eliminate the need for the requested relief. However, as noted in the response to criteria 'a' above, the applicant reduced the footprint of the parking garage to be designed as small as possible while maintaining the necessary

dimensional standards required for parking structures, including minimum drive aisle widths and parking stall dimensions, and provides the minimum number of parking spaces required for the proposed site plan. In addition, the applicant proposes to pull back the exterior wall approximately six and one-half feet (6.5') on the ground floor to provide landscaping underneath the building overhang. The applicant also states that additional trees would be provided above the code requirement in an effort to minimize the impact of the reduced landscape buffer.

- c. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.*

As described in response to criteria “a”, the parking garage is proposed on an assemblage of parcels that share similar challenges and characteristics of comparable parcels located elsewhere within the downtown. Granting the variance requested can be interpreted as granting a special privilege. The applicant states that the proposed location of the parking garage will allow for a mix of commercial and residential uses to front the main thoroughfares (N Federal Highway, E Ocean Avenue, and NE 4<sup>th</sup> Street), maximize pedestrian connectivity, optimize open space amenities (including public plazas and private residential amenities), and create an interconnected development that ties the residential building, parking garage, and the commercial spaces together. In addition, as mentioned above, the parking garage is designed to be as small as possible while meeting all dimensional standards and minimum parking requirements.

- d. *That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.*

Literal interpretation of the provisions of the ordinance would not deprive the applicant of rights or cause undue hardship. However, the applicant states that the proposed size and location of the parking garage was determined to be the most suitable area for the development to activate the main thoroughfares with commercial spaces of sufficient size to attract desirable tenants and to provide dwelling units to support the commercial uses. Per the applicant's justification, the proposed project would not be developable without the approval of this variance as it would not be possible to fit the proposed garage on the site.

- e. *That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

As previously mentioned, the applicant has requested a variance of seven (7) feet from the required twelve (12) foot landscape buffer and elimination of the required six (6) foot tall masonry wall, which is the minimum required to construct the parking garage. Per the applicant's proposal, the provided landscape buffer will be fully landscaped with a combination of trees, shrubs, and groundcover identified earlier in this report. As noted in the applicant's justification, the inclusion of the six (6) foot tall masonry wall would result in concealed areas that can create public safety concerns on the east side of the parking garage. As such, providing relief for the wall is necessary to maintain a safe environment.

- f. *That the granting of the variance will be in harmony with the general intent and purpose of this chapter [ordinance] and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Granting the variance would still allow the intent of the ordinance to be maintained. Landscape buffers are generally intended to reduce the visual impact of the difference in development intensity and building height, provide distance between neighboring properties to mitigate noise and odors, increase the durability of landscape material in order to withstand environmental hazards, and improve the aesthetic appearance of developments through landscaping that helps to enhance the natural and built environment. As noted above, the applicant proposes to provide additional trees to exceed the minimum code requirement, and will provide groundcover in addition to the row of continuous shrubs required by code.

### **CONCLUSIONS / RECOMMENDATION**

Staff recommends DENIAL of this variance request, based on the following justification:

1. The parking garage and development will be newly constructed, which provides the applicant the ability to reduce the overall size and intensity of the development where necessary which in turn reduces the number of required parking spaces and overall size of the parking garage, which would allow the provision for an adequate landscape buffer. Staff notes that there are possible design solutions that would eliminate the need for the requested relief.
2. That the special conditions and circumstances as described in this report are not peculiar to the land, structure, or building involved, and are applicable to other lands, structures or buildings in the same zoning district.
3. That granting the variance can confer a special privilege that would be denied to other lands, buildings, or structures located within the same zoning district.

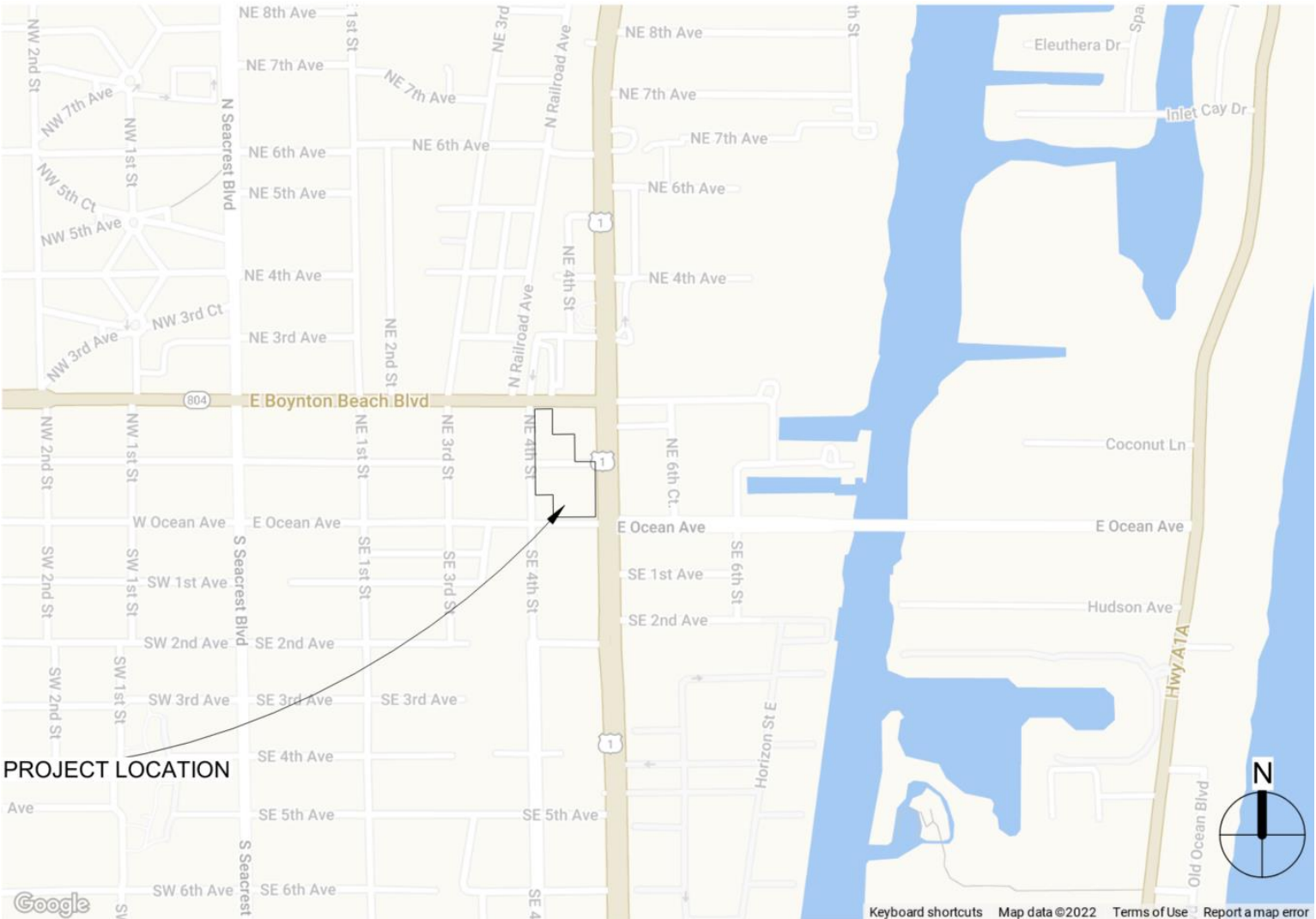
Should the Planning & Development Board or City Commission choose to approve the project, staff recommends the following condition(s) of approval:

1. The east façade of the parking garage should incorporate a green wall treatment to further reduce the visual impact of the proposed building.
2. Provide enhanced pedestrian connectivity through the garage to ensure the safe flow of pedestrians throughout the site.

Any additional conditions of approval added by the Planning & Development Board or the City Commission will be placed in Exhibit “D” – Conditions of Approval.

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## EXHIBIT “A” – LOCATION MAP



## Project Narrative- The Pierce, Variance

This application for Variance is submitted on behalf of BB QOZ, LLC (the “Applicant”) for the project known as The Pierce.

The Pierce is a planned 301-unit apartment building in East Boynton Beach with state-of-the-art amenities, secure parking, interactive public spaces, restaurant, retail and office use, and public parking.

Pursuant to Section 2.D of the Boynton Beach, FL Code of Ordinances, Part III Land Development Regulations (the “Land Development Regulations”) Chapter 2, Article II, this application would seek approval to allow for a reduction in the landscape buffer on the east side of the parking garage that would otherwise be required by Section 4 of Part II, Chapter 4, Article II of the Land Development Regulations.

This location requires an Urban Landscape Buffer (Type 2), which would require a minimum buffer width of twelve (12) feet. In addition, it would require a six (6) foot masonry buffer wall. The variance request is for a reduction in buffer and elimination of the masonry wall. The proposed site plan, enclosed with this submittal, would provide a minimum of five (5) feet of landscape buffer, with some areas providing up to eight (8) feet. Additional landscaping will be provided adjacent to the landscape buffer under the building overhang. When added together, the landscape buffer and adjacent additional landscaping under the overhang will add up to a minimum of twelve (12) feet with some areas adding up to almost fifteen (15) feet.

The five (5) to eight (8) feet of buffer, in conjunction with the additional landscaping under the building overhang, will sufficiently buffer the east façade of the garage to meet the intent of the code. The additional landscaping utilizes the same requirements of the Urban Landscape Buffer (Type 2). The overhang is at thirteen (13) feet above grade, which will provide for sufficient sunlight for the landscaping. Although not counted towards the buffer calculation, this additional landscaping will contribute to the buffering as intended by the code.

The proposed landscape buffer composition reflects an increase above the landscape zoning requirements with four (4) foot red tip cocoplum hedges, silver buttonwood trees and sabal palm trees alternating that are spaced at smaller intervals than code (7’-6” as compared to 20’ per code), and approximately eight (8) feet of frogfruit groundcover.

With a site of this configuration, the design team was challenged to find a suitable location for the garage that would reduce to the maximum extent possible the impact on pedestrian activity and access to the project site. With a “four-sided” site of pedestrian activation, the design team reviewed many configuration options, but the proposed location was found to be the only suitable location. This is the only location where the garage will not negatively impact pedestrian connectivity and where loading and back of house activities are best removed from the pedestrian realm. It is the only location that will allow for garage entry and exit outside of the active areas that pedestrians will frequent, namely the Ocean Avenue and 4<sup>th</sup> Street retail areas.

Centering the garage in the middle of the site would all but eliminate the public plaza spaces and public seating areas for restaurants. In addition to maximizing these areas, the proposed location also avoids the appearance of a “superblock” monolithic structure which would feel out of scale with the context. With its proposed placement and configuration, the multifamily building is allowed to have courtyard areas for public and private enjoyment as well as active retail spaces at the most desirable locations on the site (which are likely to succeed and not become vacant unrentable space). The garage also has a proposed



connection bridge on every floor to the multi-family building. This creates an inviting drop off entry experience for residents and the public and allows for almost complete concealment of the necessary refuse areas and loading docks. Additionally, the garage location and the placement of elevators allows for easy public access to the proposed Hurricane Alley restaurant along Boynton Beach Boulevard.

The garage size is the smallest it can be to serve the development in terms of size, parking space count, and height. When the design team explored other options, they would have not only created very tall monolithic streetwalls along 4th Street and Ocean Avenue, but also would have eliminated the inviting drop off area as currently shown on the plans.

Under the Land Development Regulations, a Variance is intended to provide an efficient relief process to allow for deviations from certain requirements and standards of Chapter 3 and Chapter 4 of the Land Development Regulations. The intent is to allow for a departure from the Code upon demonstrations that the subject request satisfactorily addresses the review criteria contained herein, and without the necessity of amending the regulation or rezoning the property to accommodate the requested relief. The City Commission has the authority and duty to authorize, upon appeal, such a variance from the terms of a city ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary and undue hardship.

#### Applicability:

Applicant requests a deviation from a quantifiable standard, measure or regulation. In addition, there is no other relief process available and no nonconforming use of neighboring lands, structures, or buildings in other zoning districts is offered as consideration for grounds for the authorization of the variance. Accordingly, the variance process shall be available to Applicant.

#### Review Criteria

The application meets the review criteria specified in Section 4 of Chapter 2, Article II as follows:

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same zoning district. Given the configuration of the site as well as the “four-sided” pedestrian activation, the proposed location for the garage is the only suitable location that would avoid negative impacts on pedestrian activity and access. The central location of the garage within the project helps evenly disburse people to the various uses within the project. Without the parking garage in this location, the site would have pedestrian connectivity issues and the development would struggle to activate Ocean Avenue, Federal Highway, and Boynton Beach Boulevard.

In addition, the specifics of the land are such that the proposed location is necessary to provide for the proposed public and private courtyard areas as well as to maximize retail uses in the most desirable locations. It is also necessary to allow for the proposed connection bridge on every floor of the garage to the multi-family building, which both contributes to an inviting drop off entry experience and allows for maximum concealment of the refuse and loading dock areas.

The garage was designed to be as small as possible, but the conditions and circumstances are such that the variance is required. It is the only option available for the site that promotes pedestrian activation, retail

activity, courtyard areas, an inviting drop off area, and easy public access to the proposed Hurricane Alley restaurant along Boynton Beach Boulevard.

b. Special conditions and circumstances do not result from the actions of Applicant. As described above, the conditions and circumstances of the site are such that the variance is necessary to locate the garage in the proposed location, which is the only possible location to provide the desired pedestrian circulation, courtyard areas, retail uses, and connectivity. The feasibility of the project depends upon incorporating the multi-family building, commercial space, and a garage with sufficient parking capacity into the site. Attracting the best possible tenants and generating the revenue needed to support the project require locating the commercial uses on the main thoroughfares, which then requires the parking garage to be in this location.

The variance is necessary to avoid hardship to the Applicant due to conditions of the site beyond Applicant's control. In addition to the required location of the garage as described above, providing the masonry wall as specified in the code would have the effect at this location of creating concealed areas that would create public safety concerns. With the landscaping, although the buffer itself would be under the code minimum through the grant of a variance, additional landscaping will be provided under the building overhang and additional trees will be provided as well. Although the variance is necessary, Applicant has made every effort to minimize the impact.

c. Granting the variance will not confer on Applicant any special privilege that is denied by this section to other lands, structures or buildings in the same zoning district. As described above, this is the only location possible for the garage given the site considerations. The project meets code as to other requirements and provides sufficient open space as an overall development. The location of the garage is necessary to promote commercial uses and maximize pedestrian connectivity. There will be a striped walkway within the garage to the main entrance of the multi-family development connecting sidewalks to Federal Highway. Additionally, a public elevator will be located in the northwest corner closest to Hurricane Alley and the 4<sup>th</sup> Street retail uses. The overall impact of the variance will be to promote the type of development that is contemplated for the zoning district. The garage location, which requires this variance, will allow for a mix of commercial and residential uses, an optimal pedestrian environment, and well-located courtyard spaces, in tune with the intent of the zoning district. It will create an interconnected development that ties the residential building, the parking garage, and the commercial spaces together.

d. Literal interpretations of the provisions of the ordinance would deprive Applicant of rights commonly enjoyed by other properties in the zoning district under the terms of the ordinance and would work unnecessary and undue hardship on Applicant. Applicant could not develop the proposed project without this variance as it would not be possible to fit the proposed garage on the site without this variance.

e. The variance granted is the minimum variance that will make possible reasonable use of the land, structure or building. The variance is required for the placement of the garage in the only location that will allow for the residential and commercial uses to be located on the main thoroughfares. The drive lanes and parking space widths are the smallest allowed by code; accordingly, the garage cannot be reduced in size while still providing the minimum parking necessary to support the development. In some areas, the reduction in buffer is only four (4) feet, and this is not including the additional landscaping to be provided adjacent to the landscape buffer. The reduction from the code minimum of twelve (12) feet is minimized as much as possible. Wherever possible, up to eight (8) feet of landscaping is provided, plus the non-buffer landscaping under the overhang. At this location, a masonry wall would result in

concealed areas that create public safety concerns, so that aspect of the variance related to the wall requirement is the minimum required as well.

No other location for the garage is possible if the pedestrian connectivity and promotion of optimum retail locations are to be maintained. Given the specifics of the site, this is the only suitable location for the garage, and the variance is the minimum that would make the development possible.

f. Granting of the variance will be in harmony with the general intent and purpose of this chapter and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. The location of the garage will allow for better pedestrian connectivity and a greater activation of the thoroughfares. The building is pulled back at the ground floor on the east façade. This area underneath the second floor of the building will have in-ground landscaping in addition to the landscaping that is part of the measured landscape buffer. The project team feels that this solution endeavors to meet the design intent of the Urban Landscape Buffer (Type 2) code requirement. The project will meet the intent of the code and contribute to the neighborhood and the City of Boynton Beach.



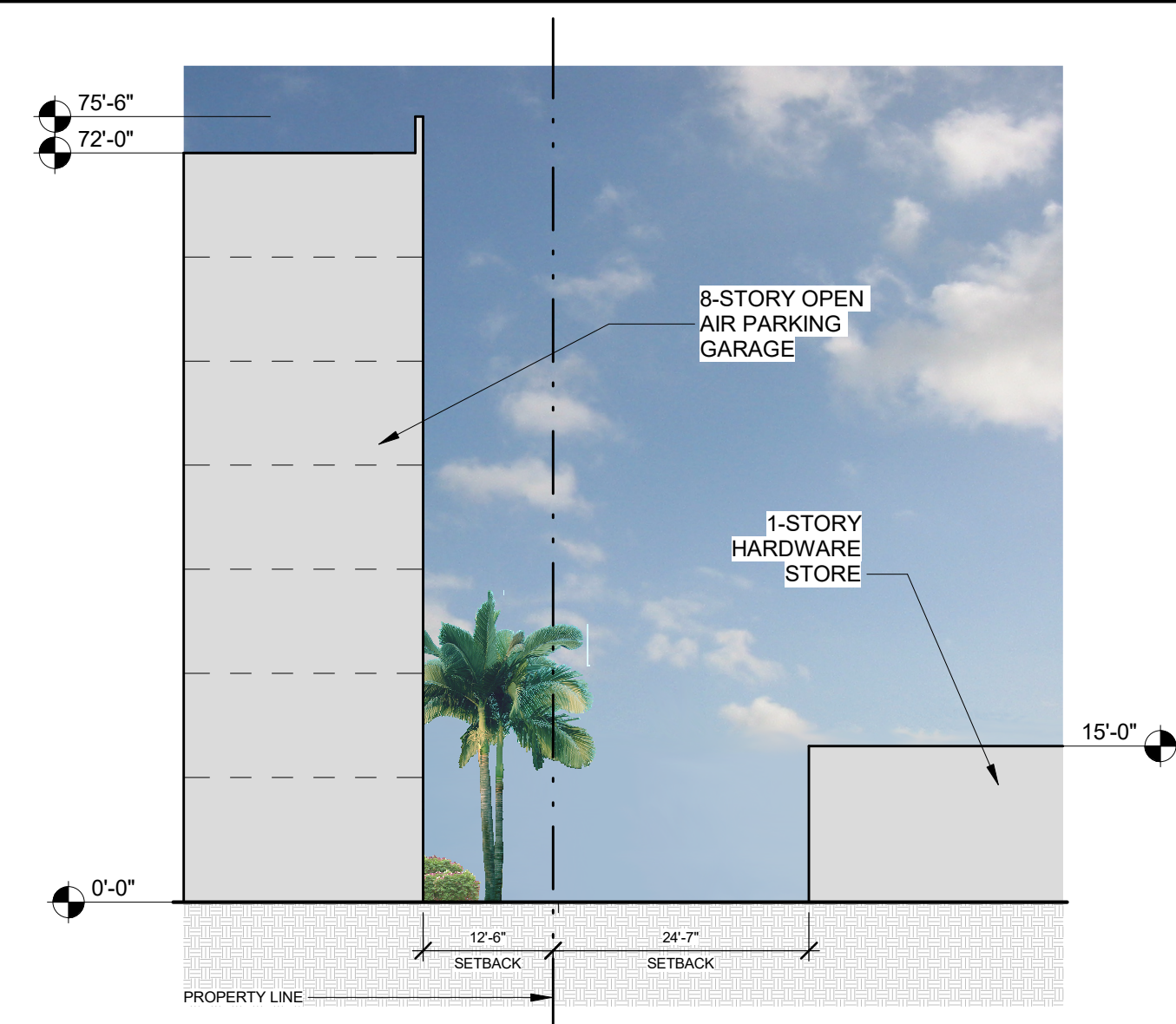
EXHIBIT C - PROJECT PLANS



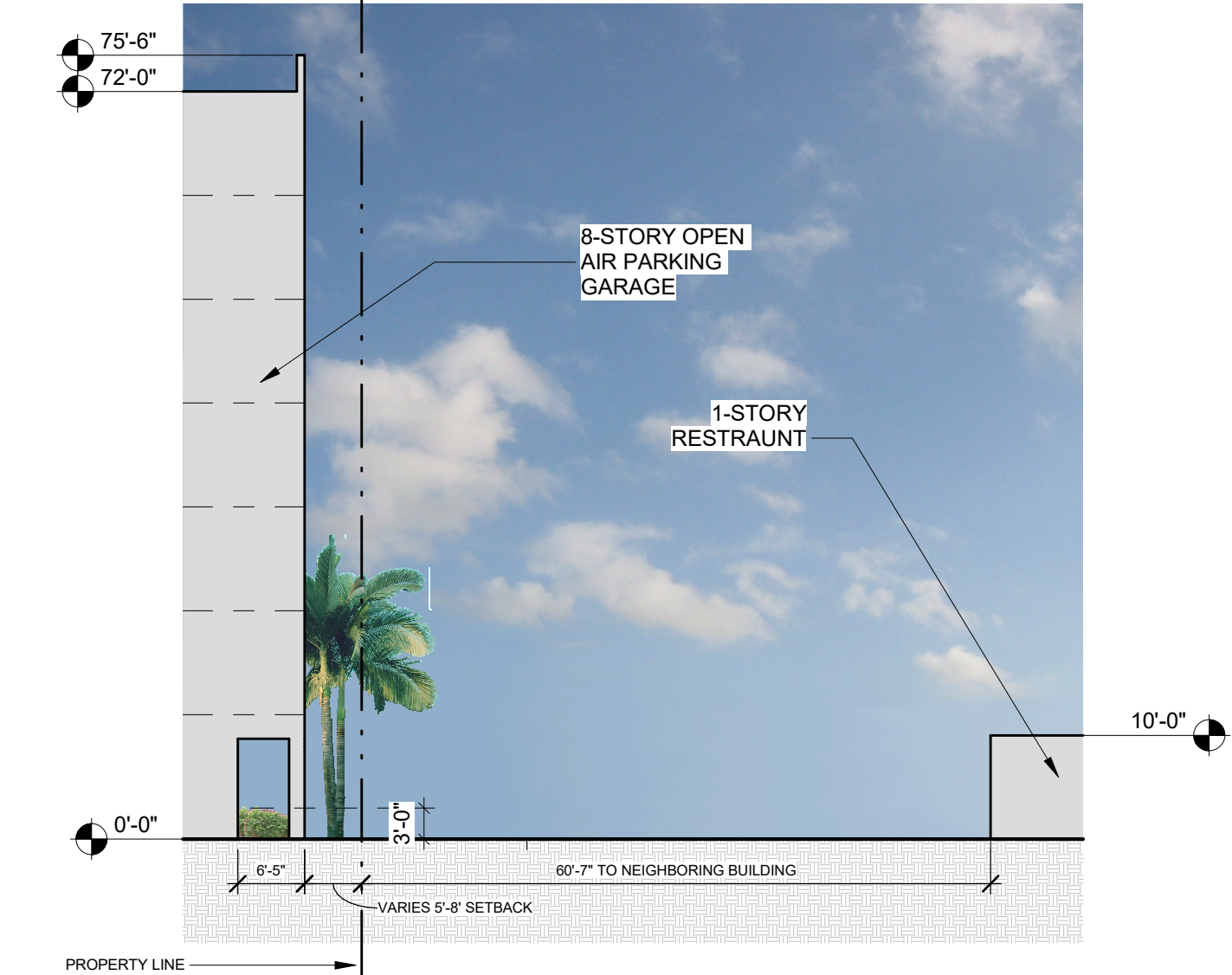
2 BUILDING ELEVATION - PARKING GARAGE - EAST - PRESENTATION  
3/32" = 1'-0"



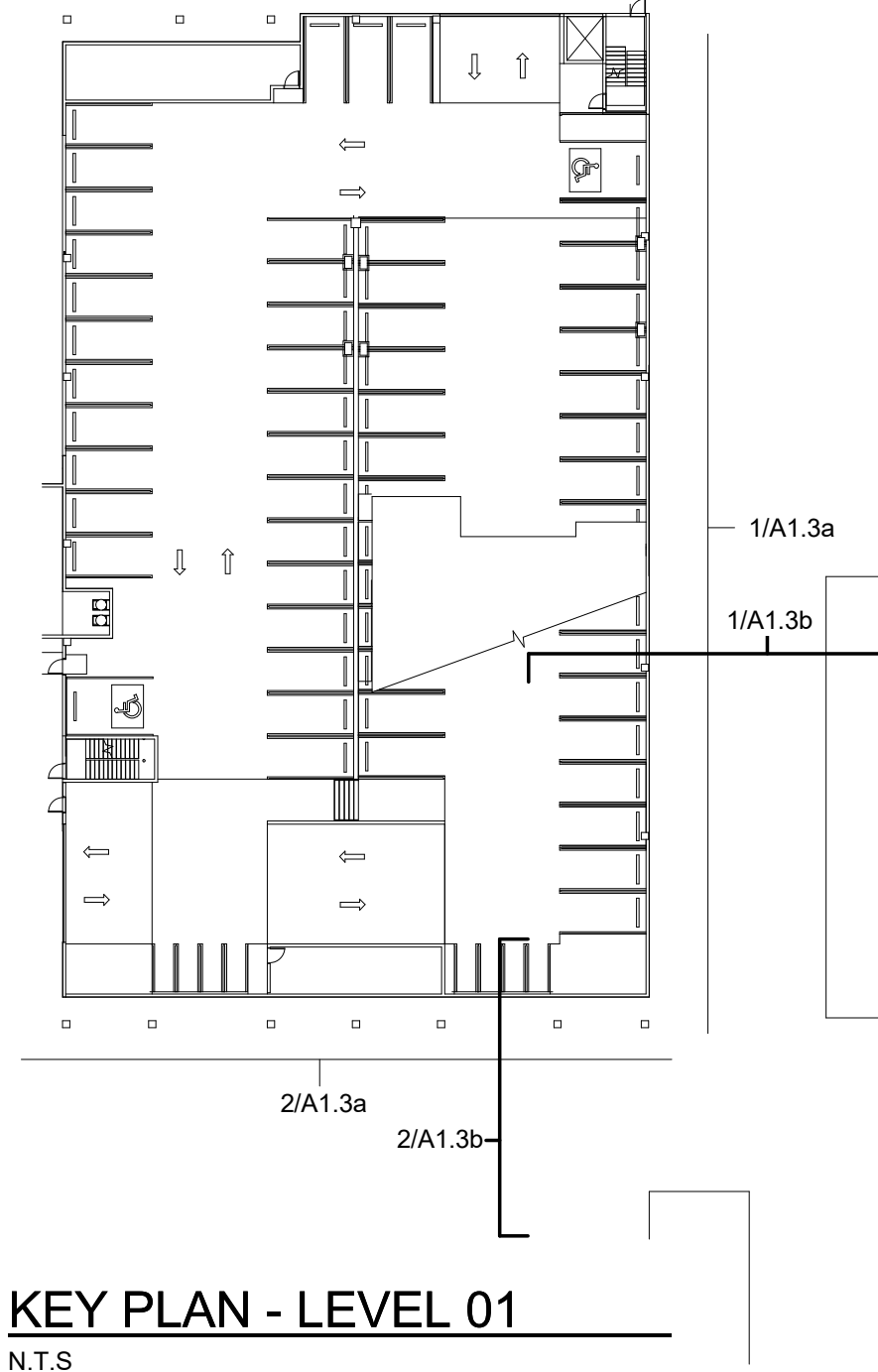
1 BUILDING ELEVATION - PARKING GARAGE - NORTH - PRESENTATION  
3/32" = 1'-0"



4 PARKING GARAGE - NORTH  
1/16" = 1'-0"



3 PARKING GARAGE - EAST  
1/16" = 1'-0"



Revisions

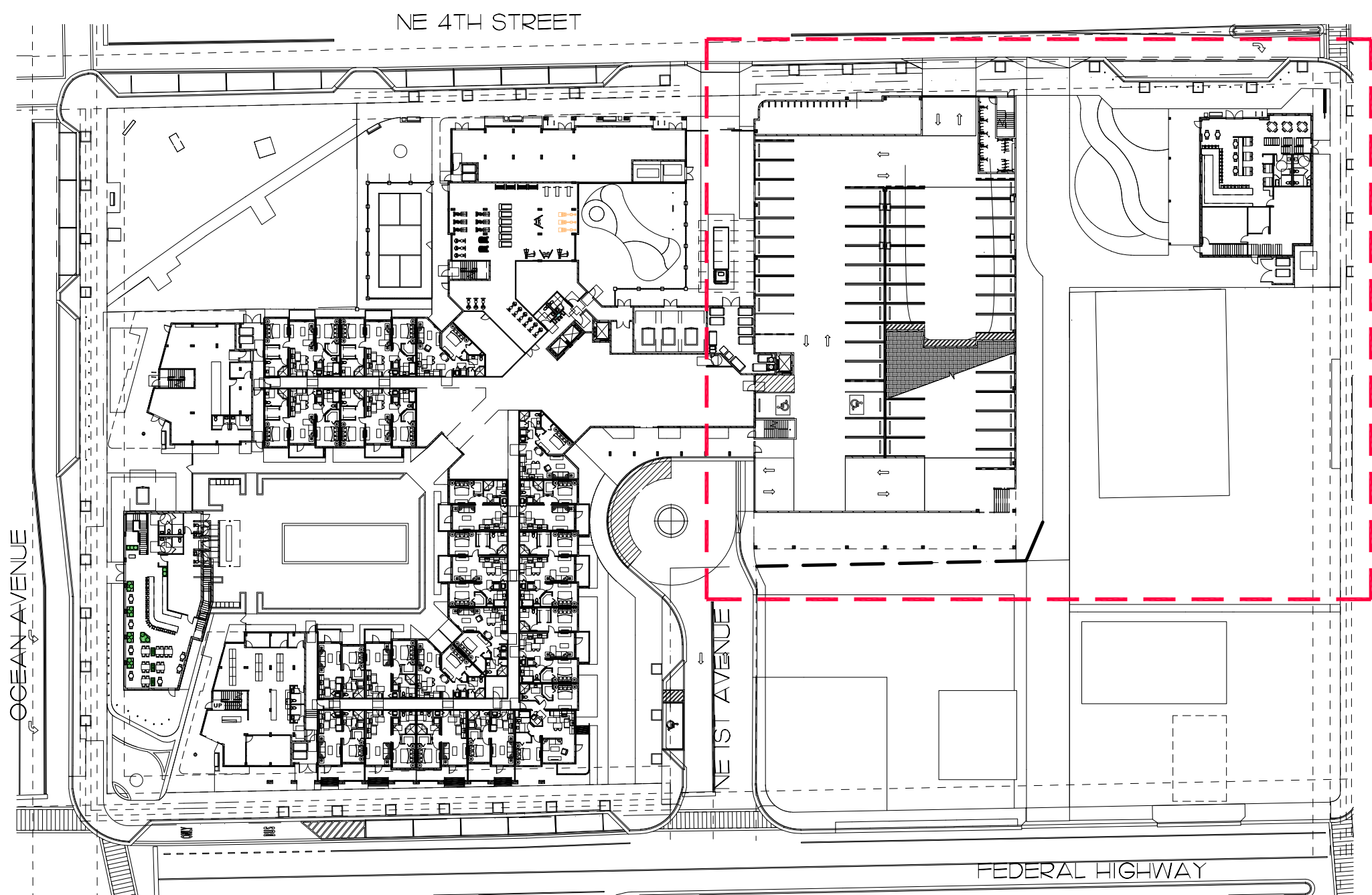
PRE-APPLICATION  
CITY  
COORDINATION  
MEETING  
THE PIERCE

101 N FEDERAL HWY  
BOYNTON BEACH FL, 33435  
Date Issued: 11/14/2022  
RINKA project #: 220627  
Sheet Title

ELEVATIONS -  
PARKING GARAGE

Sheet # A1.3a

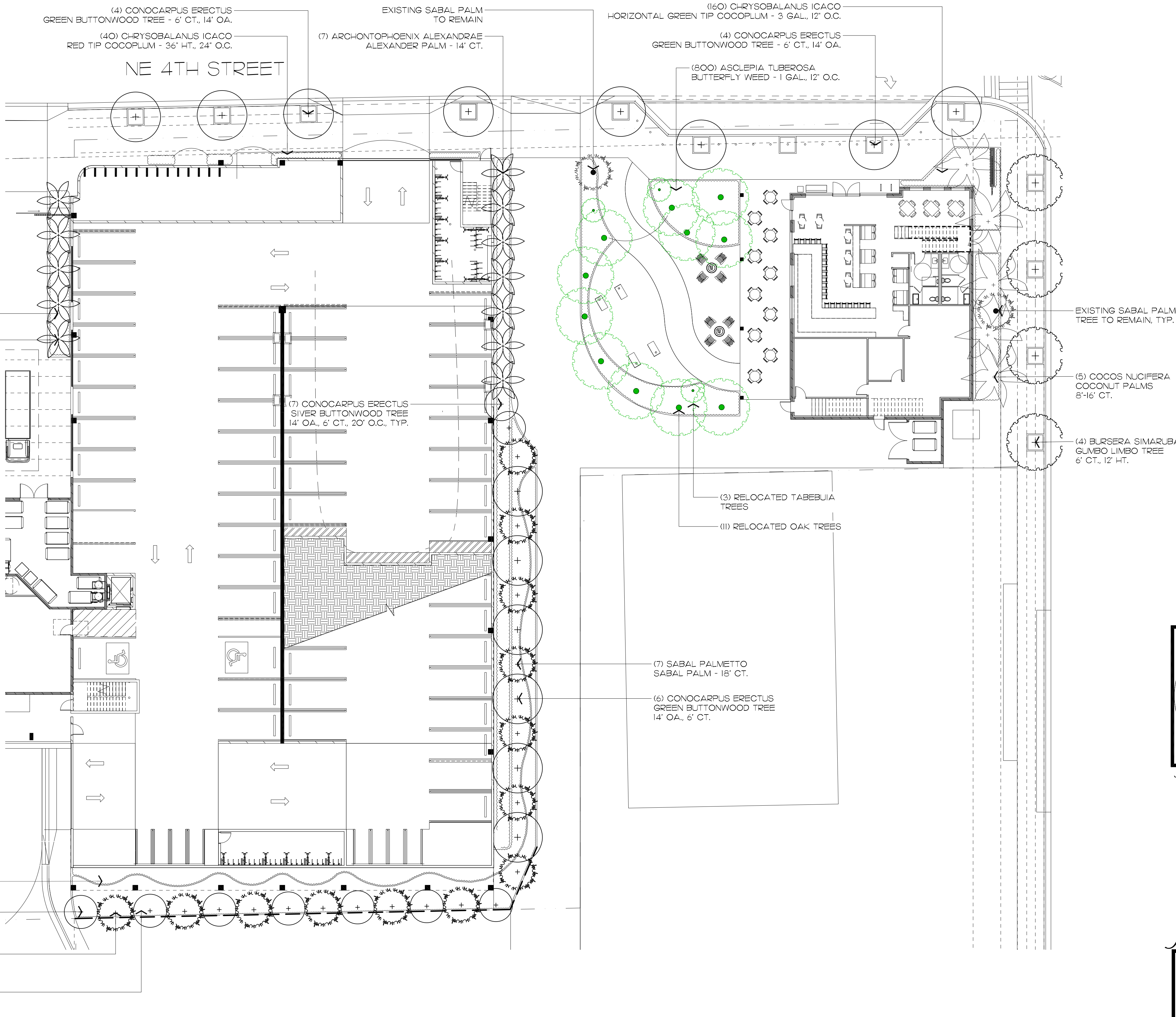




# Site Plan / Location Map

SCALE: 1" = 60'

- (40) CHRYSOBALANUS ICACO  
RED TIP COCOPLUM - 36' HT., 24" O.C.
- (5) ARCHONTOPHOENIX ALEXANDRAE  
ALEXANDER PALM - 14' CT.



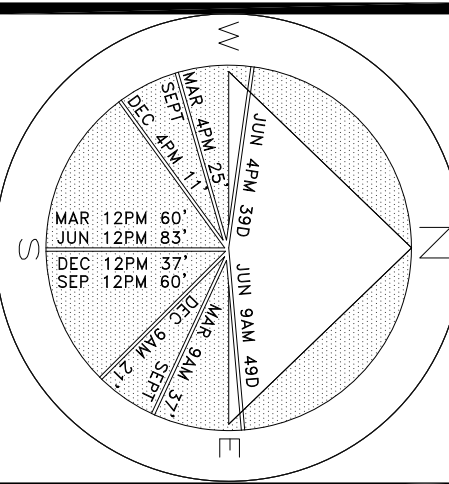
ENVIRONMENT  
DESIGN  
GROUP

139 North County Road 5820-B Palm Beach, FL 33480  
Phone: 561.832.4600 Mobile: 561.313.4424

Landscape Architecture  
Land Planning  
Landscape Management

Dustin M. Mizell, M.L.A. R.L.A. #6666784  
Dustin@environmentdesigngroup.com

# The Pierce Boynton Beach F L O R I D A



JOB NUMBER: # 22192.00 LA  
DRAWN BY: Jean Twomey  
DATE: 11.15.2022

2022

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2022

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SUNSHINE STATE ONE CALL  
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# Northwest Corner - Landscape Plan

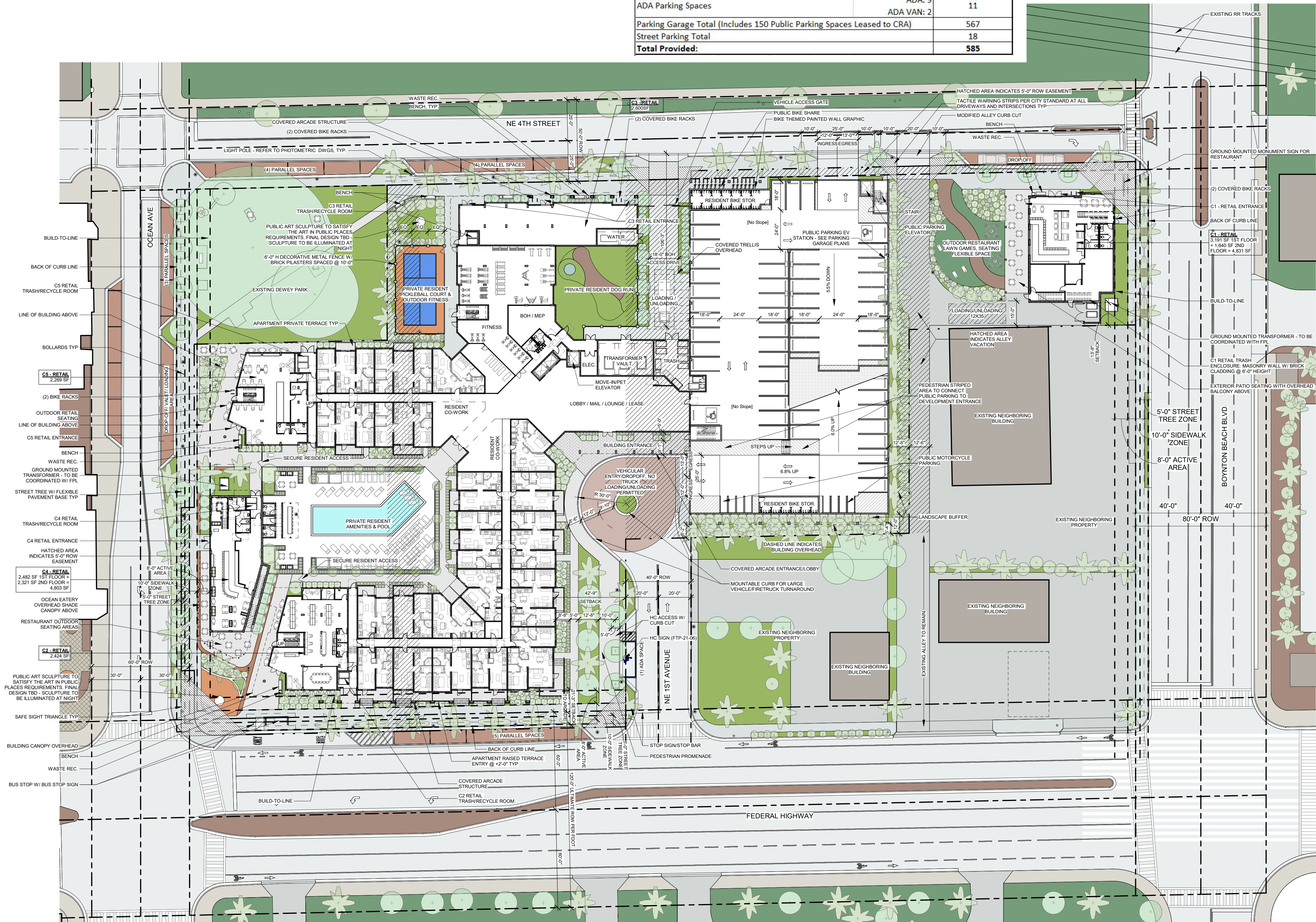
SCALE IN FEET 0' 16' 32' 48'

SHEET L2.2





PARKING REQUIRED			
Type of Use	Stalls	Quantity	Required # of Parking Spaces
<b>Multifamily Workforce</b>			
Jr 1 Bedroom/1 Bathroom	1.33	75	100
1 Bedroom/1 Bathroom	1.33	127	169
2 Bedroom/2 Bathroom	1.66	85	142
3 Bedroom/2 Bathroom	1.66	14	24
Guest	0.15	301	46
Subtotal:			481
Retail/Commercial (17,096 SF)	1.00	250 SF	68
Total Required:			549
Total ADA Required of Total (2% of total parking):			11
PARKING PROVIDED			
Standard Parking Spaces (9'-0" X 18'-0")			556
ADA Parking Spaces			11
ADA: 9			
ADA VAN: 2			
Parking Garage Total (Includes 150 Public Parking Spaces Leased to CRA)			567
Street Parking Total			18
Total Provided:			585



1 ARCHITECTURAL SITE PLAN  
1/32" = 1'-0"

Revisions

PRE-APPLICATION  
CITY  
COORDINATION  
MEETING  
THE PIERCE

101 N FEDERAL HWY  
BOYNTON BEACH FL, 33435  
Date Issued: 11/14/2022  
RINKA project #: 220627  
Sheet Title

ARCHITECTURAL  
SITE PLAN & SITE  
DATA

Sheet #

A1.0



△ Revisions

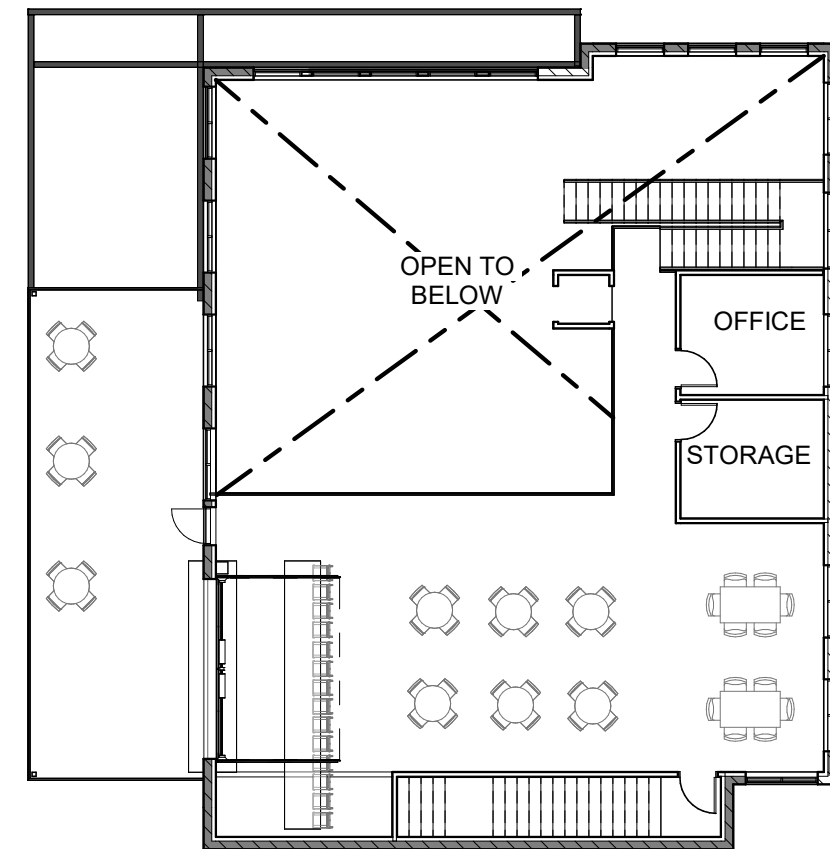
PRE-APPLICATION  
CITY  
COORDINATION  
MEETING  
THE PIERCE

101 N FEDERAL HWY  
BOYNTON BEACH FL, 33435  
Date Issued: 11/14/2022  
RINKA project #: 220627  
Sheet Title

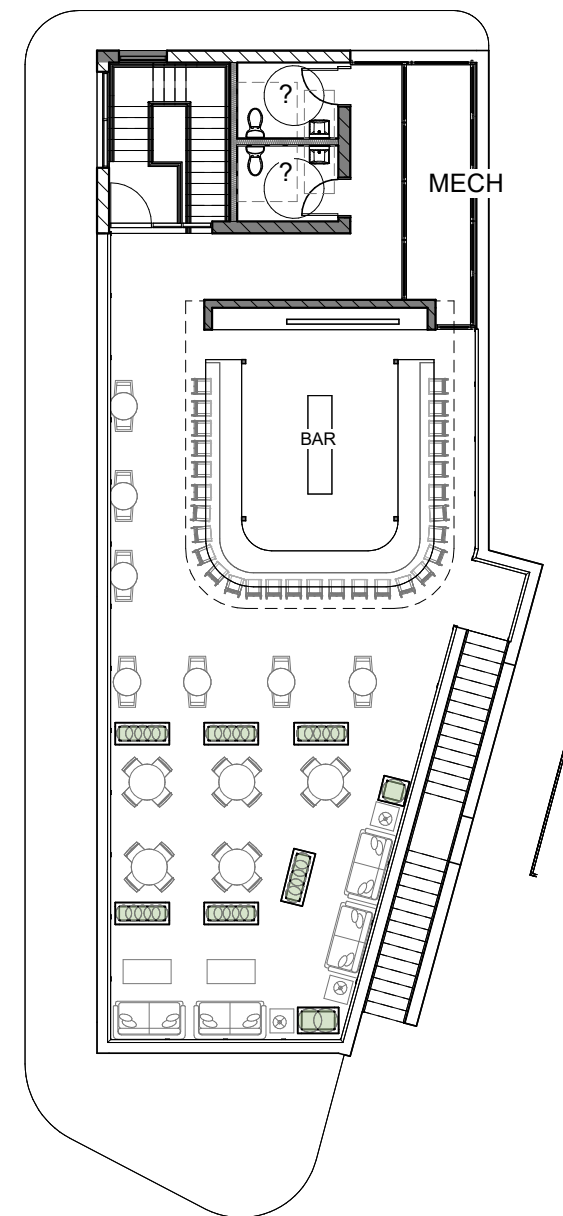
2ND - 7TH FLOOR  
PLAN

Sheet #

A1.4

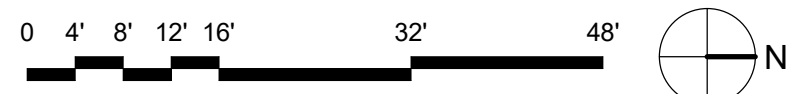
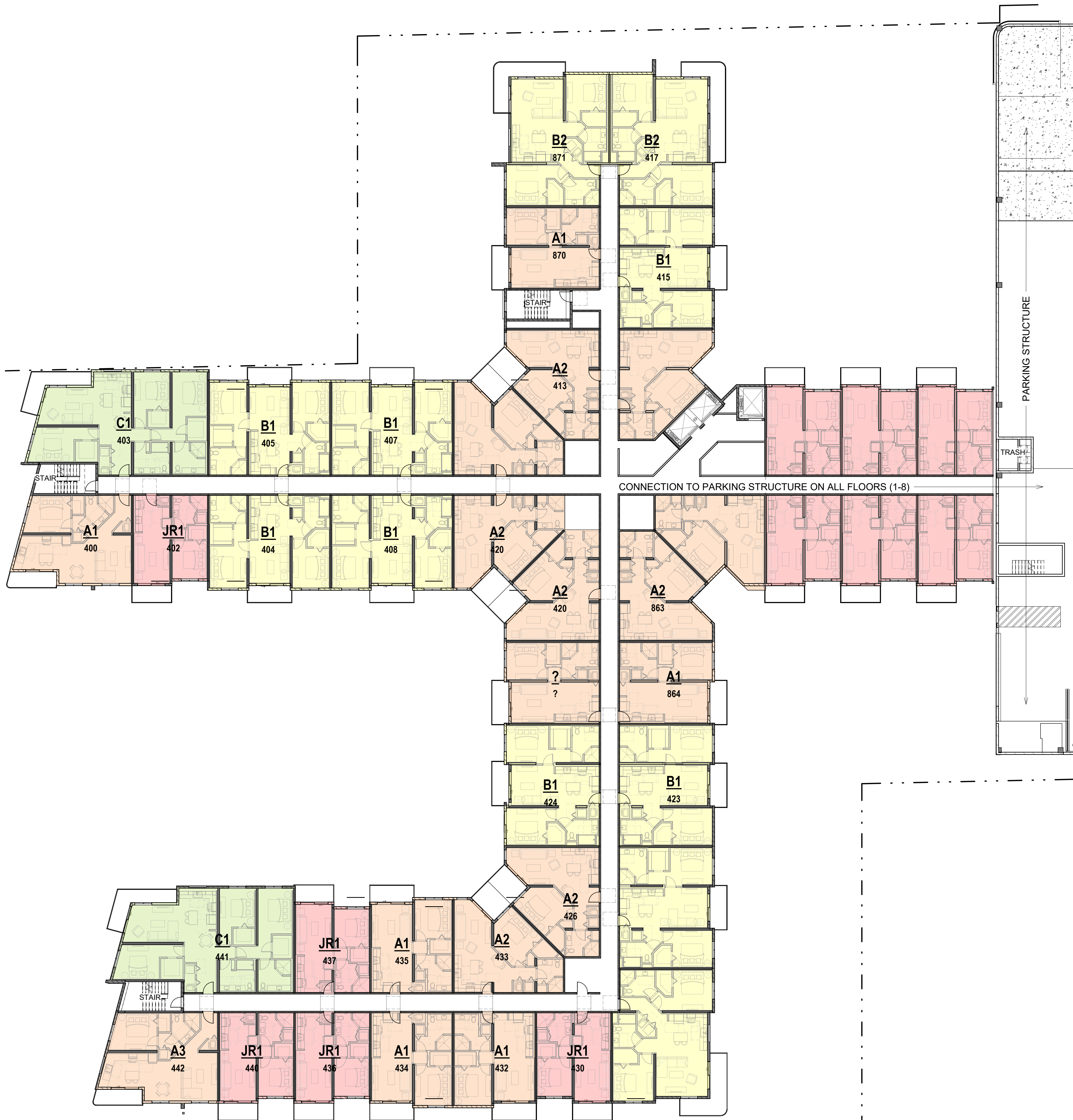


3 SPA\_HURRICANE ALLEY MEZZANINE 2  
1/16" = 1'-0"



2 SPA\_OCEAN EATERY ROOFTOP PLAN 2  
1/16" = 1'-0"

1 SPA\_LEVEL 02-07  
1/16" = 1'-0"



NOT FOR CONSTRUCTION

# EXHIBIT “D”

## Conditions of Approval

Project Name: The Pierce – 101 N Federal Hwy  
 File number: ZNCV 23-002  
 Reference:

DEPARTMENTS	INCLUDE	REJECT
<b>PLANNING AND ZONING</b>		
Comments:		
1. The east façade of the parking garage should incorporate a green wall treatment to further reduce the visual impact of the proposed building.	X	
2. Provide enhanced pedestrian connectivity through the garage to ensure the safe flow of pedestrians throughout the site.	X	
<b>PLANNING &amp; DEVELOPMENT BOARD CONDITIONS</b>		
Comments: None		
<b>CITY COMMISSION CONDITIONS</b>		
Comments: None		
<b>ADDITIONAL REPRESENTATION / COMMITMENTS</b>		
3. The applicant or applicant’s representatives made the following representations and commitments during the quasi-judicial and/or public hearings that now constitute binding obligations of the applicant. The obligations have the same weight as other conditions of approval.  _____ _____ _____		