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February 18, 2025
Updated: April 30, 2025

VIA CERTIFIED MAIL AND EMAIL

Jennifer Buce
City Planner
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Development Services
100 NW 1st Avenue,
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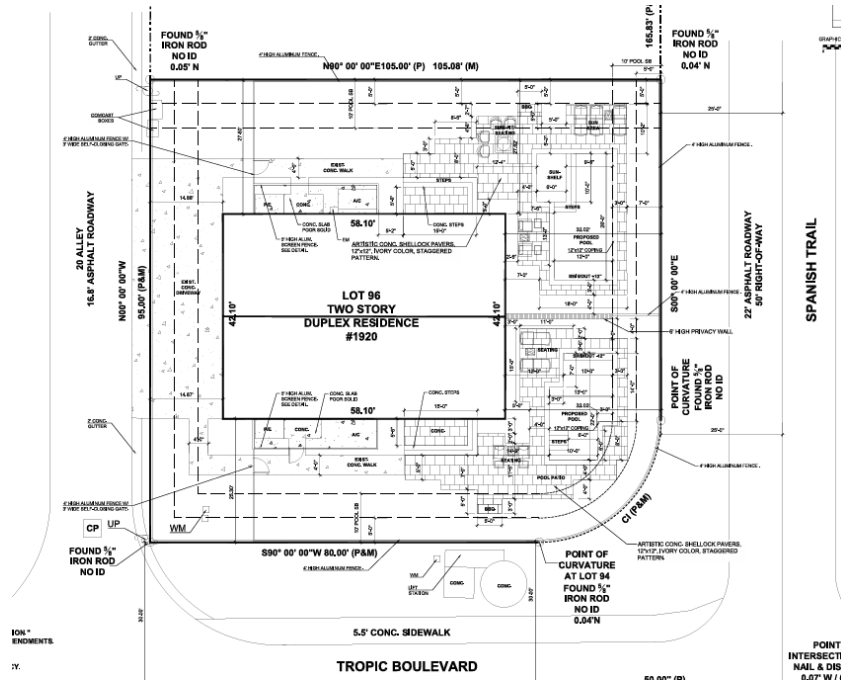
**RE: Variance Justification
1920 Spanish Trail, Delray Beach, FL 33483
Parcel ID: 12-43-46-28-01-000-0960**

Dear Members of the Planning and Zoning Board,

This firm represents the owners (collectively, the “Applicants”) of the property located at 1920 Spanish Trail, Delray Beach, FL 33483 (the “Property”). This narrative is offered in tandem with the variance application that has been submitted by the Applicants to explain the circumstances upon which the variances from sections 4.6.15(G)(1)-(4) and 4.3.4(H)(4) of the City of Delray Beach’s Municipal Code of Ordinances (the “Code”) is requested. Specifically, the Applicants seek a variance from Section 4.6.15(G)(1)-(4), which governs yard encroachments for swimming pools, including setbacks related to rear, interior, or street side setback areas, as well as Section 4.3.4(H)(4), which outlines building standards when not defined in other sections of the Code. This variance request aims to address specific challenges posed by these regulations in the context of the Property.

Introduction and Background

The Property is a duplex located between a commercial plaza to the west and a cluster of single-family residential homes to the east. To the west, the Property shares an alleyway with the plaza, while to the east, it faces a main road that leads to residential homes. Given the ample space on the east side of the Property, the Applicants planned to fully utilize the yard and intended to construct two pools—one for each unit. The graphic below illustrates the proposed plans’ (“Plans”) conformance to the Code, allowing for a fifteen (15) foot encroachment over the Property line.



Upon submittal, Applicants were informed by the City of Delray Beach's (the "City") Planning and Zoning Department that the Plan did not meet the Code's requirements, specifically because the east side of the Property was classified as the frontage, necessitating a greater setback than fifteen (15) feet. In response, Applicants requested the City's determination of the lawful front for setback purposes related to the pool construction. It was determined that the Property's front is indeed on the east side, as it has the least street frontage and abuts a main road, which resulted in a default setback of twenty-five (25) feet. *See Exhibit A.*

While the Code explicitly outlines standards for conventional single-family lots and townhomes, it provides no guidance for duplexes, particularly concerning setbacks for pools. The City's application of the regular setback of twenty-five (25) feet limits Applicants from fully utilizing the potential of the Property. The west side of the Property is designated for parking, and the north and south sides serve as the Property's sides. This narrows the viable area for pool formation to the east side, calling for a variance from the Code. *See Composite Exhibit B.*

Standard of Review

The following criteria must be satisfied for a variance to be granted: "(a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning. Economic hardship shall not constitute a basis for the granting of a variance; (b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning; (c) That the special conditions and circumstances have not resulted from actions of the applicant; (d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or

buildings under the same zoning shall be considered grounds for the issuance of a variance; (e) That the reasons established in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; (f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, and will not be injurious to the neighborhood, or be otherwise detrimental to the public welfare.” Code, Sec. 2.4.11(A)(5)(a)-(f).

Variance Criteria

A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning. Economic hardship shall not constitute a basis for the granting of a variance.

There are two unique conditions on the Property that create peculiar circumstances not generally applicable to other buildings in the same RM-Zoning District. First, the Property’s location: as a duplex on a corner lot, it is subject to an automatic twenty-five (25) foot setback due to the yard abutting a main street. Under the Code, the east side of the Property is defined as the front, despite it sharing typical characteristics of a rear yard, such as landscaping and its orientation relative to the driveway. *See id.* Other neighboring properties do not face the challenge of determining the front or rear of their lots, nor are they subject to a greater automatic setback due to the unique position of the Property between an alleyway and a main road.

Second, another contributing factor to the peculiar circumstances supporting the variance request is the lack of clear guidance in the Code regarding developmental standards for pool installations specifically for duplexes. While the Code provides explicit standards for conventional single-family homes and townhomes, it does not address duplexes directly, particularly when it comes to setbacks for accessory structures like pools. As a result, duplexes are effectively required to adhere to more stringent standards such as the twenty-five (25) foot setback, rather than the more flexible fifteen (15) foot setback typically allowed for conventional single-family lots¹ in the same zoning district. The Property’s unique location and duplex status creates exceptional conditions for which a variance should be granted.

B. That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.

A literal interpretation of the Code would deprive Applicants of reasonable use and enjoyment of their Property. Allowing fifteen (15) foot encroachment from the Property lines would enable the construction of the desired pools. The Plan not only details the pool's orientation but also includes seating arrangements and patio designs, all of which are integral to creating a functional

¹ ***Conventional single-family lots.*** (Ord. No. [13-24](#), § 4, 7-9-24) (a) Swimming pools may extend into the rear, interior or street side *setback* areas but no closer than ten feet to any property line. Swimming *pools* shall not extend into the front *setback* area required by [Section 4.3.4\(K\)](#). [Amd. Ord. 24-04 5/18/04]; [Amd. Ord. 41-92 9/8/92]; [Amd. Ord. 13-91 2/26/91] (Ord. No. [13-24](#), § 4, 7-9-24).

pool space. All measurements on the Plan were based on a fifteen (15) foot setback. A literal interpretation of the Code requires a twenty-five (25) foot setback, which would prevent any construction and leave Applicants unable to make use of the Property's only practical space for this project, thus depriving them of the reasonable enjoyment afforded to others in the zoning district.

C. That the special conditions and circumstances have not resulted from actions of the applicant.

The special conditions creating the need for this variance are not the result of actions taken by the Applicants. Due to the Property being situated on a corner lot, it is subject to a point of curvature that reduces the street frontage along the Property line. See Property survey attached as **Exhibit C**. According to the Code, the front of the Property is defined as the side with the least amount of street frontage, which, in this case, designates the east side of the Property as the front. However, the Code does not provide specific regulations for pool setbacks in duplex developments, defaulting to the more stringent setback requirements, which impose a twenty-five (25) foot setback for the frontage of the Property instead of the ten (10) foot setback typically applied in other circumstances. The deficiency for duplex pool setbacks guidelines, combined with the reduced street frontage caused by the point of curvature, is not a result of any actions by the Applicants, but rather the characteristics of the Property and absence of specific regulations within the Code.

D. That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance.

Granting this variance would not grant a special privilege to the Applicants. Instead, it would ensure the Property is treated in the same manner as other properties within the same zoning district, promoting a consistent application of the Code. This would enable the Applicants to fully enjoy their Property no differently than other residents in the district who have pools. The variance would align the setback requirement with those of other residences in the same zoning district, such as townhomes, allowing the Applicants to utilize their Property in a manner consistent with other residents, without gaining any unfair advantage.

E. That the reasons established in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The justification for granting the variance is based on the fact that the requested fifteen (15) foot setback for the pools represents the minimum variance necessary to allow reasonable use of the Property. Without this variance, pool construction is not feasible due to the twenty-five (25) foot setback requirement. As previously stated, the Plan is designed with the fifteen (15) foot setback as a foundation for the layout, including all other elements necessary for a functional pool

space. The Applicants are not requesting a setback reduction for any purpose other than to enable reasonable use of the Property for pool installation.

F. That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, and will not be injurious to the neighborhood, or be otherwise detrimental to the public welfare.

Granting the variance would align with the general purpose and intent of existing regulations and would not harm the neighborhood or be detrimental to the public welfare. The Applicants are merely requesting a variance to apply a fifteen (15) foot setback, consistent with the general provisions of the Code for properties within the same zoning district. The only distinction is that the Property is a duplex located on a corner lot, which triggers an automatic twenty-five (25) foot setback due to the lack of specific regulations in the Code for such properties. Without these unique factors, the Property would comply with the Code without the need for a variance.

Conclusion

Given the unique circumstances present in this matter, a variance should be granted from Code sections 4.6.15(G)(1)-(4) and 4.3.4(H)(4), to allow for a fifteen (15) foot setback to be applied to the Property instead of a twenty-five (25) foot setback from the Property line. The variance is requested due to conditions that are unique to the Property – its classification as a duplex, which is not outlined in the Code, and its location on a corner lot. Granting this variance will permit Applicants to make reasonable use of the Property and would not grant the Applicants any special privilege. Accordingly, and based on the foregoing facts and circumstances, it is respectfully requested that the Board grant the variances requested.

Thank you in advance for your time and attention to this matter. If you have any questions, or if I may be of assistance, my office is available by phone or e-mail at your convenience.

Sincerely,

/s/ 
Ryan Abrams, Esq.

EXHIBIT A



CITY OF DELRAY BEACH
DEPARTMENT OF DEVELOPMENT SERVICES
100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



January 16, 2025

Ryan Abrams
Abrams Law Firm
888 SE 3rd Avenue
Fort Lauderdale, FL 33316

RE: 1920 Spanish Trail (PCN: 12-43-46-28-01-000-0960)

Dear Mr. Abrams:

This letter is in response to the zoning verification request for the property located at **1920 Spanish Trail**. The subject property has a Land Use Map (LUM) Designation of Medium Density (MD) and is zoned Medium Density Residential (RM) District, which is regulated by Land Development Regulations (LDR) Section 4.4.6. The letter requests a determination “regarding which side is considered the front” specifically “whether the alleyway side is considered the front and Spanish Trail considered the rear of the property.”

The property fronts onto both Tropic Boulevard (south) and Spanish Trail (east), both of which are classified as local roads, per Table MBL-1, Street Network Classification and Improvements of the Always Delray Comprehensive Plan Mobility Element. Pursuant to LDR Section 4.3.4(E)(3), Base District Development Standards: Front and Frontage, *the front of a lot is the side with frontage on a street. For corner lots, the side having the least street frontage shall be the front for setback purposes. Where a corner lot or through lot has frontage on an arterial or collector street, the front shall be the side with frontage on the arterial or collector. For lots with frontage on both an arterial and a collector, the front shall be the arterial frontage.* Given the dimensions provided on both the property survey (1980) and the site plan (2024), the side having the least street frontage is the east, adjacent to Spanish Trail. Frontage is required on a street; an alley is not a street and is not eligible to be considered the front of a property. Pursuant to Appendix A, Definitions, an alley is defined as *a roadway which provides a secondary means of access to abutting properties, and not intended for general traffic circulation use by pedestrians or vehicles.*

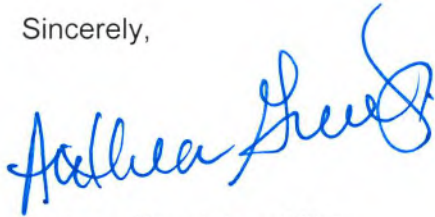
Please also note that the setbacks in place at the time of the permit submittal and approval for a duplex were as follows: Front- 25 feet; Side Street- 25 feet; Side Interior- 15 feet; Rear- 15 feet. The final survey dated February 25, 1997, from the 1995 permit file illustrates the following building setbacks: North- 27.80 feet; South (Tropic Boulevard)- 25.11 feet; East (Spanish Trail)- 31.95 feet; West- 15.13 feet. Therefore, at the time of permit, the rear of the property was considered the side along the alley, which is consistent with the application of the current LDR.

Pursuant to LDR Section 4.3.1(A), Application of District Regulations, *no building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof, shall hereafter be constructed, erected, moved, reconstructed, or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.* Therefore, any site improvements are subject to the LDR in place at the time of formal application submittal.

Regarding the construction of a swimming pool on the property, there is not currently an allowance for a swimming pool to encroach into a setback for a site developed with a duplex. Pursuant to LDR Section 4.3.4(K), Development Standards Matrix-Residential Zoning Districts, the applicable setbacks are as follows: Side Interior (North)- 15 feet; Side Street (South, Tropic Boulevard)- 25 feet; Front (East, Spanish Trail)- 25 feet; Rear (West)- 25 feet.

Should you have any further questions, please contact the Development Services Department at (561) 243-7040.

Sincerely,



Anthea Gianniotis, AICP
Development Services Director
AG/rb

Enclosure:

LDR Section 4.4.6, Medium Density Residential (RM) District
LDR Section 4.6.15, Swimming pool, whirlpools, and spas

Disclaimer: Please be advised that a zoning verification letter is based solely on the subject request, on information available in the City's records and represents the status of the subject use and zoned lot as of the day the letter is issued. Any subsequent changes to the zoned property or use, or changes that occurred with no record contained in the City's file are not reflected. The Development Services Department assumes no liability for errors and omissions. All information is obtained from public records and the City of Delray Beach Land Development Regulations (LDR). A zoning verification letter does not constitute a development or use approval.

Sec. 4.4.6. - Medium Density Residential (RM) District.

- (A) ***Purpose and intent.*** The Medium Density Residential (RM) District is a residential zoning district with flexible densities having a base of six units per acre and a maximum standard density of 12 units per acre, with a maximum incentive density of 24 units per acre in designated areas, subject to compliance with Article 4.7 and Section 4.3.3(BB). [Amd. Ord. 24-07 8/21/07]; [Amd. Ord. 7-05 2/15/05]; [Amd. Ord. 42-97 10/7/97] (Ord. No. 32-23, § 12, 10-17-23)
- (B) ***Principal uses and structures permitted.*** The following types of use are allowed within the (RM) District as a permitted use:
- (1) Single family detached dwellings.
 - (2) Duplex structures.
 - (3) Multiple family structures.
 - (4) An abused spouse residence with 12 or fewer residents.
 - (5) Community Residence housing four to ten individuals, except as required by state law, that (1) is at least 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the existing community residence, and (2) the operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence. [Amd. Ord. 23-01 5/1/01] (Ord. No. 25-17, § 16, 7-18-17)
 - (6) Parking lots not associated with a use, pursuant to an adopted neighborhood or redevelopment plan. [Amd. Ord. 8-00 4/4/00]
 - (7) Pocket parks. [Amd. Ord. 8-00 4/4/00]
 - (8) Public educational facilities of The School District of Palm Beach County, pursuant to the regulations set forth in Section 4.3.3(HH). [Amd. Ord. 24-02 7/16/02]
 - (9) Assisted Living Facilities that do not comport with the definition of "community residence" and Continuing Care Facilities. [Amd. Ord. 20-08 4/15/08] (Ord. No. 25-17, § 16, 7-18-17)
 - (10) Nursing Homes within multi-family structures only. [Amd. Ord. 10-11 4/5/11] (Ord. No. 25-17, § 16, 7-18-17)
- (C) ***Accessory uses and structures permitted.*** The following uses and structures are allowed when a part of, or accessory to, the principal use: (Ord. No. 22-22, § 6, 10-11-22)
- (1) Uses and structures normally associated with residences, such as bird aviaries, dog houses and dog runs, detached garages, greenhouses, playhouses, pool houses, slat houses, storage sheds, tennis courts, swimming pools, and workshops, subject to Section 4.3.3(QQ). [Amd. Ord. 77-94 10/18/94] (Ord. No. 23-22, § 7, 8-16-22; Ord. No. 22-22, § 6, 10-11-22)

- (2) Home-based businesses, subject to Section 4.3.3(K). (Ord. No. 22-22, § 6, 10-11-22)
- (3) Family day care home pursuant to Section 4.3.3(T). [Amd. Ord. 25-10 10/19/10] (Ord. No. 22-22, § 6, 10-11-22)
- (4) Recreational facilities attendant to a subdivision which is operated under a homeowners association such as tennis courts, swimming pools, exercise area, clubhouse, and private golf courses. (Ord. No. 23-22, § 7, 8-16-22; Ord. No. 22-22, § 6, 10-11-22)
- (5) Boat docks, subject to Article 7.9. The rental or lease of a boat dock is allowed when the dock is assigned to, or on the same lot as, each residential use on a one-to-one basis. (Ord. No. 23-22, § 7, 8-16-22; Ord. No. 22-22, § 6, 10-11-22)
- (6) Guest cottages subject to Section 4.3.3(Q). [Amd. Ord. 77-94 10/18/94] (Ord. No. 23-22, § 7, 8-16-22; Ord. No. 22-22, § 6, 10-11-22)
- (7) Community Gardens, subject to Section 4.3.3(D). [Amd. Ord. 12-11 6/7/11] (Ord. No. 23-22, § 7, 8-16-22; Ord. No. 22-22, § 6, 10-11-22)
- (D) ***Conditional uses and structures allowed.*** The following uses are allowed as conditional uses within the RM District.

DELETED NUMBERS AND RENUMBERED. [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 20-08 4/15/08]

- (1) Child care and adult day care.
- (2) Private educational facilities subject to the restrictions set forth in Section 4.3.3(HHH). [Amd. Ord. 24-02 7/16/02]; [Amd. Ord. 79-94 10/18/94]
- (3) Churches, or places of worship, and their attendant educational, nursery, Sunday school, recreational, and columbarium facilities. The foregoing does not allow establishment of educational and care uses such as elementary school and general day care; however, such uses may be established by a separate conditional use application for child care or rezoning to CF, as appropriate.
- (4) The use of common recreational facilities such as swimming pools, tennis courts, and golf courses (associated with a subdivision) for club or commercial purposes.
- (5) Single family detached residences in zero lot developments.
- (6) Yacht club with facilities.
- (7) Dock master facilities when associated with a multi-family development which has a marina. [Amd. Ord. 23-01 5/1/01]
- (8) Private beach clubs with attendant recreational, dining, and related accessory facilities within one of the following areas: (a) the area lying south of Atlantic Dunes Park and east of State Road A1A, or (b) south of Casurina Road, north of Bucida road, and east of State Road A1A. [Amd. Ord. 62-05 8/16/05]; [Amd. Ord. 17-98 5/5/98]
- (9)

Bed and Breakfast Inns, subject to LDR Section 4.3.3(Y). [Amd. Ord. 11-10 7/20/10] (Ord. No. 32-23, § 12, 10-17-23)

(10) Large Family Child Care Home, subject to Section 4.3.3(TT). [Amd. Ord. 25-10 10/19/10] (Ord. No. 32-23, § 12, 10-17-23)

(11) Community Residence housing four to ten individuals, except as required by state law, that (1) is less than 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence, or (2) the State of Florida does not require the operator or applicant to be licensed or certified to operate the proposed community residence, has no certification from an appropriate national accrediting agency, or has not been recognized or sanctioned by Congress to operate the proposed community residence. (Ord. No. 25-17, § 17, 7-18-17; Ord. No. 32-23, § 12, 10-17-23)

(E) Reserved. (Ord. No. 32-23, § 12, 10-17-23)

(F) ***Development standards.***

(1) The R-1-A District regulations apply to single family detached dwellings. (Ord. No. 32-23, § 12, 10-17-23)

(2) The development standards in Section 4.3.4 apply to duplex and multi-family development, except as modified herein. [Amd. Ord. 7-05 2/15/05] (Ord. No. 32-23, § 12, 10-17-23)

(a) Southwest Neighborhood, Carver Estates, and the Flo Delray Overlay Districts, and Infill Workforce Housing Area Development Standards. Duplex and multi-family development in the Southwest Neighborhood Overlay District, Carver Estates Overlay District, The Flo Delray Overlay District, and the Infill Workforce Housing Area that are developed pursuant to Article 4.7, "Family/Workforce Housing" shall comply with the following regulations: [Amd. Ord. 17-06 4/4/06]; [Amd. Ord. 20-05 4/19/05]; [Amd. Ord. 7-05 2/15/05] (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 08-24, § 5, 3-5-24; Ord. No. 39-23, § 3, 12-5-23)

1. ***Setbacks.*** [Amd. Ord. 17-06 4/4/06] [Amd. Ord. 7-05 2/15/05] (Ord. No. 08-24, § 5, 3-5-24)

a. Front: 15 feet. (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 08-24, § 5, 3-5-24)

b. Side (Street): 15 feet. (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 08-24, § 5, 3-5-24)

c. Side (Interior): 10 feet (One- and two-story) 15 feet (third story and above). (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 08-24, § 5, 3-5-24)

d. Rear: Ten feet. (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 08-24, § 5, 3-5-24)

2. ***Setbacks for garages, carports and porte-cocheres.*** Garages, carports and porte-cocheres must have a minimum 20 feet setback when the entrance faces a public street or alley. [Amd. Ord. 7-05 2/15/05] (Ord. No. 08-24, § 5, 3-5-24)

3. ***Porch encroachments.*** Front porches may extend five feet into the front or side street setback and cannot occupy more than 50 feet of the building frontage and cannot be enclosed in any manner. [Amd. Ord. 7-05 2/15/05] (Ord. No. 08-24, § 5, 3-5-24)

(b) Duplex and multi-family development located east of the Intracoastal Waterway that is not subject to subsection (3) below shall comply with the following regulations: (Ord. No. 08-24, § 5, 3-5-24)

1. The maximum floor area ratio is dictated by lot size, as follows:

Lot Size	Maximum Floor Area Ratio (FAR)
Up to 30,000 sf	0.70
30,000 sf and above	0.75

(Ord. No. 08-24, § 5, 3-5-24)

2. A five-foot step-back must be provided above the second story and/or 26 feet of height, whichever is less, on the rear, side street, and side interior elevations. (Ord. No. 08-24, § 5, 3-5-24)

3. Building facades that exceed 25 feet in length above the first story facing side interior and rear lot lines shall provide at least one horizontal articulation at least two feet in depth for a combined minimum of 20 percent of the length of building elevation(s). (Ord. No. 08-24, § 5, 3-5-24)

(3) ***Historic districts, sites, and buildings.*** Properties located within a Historic District or Individually Designated Sites, as listed on the Local Register of Historic Places in Section 4.5.1(I), are subject to Section 4.5.1. [Amd. Ord. 01-12 8/21/12] (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 08-24, § 5, 3-5-24)

(G) ***Supplemental district regulations.*** In addition to the supplemental district regulations in Article 4.6, the following supplemental regulations also apply in the RM zoning district. [Amd. Ord. 7-05 2/15/05] (Ord. No. 32-23, § 12, 10-17-23)

(1) ***Southwest Neighborhood, Carver Estates, and Flo Delray Overlay Districts and Infill Workforce Housing Area.*** The following supplemental district regulations shall apply to duplex and multi-family development in the Southwest Neighborhood Overlay District, Carver Estates Overlay District, Flo Delray Overlay District, and the Infill Workforce Housing Area, that

are developed pursuant to Article 4.7, "Family/Workforce Housing". [Amd. Ord. 17-06 4/4/06]; [Amd. Ord. 20-05 4/19/05]; [Amd. Ord. 7-05 2/15/05] (Ord. No. 32-23, § 12, 10-17-23; Ord. No. 39-23, § 3, 12-5-23)

- (a) Street-facing garages and parking is discouraged. Parking shall only be allowed in the front yard if there is no dedicated access to the side or rear of the property. [Amd. Ord. 7-05 2/15/05] (Ord. No. 32-23, § 12, 10-17-23)
- (b) When garages are provided in the side or rear of the property, on-street parking must be provided. [Amd. Ord. 7-05 2/15/05] (Ord. No. 32-23, § 12, 10-17-23)

(H) ***Special regulations.***

- (1) Density may exceed the base of six units per acre only after the approving body makes a finding that the project has substantially complied with the performance standards in Section 4.3.3(BB), which are intended to mitigate the impacts of the increased density and ensure that the project is compatible with surrounding land uses. In no event shall a development's total density exceed 12 units per acre, except within the following incentive areas:[Amd. Ord. 26-11 9/20/11]; [Amd. Ord. 17-06 4/4/06]; [Amd. Ord. 7-05 2/15/05]; [Amd. Ord 42-97 10/7/97]; [Amd. Ord. 40-93 6/22/93] (Ord. No. 22-22, § 6, 10-11-22; Ord. No. 32-23, § 12, 10-17-23)
 - (a) ***Southwest Neighborhood Overlay District:*** Up to 24 dwelling units per acre are allowed within the Southwest Neighborhood Overlay District, defined in Section 4.5.9, subject to compliance with Article 4.7. (Ord. No. 32-23, § 12, 10-17-23)
 - (b) ***Carver Estates Overlay District:*** Up to 24 dwelling units per acre are allowed within the Carver Estates Overlay District, defined in Section 4.5.11, subject to compliance with Article 4.7. (Ord. No. 32-23, § 12, 10-17-23)
 - (c) ***Infill Workforce Housing Area:*** Within the Infill Workforce Housing Area defined in Section 4.5.12, up to 18 dwelling units per acre are allowed, subject to compliance with Article 4.7. (Ord. No. 32-23, § 12, 10-17-23)
 - (d) ***S.W. 10th Street Overlay District:*** Within the S.W. 10th Street Overlay District defined in Section 4.5.10, up to 24 dwelling units per acre are allowed, subject to compliance with Article 4.7. (Ord. No. 32-23, § 12, 10-17-23)
 - (e) ***The Flo Delray Overlay District:*** Within the Flo Delray Overlay District defined in Section 4.5.22, up to 24 dwelling units per acre are allowed, subject to compliance with Article 4.7. (Ord. No. 39-23, § 3, 12-5-23)
- (2) The density for a specific RM development may be limited by a numerical suffix affixed to the designation and shown on the zoning map (i.e. RM-8 limits the density to eight units per acre). To seek a density greater than allowed by the suffix, it is necessary to rezone the property. [Amd. Ord. 26-11 9/20/11]; [Amd. Ord. 17-06 4/4/06]; [Amd. Ord. 7-05 2/15/05]; [Amd. Ord 42-97 10/7/97]; [Amd. Ord. 40-93 6/22/93] (Ord. No. 22-22, § 6, 10-11-22; Ord. No. 32-23, § 12, 10-17-23)

- (3) For proposals to rezone property to RM with a density suffix, the approving body must make a finding that the proposed density is appropriate based upon the land use map designations of surrounding property as well as the prevailing development pattern of the surrounding area. (Ord. No. 32-23, § 12, 10-17-23)
- (4) Accessory structures are subject to Section 4.3.3(QQ). (Ord. No. 22-22, § 6, 10-11-22)
- (5) Recreational areas are required for all new rental apartment developments, and owner occupied developments with homeowner associations are responsible for the maintenance of retention areas, private streets, or common areas. Recreational features should be designed to accommodate activities for children and youth of all ages. Tot lots are appropriate for toddlers; features such as a basketball court, volleyball court, and open playfields are appropriate for older children. A pool and clubhouse, unless specifically designed for children, does not meet this requirement. Projects with fewer than 25 units may be exempted from this standard where it is determined by the approving body that it is not practical or feasible to comply. [Amd. Ord 42-97 10/7/97] (Ord. No. 22-22, § 6, 10-11-22; Ord. No. 32-23, § 12, 10-17-23)
- (I) Reserved. (Ord. No. 32-23, § 12, 10-17-23)

Sec. 4.6.15. - Swimming pool, whirlpools, and spas.

(A) ***Enclosures required for private pools.*** All private or family type pools, except those defined in (D) of this Section, shall be enclosed by fence or other enclosures so that the premises upon which the pool is located is enclosed from adjoining yards or property.

(B) ***Prerequisite to approval; specifications.***

- (1) No swimming pool final inspection and approval shall be given by the Building Department, unless there has been erected a safety barrier as hereinafter provided.
- (2) The safety barrier shall take the form of a screened-in patio, a wooden fence, a wire fence, a rock wall, concrete block wall, or other materials so as to enable the owner to blend the same with the style of architecture planned or in existence on the property. The safety barrier which shall not be less than 48 inches in height, shall be erected either around the swimming pool or around the premises on which the swimming pool is erected. In either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area, except that where the entire premises are fenced, and one side fronts on either the Intracoastal waterway, a finger canal, or the ocean, then no fence shall be required along that side fronting the water. All gates must be self-latching with latches placed four feet above the underlying ground or otherwise made inaccessible from the outside to small children; however, the door of any dwelling forming part of the enclosure hereinabove required need not be so equipped.

(C) ***Responsibility for, plans to show compliance.***

- (1) No person in possession of property within the city, either as owner, purchaser, lessee, tenant, or a licensee, upon which is presently situated a swimming pool or a family pool having a minimum depth of 24 inches as determined hereinabove shall fail to provide and maintain a fence or wall as herein provided.
- (2) No building permit shall be issued for the construction of a family pool unless there is clearly shown on the plans submitted to the City Building Official or on other construction specifications submitted to the City Building Official provisions to comply with this section

(D) ***Modification of requirements by Commission.***

- (1) The City Commission may make modification in individual cases, upon a showing of good cause with respect to the height, nature, or location of the fence, wall, gates, or latches, or the necessity therefor, or may permit other protective devices or structures in lieu thereof. In making these modifications or special exceptions, the City Commission shall be governed by the following standards: The purpose of the fencing requirement herein is to prevent small children from inadvertently wandering into family swimming pools.

(2)

The Commission realizes that there are locations within the city where an unfenced family pool would not create an obvious hazard. In these areas where, due to the nonexistence of a substantial number of small children, no obvious hazard exists, the City Commission may grant modifications or special exceptions and may even dispense with the requirement for fencing. All decisions shall be conditional and subject to revocation in the event circumstances or conditions change in the particular location.

- (E) ***Requirements not to affect other provisions of Code.*** Although the provisions of this section are limited in applicability, nothing contained herein shall diminish or otherwise abate the applicability, force, and effect of provisions which allow that a dangerous excavation in the earth may be considered a public nuisance under certain circumstances or any ordinances regulating the construction, use, or maintenance of swimming pools or family pools.
- (F) ***Exemption for commercial pools; insurance required.*** All pools connected with commercial ventures such as motels, and the like, within the city, and otherwise guarded or under surveillance by competent and responsible personnel shall not be covered by this Section. However, the owners of those operations shall be required to maintain adequate liability insurance policies covering those pools in an amount of not less than \$100,000.00 through \$300,000.00 coverage, if they choose not to erect a protective fence as described herein.
- (G) ***Yard encroachment.*** Swimming pools at grade level are allowed to encroach into the required setbacks as follows. (Ord. No. 13-24, § 4, 7-9-24)
 - (1) ***Conventional single-family lots.*** (Ord. No. 13-24, § 4, 7-9-24)
 - (a) Swimming pools may extend into the rear, interior or street side setback areas but no closer than ten feet to any property line. Swimming pools shall not extend into the front setback area required by Section 4.3.4(K). [Amd. Ord. 24-04 5/18/04]; [Amd. Ord. 41-92 9/8/92]; [Amd. Ord. 13-91 2/26/91] (Ord. No. 13-24, § 4, 7-9-24)
 - (b) When adjacent to at least 50 feet of common open area, as defined in Section 4.3.4(H)(5), swimming pools may extend into the rear or interior side setback area, no closer than five feet to the property line. [Amd. Ord. 24-04 5/18/04]; [Amd. Ord. 41-92 9/8/92] (Ord. No. 13-24, § 4, 7-9-24)
 - (c) A screened pool enclosure shall not be permitted to encroach into side and rear setback areas except as allowed in Section 4.3.4(H)(5). [Amd. Ord. 24-04 5/18/04]; [Amd. Ord. 41-92 9/8/92] (Ord. No. 13-24, § 4, 7-9-24)
 - (2) ***Zero lot line developments.*** (Ord. No. 13-24, § 4, 7-9-24)
 - (a) Swimming pools may extend into the interior side setback no closer than five feet from the property line. (Ord. No. 13-24, § 4, 7-9-24)
 - (b) A swimming pool may extend no closer than five feet from the rear property line, except along the perimeter of the development where a 10 foot setback is required, unless adjacent to at least 50 feet of common open area as defined in Section 4.3.4(H)(5). [Amd.

Ord. 24-04 5/18/04] (Ord. No. 13-24, § 4, 7-9-24)

- (3) ***Townhouse developments.*** Swimming pools in townhouse developments may have a five foot side interior setback. (Ord. No. 13-24, § 4, 7-9-24)
- (4) Swimming pools are prohibited in dedicated easements unless written approval of the easement holder is obtained and a hold harmless agreement is executed. [Amd. Ord. 24-04 5/18/04] (Ord. No. 13-24, § 4, 7-9-24)

EXHIBIT B





EXHIBIT C



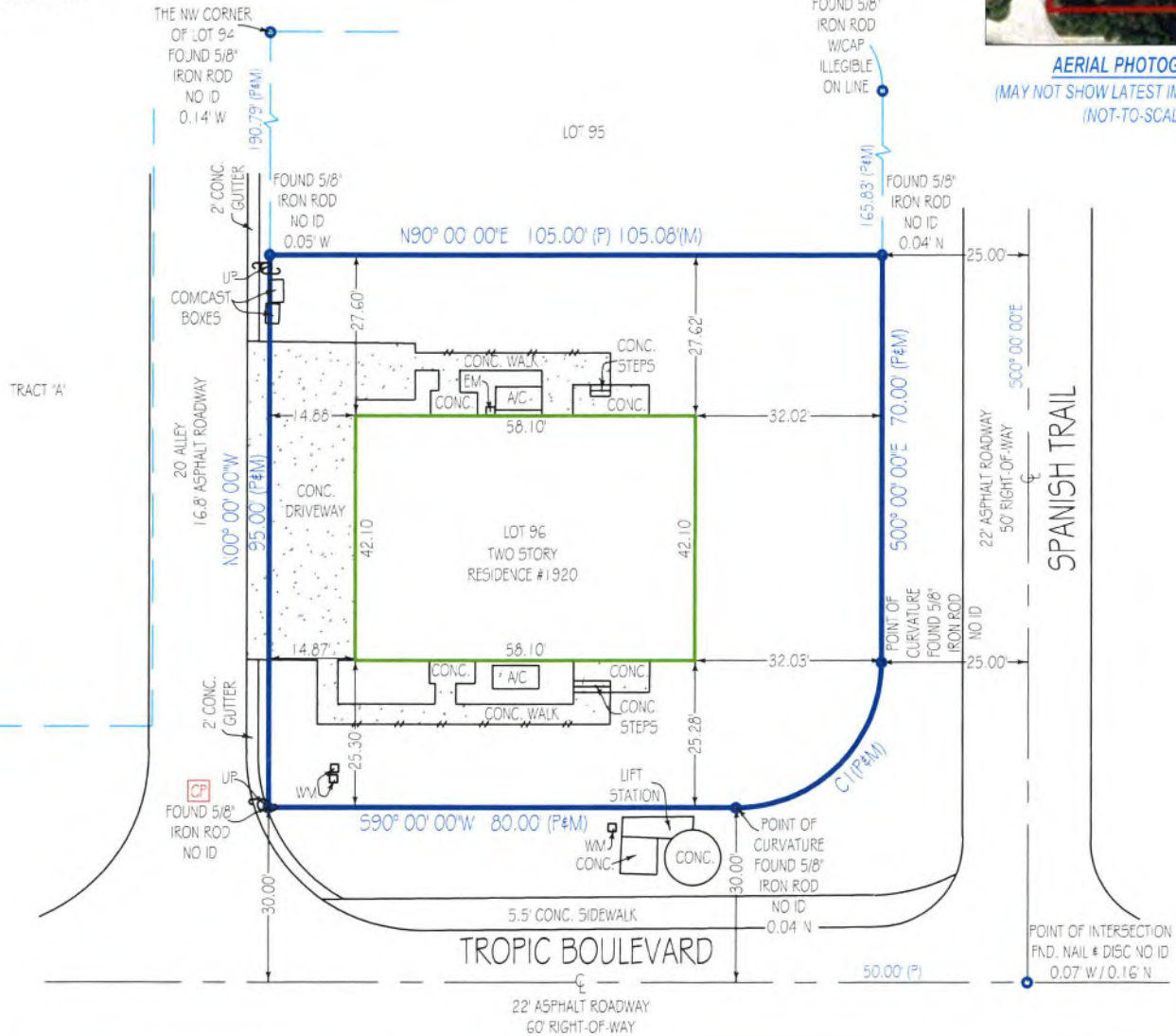
SCALE: 1"=30'

BEARING REFERENCE:
CENTER LINE OF SPANISH TRAIL AS S 00°00'00" E
ALL BEARINGS SHOWN HEREON REFERENCED THERETO.

CURVE TABLE			CHORD LENGTH	CHORD BEARING
LENGTH	RADIUS	DELTA		
C1	39.27'	25.00'	90°00'00"	545°00'00"W



AERIAL PHOTOGRAPH
(MAY NOT SHOW LATEST IMPROVEMENTS)
(NOT-TO-SCALE)



"CP" = CONTROLLING POINT (POINT OF ROTATION) "HFA" = HELD FOR ALIGNMENT - ALL OTHER MONUMENTATION AND IMPROVEMENTS RELATIVE THERETO

Platted Easements, Notable or Adverse Conditions (unplatted easements also listed if provided by client): IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN HEREON AND THEIR RELATIONSHIP TO THE BOUNDARY LINE
- NO NOTABLE CONDITIONS FOUND.

This survey has been issued by the following
Landtec Surveying office:
700 West Hillsboro Boulevard, Suite 4-100
Deerfield Beach, FL 33441
Office: (561) 367-3587
Fax: (561) 465-3145
www.Landtecsurvey.com

Elevations, if shown:

Benchmark: _____
Benchmark Elev.: _____
Benchmark Datum: _____
Elevations on Drawing are in:
N.G.V.D.29 ☐ N.A.V.D.88 ☐

Revisions:

Job Nr: 207147-SE Date of Field Work: 04/25/2024 Drawn by: M.A.

LANDTEC

LICENSED BUSINESS No. 8507

Sheet 2 of 2 (Survey Related Data) - See Sheet 1 of 2 for Sketch of Survey, SURVEY IS NOT COMPLETE WITHOUT ALL SHEETS

TYPE OF SURVEY:

- ☒ BOUNDARY ☐ CONSTRUCTION ☐ CONDOMINIUM
☐ ALTA/NSPS ☐ TOPOGRAPHIC ☐ SPECIAL PURPOSE

PURPOSE OF SURVEY (SEE GENERAL NOTES BELOW):

Purchase/Refinance

LEGAL DESCRIPTION:

Lot 96, Tropic Isle, according to the map or plat thereof as recorded in Plat Book 24, Page 235
 Public Records of Palm Beach County, Florida.

PROPERTY ADDRESS:

1920 SPANISH TRAIL
 DELRAY BEACH, FL 33483

INVOICE NUMBER: 207147-SE

DATE OF FIELD WORK: 04/25/2024

CLIENT FILE: NORBERTO

CERTIFIED TO

KRISTINA REED PA
 OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
 THE NORTHERN TRUST COMPANY
 ALEX JUSTIN LEWIS

FLOOD ZONE: X

FLOOD MAP: 12099C

PANEL: 0987

SUFFIX: F

PANEL DATE: 10/05/2017

PLATTED EASEMENTS, NOTABLE OR ADVERSE CONDITIONS (UNPLATTED EASEMENTS ALSO LISTED IF PROVIDED BY CLIENT):

IF APPLICABLE, RECIPIENTS OF THIS SURVEY SHOULD REVIEW THE POSITION OF ANY FENCE LINES SHOWN HEREON AND THEIR RELATIONSHIP TO THE BOUNDARY LINE.

- NO NOTABLE CONDITIONS FOUND.

ABBREVIATION LEGEND (SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING):

A OR AL = ARC LENGTH	EL OR ELEV = ELEVATION	OHC = OVERHEAD CABLE
CO = CLEANOUT	EM = ELECTRIC METER	P = PLAT
CA = CENTRAL ANGLE	F.F.E. = FINISHED FLOOR ELEV.	PC = POINT OF CURVE
CATV = CABLE TV RISER	FR = FOUND IRON ROD	PCC = POINT OF COMPOUND CURVATURE
CH = CHORD DISTANCE	FN = FOUND NAIL	PH = POOL HEATER
CONC. = CONCRETE	G.F.F.E. = GARAGE FINISHED FLOOR ELEV.	PI = POINT OF INTERSECTION
CR = CALCULATED FROM RECORD	L = LEGAL DESCRIPTION	PK = PARKER KAELOH
DE = DRAINAGE EASEMENT	M = MEASURED	POB = POINT OF BEGINNING
		POC = POINT OF COMMENCEMENT
		TWP = TOWNSHIP
		PP = POOL PUMP
		PRC = POINT OF REVERSE CURVATURE
		PT = POINT OF TANGENCY
		QTR = QUARTER
		R = RADIUS
		RNG = RANGE
		ROW = RIGHT OF WAY
		SEC = SECTION
		TR = TELEPHONE RISER
		UE = UTILITY EASEMENT
		UP = UTILITY POLE
		WM = WATER METER
		WV = WATER VALVE

SYMBOLS (SOME ITEMS IN LEGEND MAY NOT APPEAR ON DRAWING - NOT TO SCALE):

	= UTILITY POLE		= WELL
	= LIGHT POLE		= CENTER LINE
	= CATCH BASIN		= PARTY WALL
	= FIRE HYDRANT		= AIR CONDITIONER
	= MANHOLE		= SEPTIC LID
	= WATER VALVE		= ELEV. SHOT
	= WATER METER		= SECTION CORNER
			= HANDICAP PARKING SPACE
			= SEC. QTR. CORNER

LINETYPES:

BOUNDARY	
BUILDING	
EASEMENT	
CHAIN LINK FENCE	
WOOD FENCE	
PLASTIC FENCE	
OVERHEAD CABLE	

GENERAL NOTES:

- THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
- ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
- GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
- UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
- ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ON HEREON.
- ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
- ANY CORNERS SHOWN AS "SET" HAVE EITHER BEEN SET ON THE DATE OF FIELD WORK, OR WILL BE SET WITHIN 2 BUSINESS WEEKS OF SAID DATE AND ARE IDENTIFIED WITH A CAP MARKED LB (LICENSED BUSINESS) #8507.

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS OUTLINED IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL (IF AFFIXED) HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062, PURSUANT TO SECTION 472.025, FLORIDA STATUTES.



Digitally signed
 by Pablo Alvarez
 Date: 2024.04.29
 16:23:54 -04'00'

SIGNATURE

PABLO ALVAREZ - PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 7274 (NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR THE ELECTRONIC SEAL (IF AFFIXED) OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

DATE: 04/29/2024

PRINTING INSTRUCTIONS:

WHEN PRINTING THIS PDF IN ADOBE, SELECT "ACTUAL SIZE" TO ENSURE CORRECT SCALING. **DO NOT USE "FIT".**

LANDTEC
 SURVEYING
 and Lien

LICENSED BUSINESS No. 8507