

RETURN to:
City Attorney's Office
200 N.W. 1st Avenue
Delray Beach, FL 33444

PCN: 12-43-46-16-R3-001-0000
Address: 318 SE 5th Avenue

LANDSCAPE MAINTENANCE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____ by and between the **City of Delray Beach**, a Florida municipal corporation of the State of Florida, whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444 (the "City") and **318 SE 5th, LLC**, whose address is 6001 Broken Sound Parkway NW, Suite 503, Boca Raton, Florida 33487 (the "Owner").

WITNESSETH:

WHEREAS, to provide landscaping in the City, the City Commission has adopted ordinances setting forth requirements for landscaping; and

WHEREAS, the Owner owns a parcel of land with a street address of 318 SE 5th Avenue, Delray Beach, Florida 33483 (the "Property"), as more particularly described in Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, to comply with the City's landscape Ordinance, Owner wants to install landscaping and/or hardscape material (the "Improvements") within the Florida Department of Transportation ("FDOT") right-of-way of SE 5th Avenue abutting the Property (the "ROW Area"), pursuant to the terms of this Agreement; and

WHEREAS, FDOT requires the City to enter into an agreement requiring the City to install and maintain the Improvements in the ROW Area; and

WHEREAS, the City is required to indemnify and hold harmless FDOT for the Improvements and work performed in the ROW Area; and

WHEREAS, this Agreement requires Owner to hold harmless and defend the City for the installation and maintenance of the Improvements in the ROW Area; and

WHEREAS, this Agreement shall in no way be deemed an actual, constructive, or any other type of abandonment of City or FDOT public right-of-way; and

WHEREAS, the Owner acknowledges FDOT reserves the right at any time to utilize the ROW Area for right-of-way purposes; and

WHEREAS, the public will benefit from the beautification of areas along its streets by the addition of the Improvements; and

WHEREAS, this Agreement is not effective unless the Owner has submitted a landscape and/or site plan, obtained approval from the City and FDOT, and the appropriate amendment to the August 31, 2012, Maintenance Memorandum of Agreement between the City and FDOT has been fully executed; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Parties hereby represent and warrant that the above recitals are accurate and correct and hereby incorporate them in this Agreement.

2. The Owner shall perform all conditions as required by FDOT, the City, or any Board of the City in conjunction with the site plan and review process for the required installation and maintenance of the Improvements. The Property and ROW Area shall have an approved landscape and/or site plan, attached hereto and incorporated herein as Exhibit "B".

3. The Owner shall be responsible for purchasing and installing all plant, tree, hedge, or grass material and any other hardscape material as required by the Owner's approved landscaping and/or site plan. Owner shall further be responsible for obtaining all permits and approvals from all applicable governmental agencies.

4. The Owner hereby agrees to maintain the Improvements in the right-of-way in accordance with the City's Ordinances, FDOT regulations, and the terms and conditions of this Agreement. The Owner shall be responsible to maintain, which means the proper watering and proper fertilization of all plants and keeping them as free as practicable from disease and harmful insects; to properly mulch the plant beds; to keep the premises free of weeds; to mow and/or cut the grass to a proper height; to properly prune all plants which includes (1) removing dead or diseased parts of plants, or (2) pruning such parts thereof which present a visual hazard for those using the roadway. To maintain also means removing or replacing dead or diseased plants in

their entirety or removing or replacing those that fall below original project standards. All plants removed for whatever reason shall be replaced by plants of the same grade, not necessarily the same plant but of acceptable quality to the City and the Owner, as specified in the original plans and specifications and of a size comparable to those existing at the time of replacement. To maintain also means to keep litter removed from the areas in the right-of-way. Plants shall be those items that would be scientifically classified as plants and include but are not limited to trees, grass, or shrubs.

5. If at any time after the execution of this Agreement by the Owner, it shall come to the attention of the City that the landscaping or hardscape is not properly maintained pursuant to the terms and conditions of this Agreement then the City may at its option issue a written notice that a deficiency or deficiencies exist, by sending a certified letter to the Owner. Thereafter, the Owner shall have a period of thirty calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the City may at its option, proceed as follows:

- (a) Maintain the landscaping or part thereof and invoice the Owner for expenses incurred, which, if unpaid, can be recorded as a lien against the Property;
- (b) Terminate this Agreement and require the Owner to comply with the City's current Ordinance on landscaping; or
- (c) Cite the Owner for failure to comply with the City's Ordinances.

6. At all times hereto, the Owner shall own and maintain all Improvements installed in the ROW Area.

7. If for any reason FDOT decides that it needs the ROW Area for any purpose this Agreement shall terminate, and the Owner shall be required to comply with the City's current Code of Ordinances. Owner shall remove all the Improvements from the right-of-way within 20 days of such notification, if so requested by the City.

8. Owner shall at all times hereafter indemnify, hold harmless and, at the City's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional or negligent act of, or omission of, Owner, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject

matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action or demand, Owner shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by City Attorney to defend City. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement.

9. The City hereby reserves the right to enforce this Agreement by pursuing any and all remedies provided by law or in equity. All of the remedies available to the City shall be cumulative, and the City's election to pursue any remedy shall not preclude the City for then or later pursuing any one or more other remedies

10. This Agreement shall constitute the entire Agreement of the parties with respect to the subject matter of it. All prior understandings and agreements between the parties with respect to such matters are merged into this Agreement, which alone fully and completely expresses their understanding.

11. Upon conveyance of the subject property to any future owner, this Agreement shall be deemed automatically assigned by the Owner to any such future owner of the Property, and such future owner shall be deemed to have assumed all the Owner's obligations hereunder. This Agreement may not otherwise be assigned or transferred by the Owner, in whole or part, without the written consent of the City.

12. This Agreement shall be binding on the Parties, their respective heirs, successors, legal representatives, and permitted assigns and shall be recorded in the Public Records of Palm Beach County and shall run with the land.

13. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

14. Owner shall be bound by all the terms and conditions regarding the ROW Area found in the Florida Department of Transportation, District Four (4) Landscape Inclusive Maintenance Memorandum of Agreement entered into by the City and FDOT on August 31, 2012, including any amendments thereto.

14 Any notice or communication under this Agreement shall be in writing and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise, then by registered or certified mail, it should be deemed to have been given when delivered to and received by the party to whom it is addressed. The notices and communication shall be given to the particular parties at the following addresses:

City: City Manager
 City of Delray Beach
 100 N.W. 1st Avenue
 Delray Beach, Florida 33444

Owner: 318 SE 5th, LLC
 6001 Broken Sound Parkway NW
 Suite 503
 Boca Raton, Florida 33487

Either party may at any time by giving ten (10) days written notice designate any other person or entity or any other address in substitution of the foregoing to which the notice or communication shall be given.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and the Owner executed this Agreement as of the day and year first above written.

WITNESSES:



Signature

Cara Ferreira

Name

12588 Meridiana Dr.
Address Boca Raton FL 33455



Signature

Edwin Muller

Name

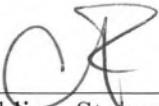
9900 Dahlia Avenue
Palm Beach Gardens, FL 33410

Address

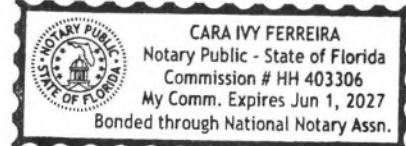
STATE OF FL
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 1 day of July, 2025, by David Rowley (name of person), as owner (type of authority) for 318 SE 5th, LLC (name of party on behalf of whom instrument was executed).

Personally known OR Produced Identification _____
Type of Identification Produced _____



Notary Public – State of FL



ATTEST:

Alexis Givings, City Clerk

Approved as to legal form
and sufficiency:

Lynn Gelin, City Attorney

CITY OF DELRAY BEACH, FLORIDA

By: _____
Thomas F. Carney, Jr., Mayor

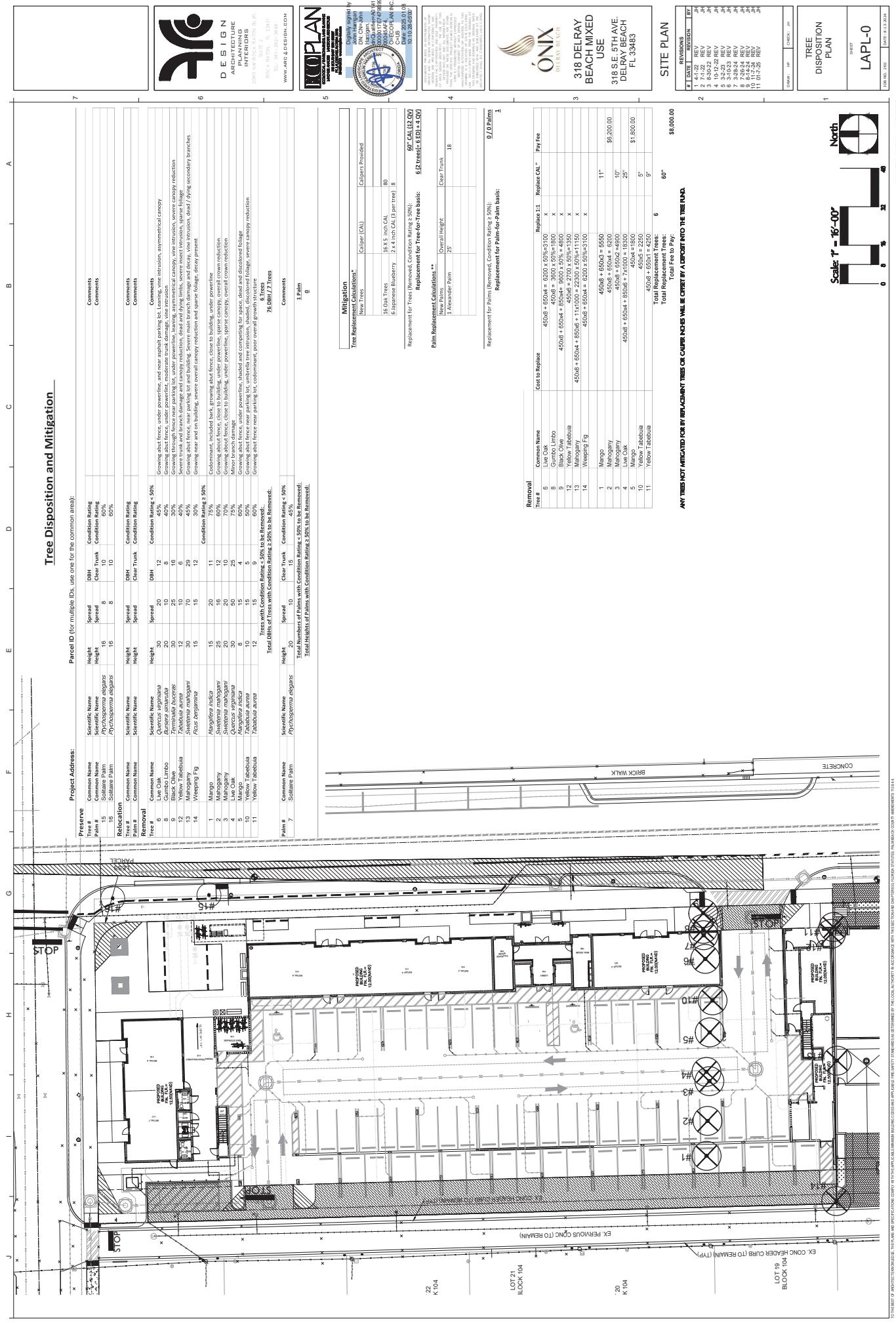
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EXHIBIT "A"
LEGAL DESCRIPTION OF REAL PROPERTY

Parcel A of BLACKSTAR 318 SE 5TH AVE, according to the plat thereof as recorded in Plat Book 137, Page 121, Public Records of Palm Beach County, Florida.

EXHIBIT “B”
LANDSCAPE AND/OR SITE PLAN

Tree Disposition and Mitigation





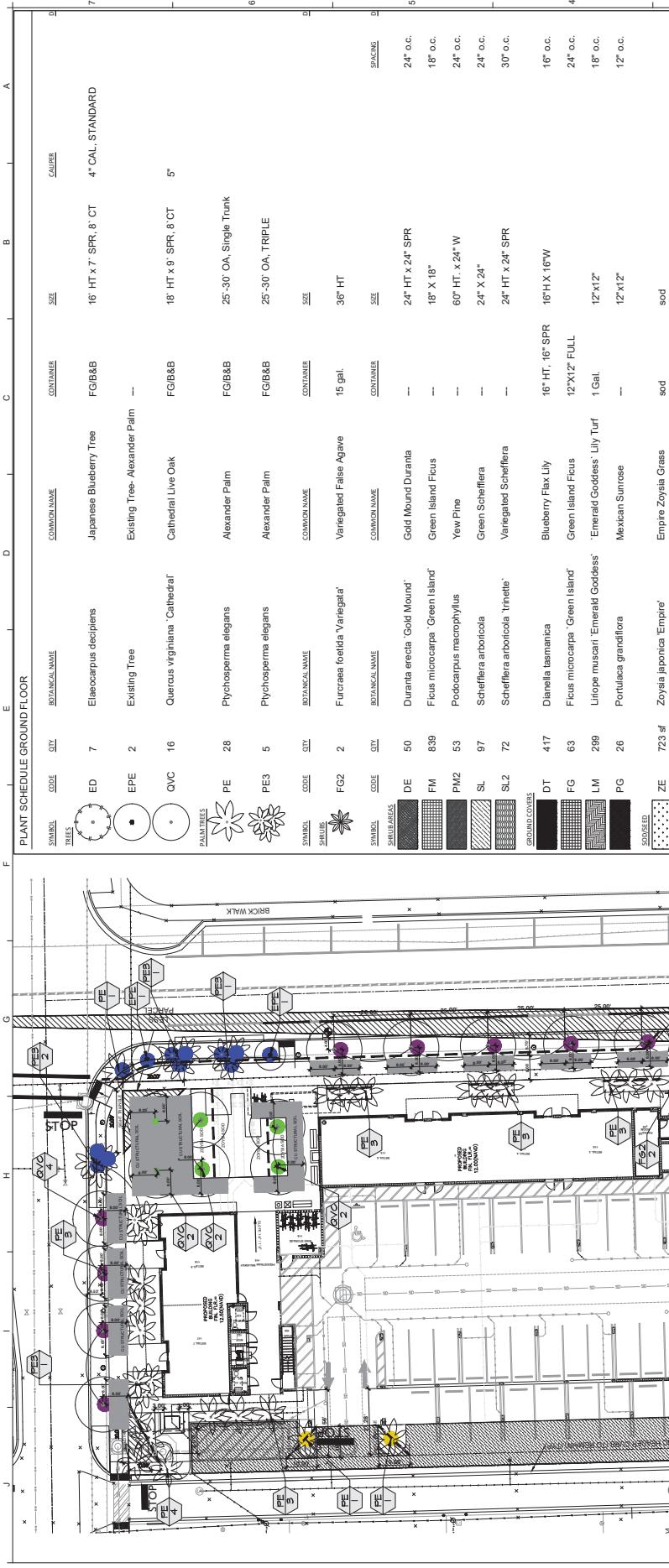
DESIGN
PLANNING
INTERIORS
2001 18TH AVENUE
BOCA RATON, FL 33431
TEL: 561-295-5418
www.art4design.com



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Site Plan

REVISIONS

1 DATE

REV

2 7-1-22

REV

3 8-30-22

REV

4 8-30-22

REV

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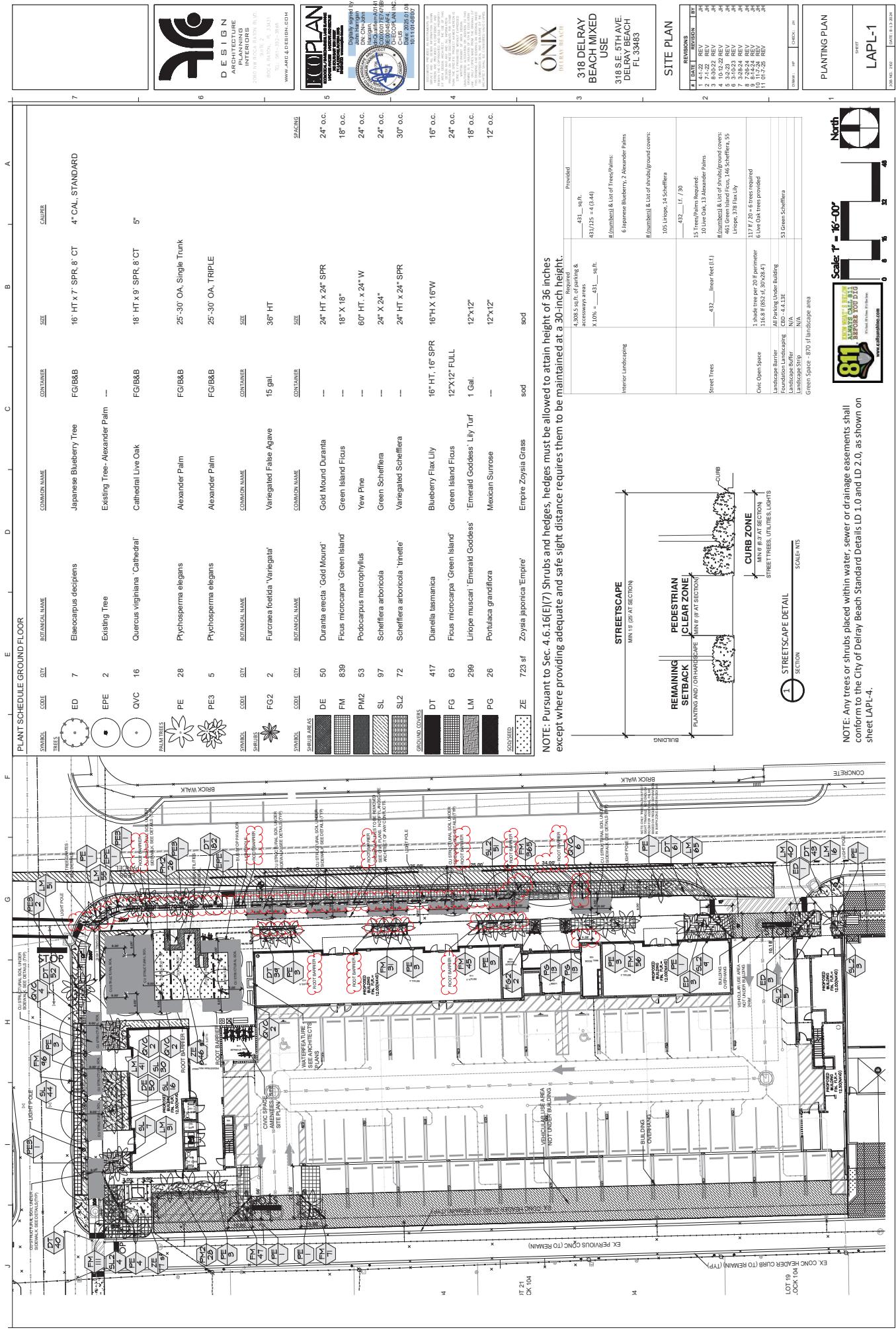
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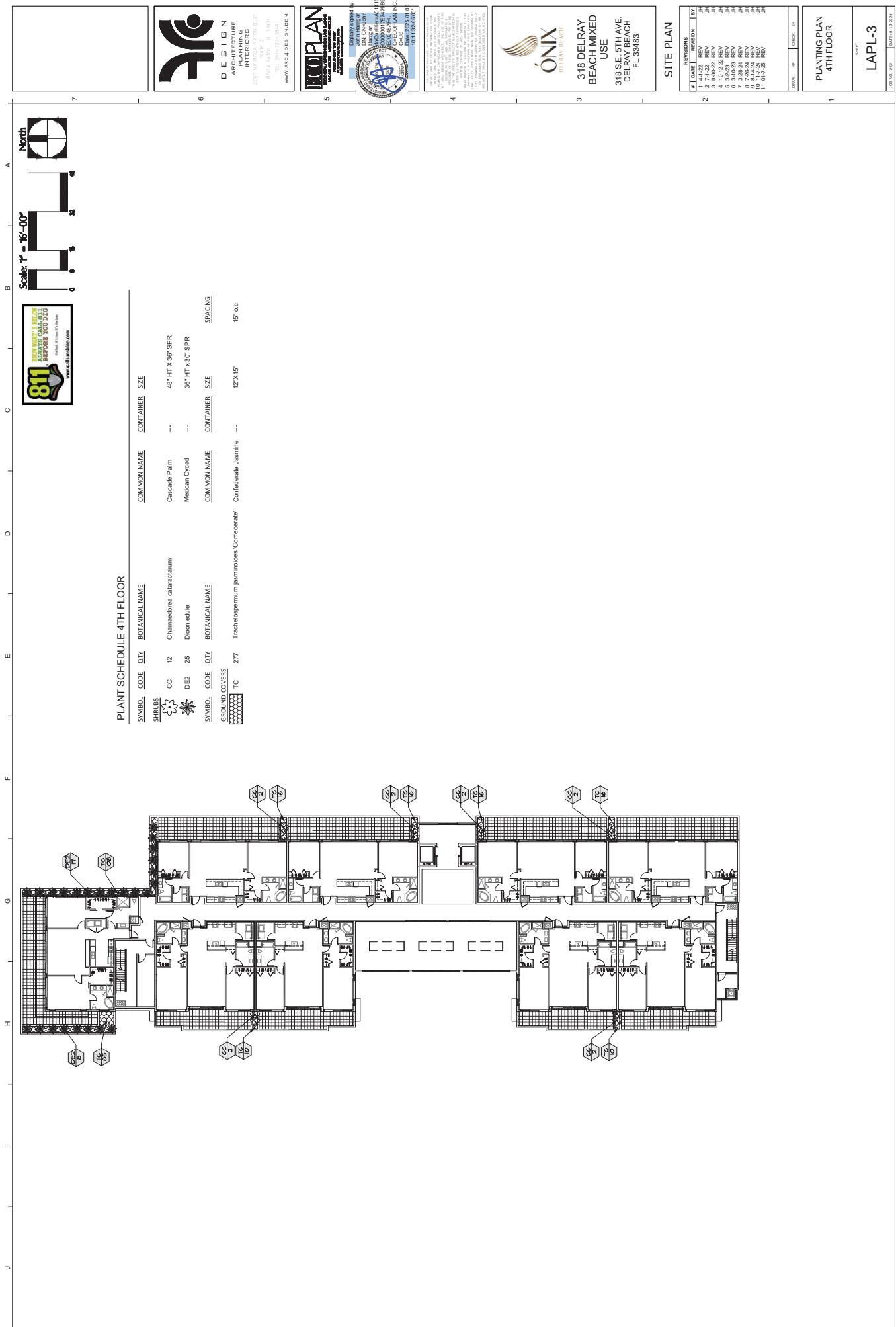
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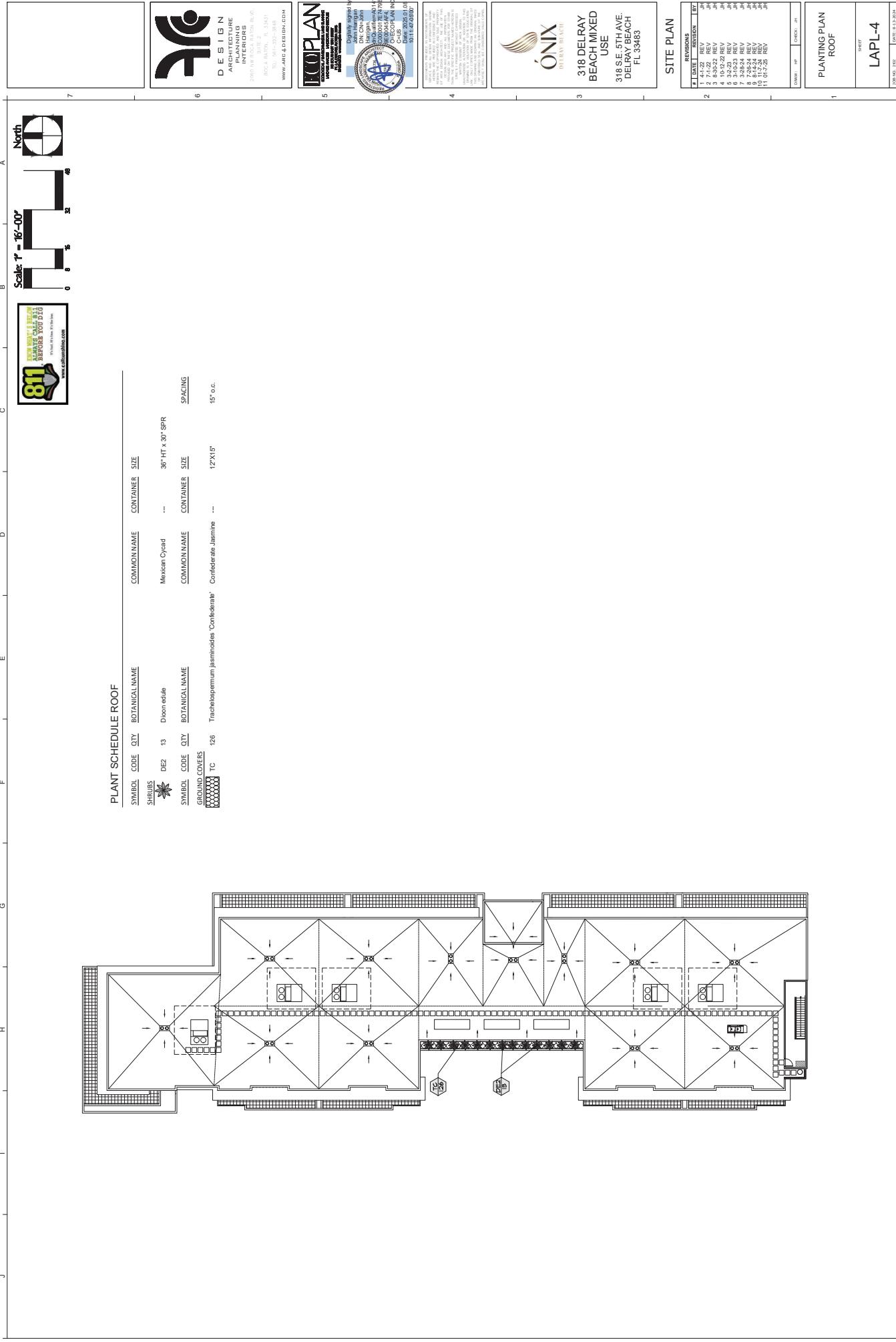
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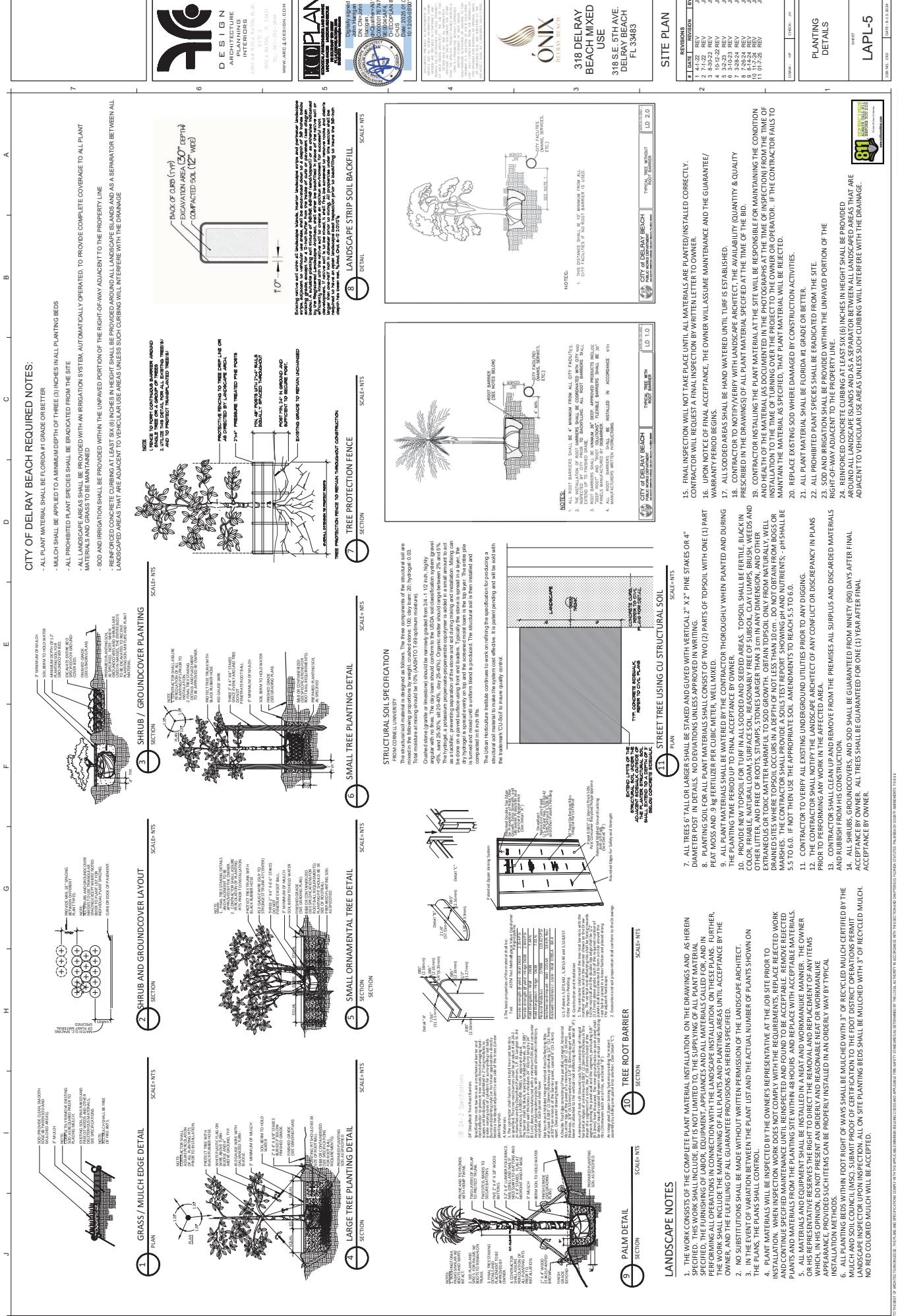


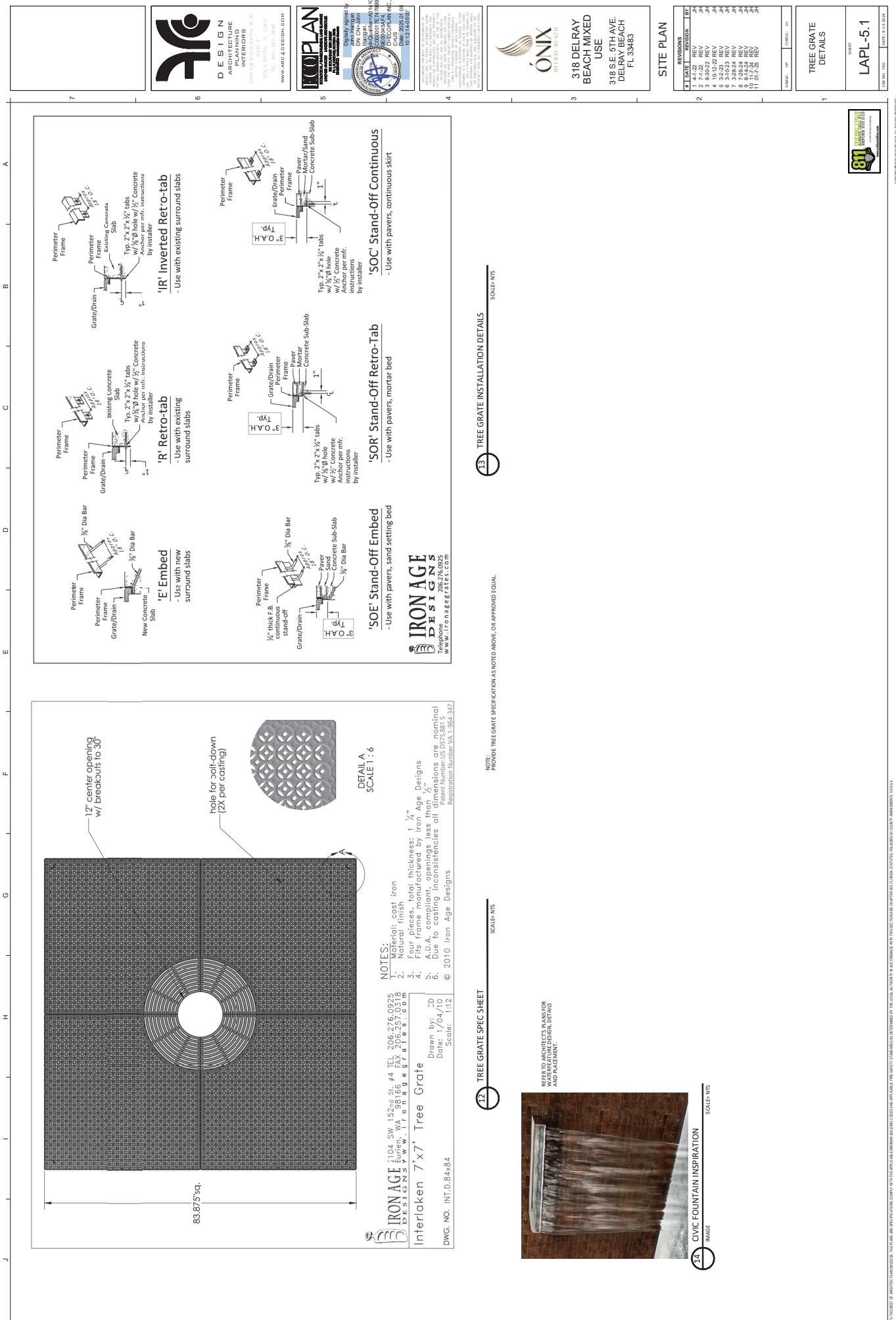


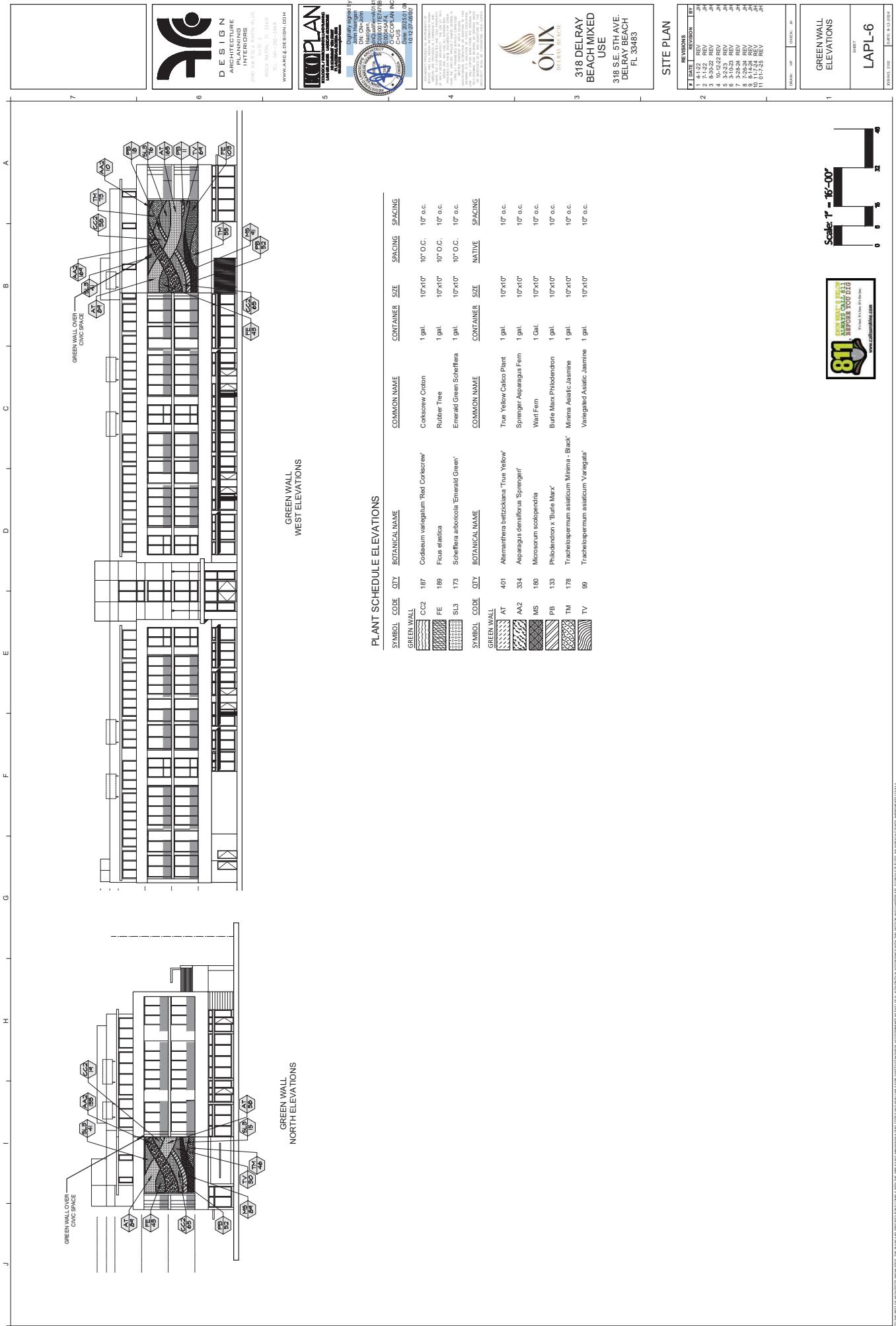


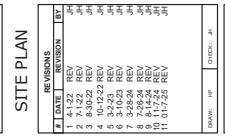


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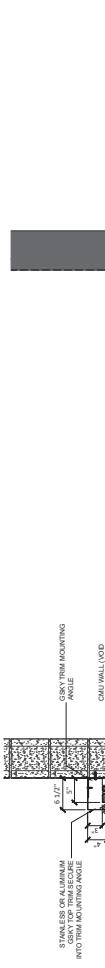
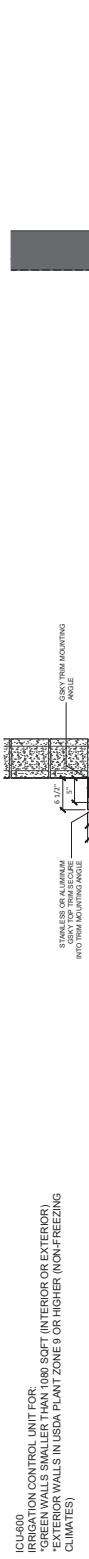
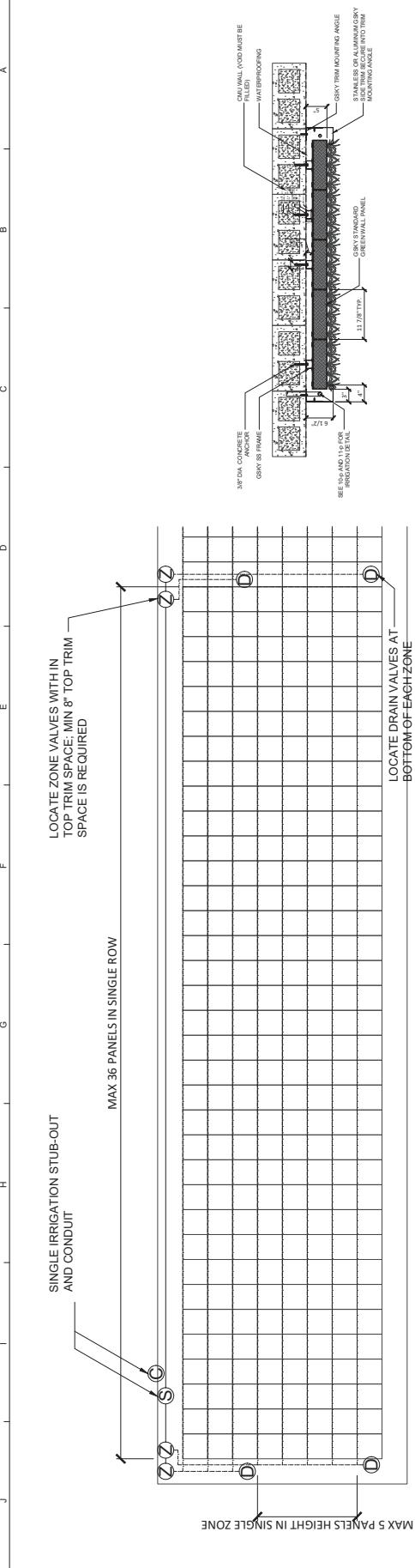


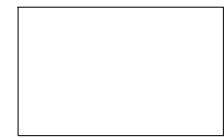




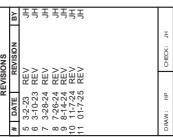
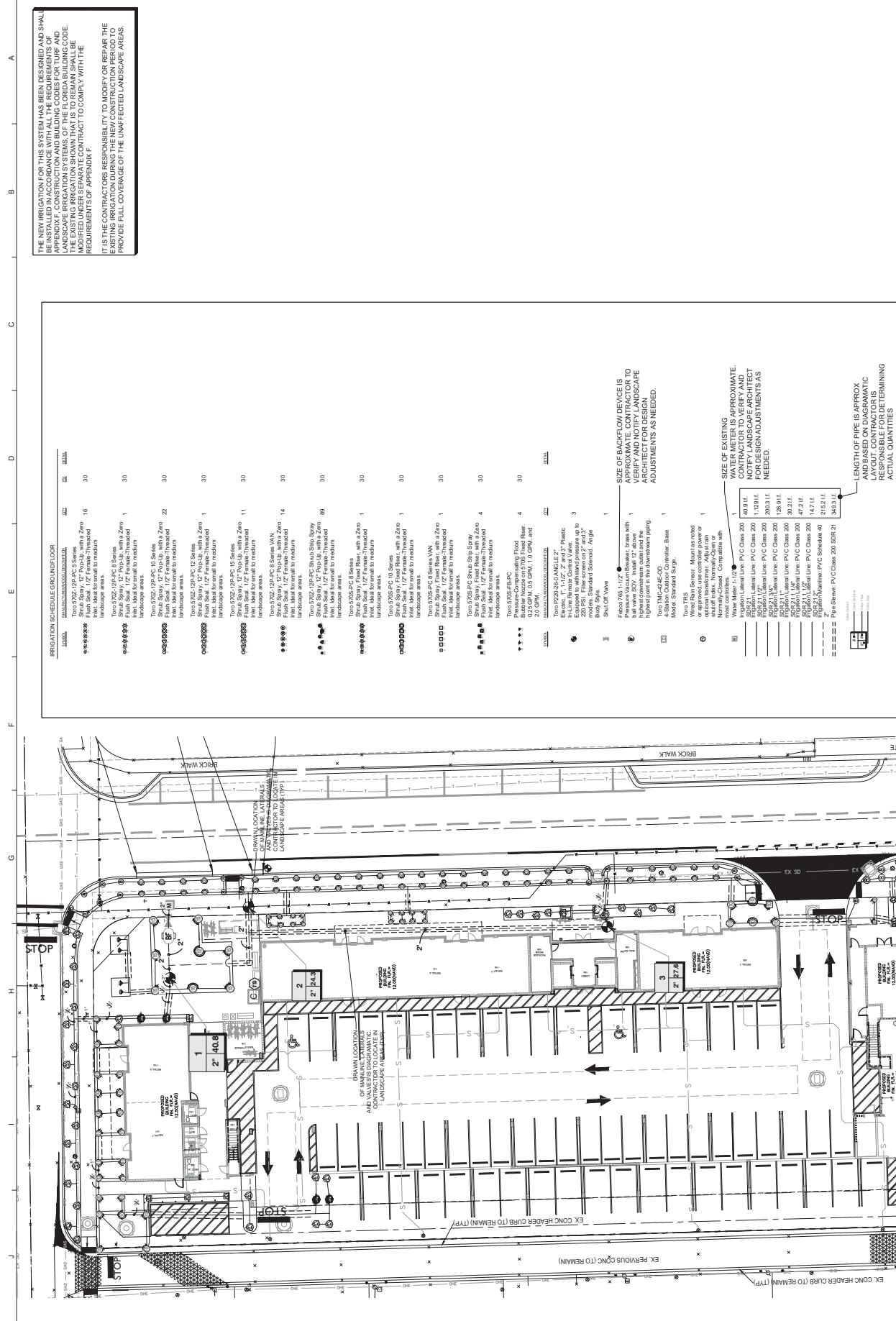


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D.E.P. PLAN
DESIGN
ARCHITECTURE
PLANNING
INTERIORS



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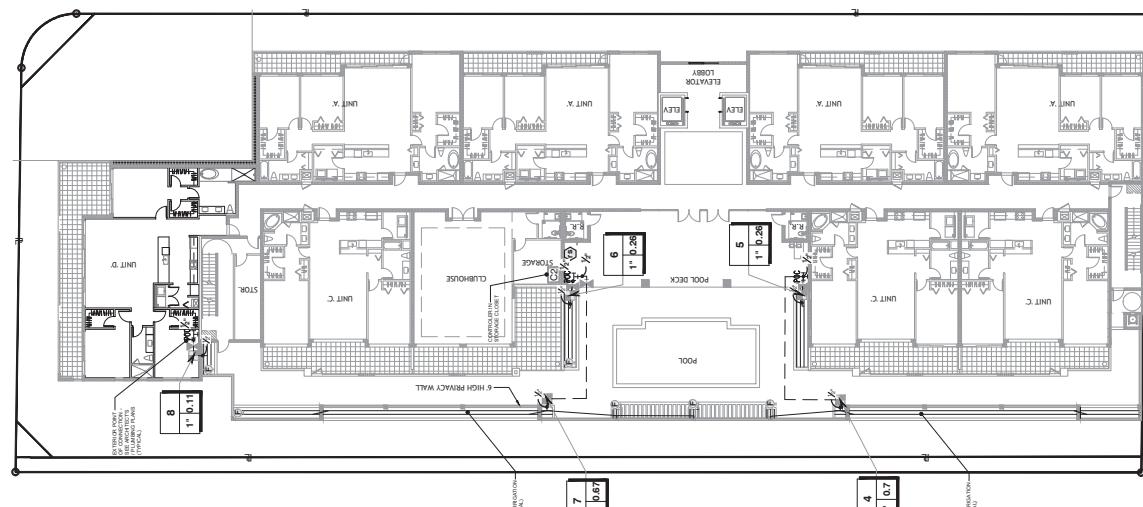
Date: 06/26/10 Owner: J.W. BEAN

THE FIRST IRRIGATION SPOWN THAT IS CROPPED SHALL BE MODIFIED UNDER SEPARATE CONTRACT TO COMPLY WITH THE REQUIREMENTS OF APPENDIX F.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO MODIFY OR REPAIR THE EXISTING IRRIGATION DURING THE NEW CONSTRUCTION PERIOD TO PROVIDE FULL COVERAGE OF THE UNAFFECTED LANDSCAPE AREAS.

IRRIGATION SCHEDULE WORKAREA

MANUFACTURER/MODEL/DESCRIPTION	QTY	DETAIL
Toro 4000 Series 1" Yoke Flow Control Valve Kit. With Vin. Intred 700.	5	
Uniflow Flow Restrictor Valve .010" FGR. Pressure Regulator and Flange. .10 GPM. Regulated pressure at 40psi	7	
Toro T-CHH-FPT		
Fisher 1" Flush Valve planned to flush manifold at low point.		
Air to Receive Engine Torx RGP-218		
Submersible Pump with FOOTGARD technology. 55 GPH emitters at 18' GPM. Pipe lateral spaces at 18" apart, with emitter offset for triangular pattern.	4	
MANUFACTURER/MODEL/DESCRIPTION	QTY	DETAIL
Shut Off Valve	1	
Toro M-24E-D with (01) TS4 Station Model with one 4-section expansion module. Standard Surge Valve TS4.	1	
Toro TS4 Yoke Valve Surge Monitor as ordered or approved, use controller power or optional transformer. Adjust rain shield index. Normally-Open or Normally-Closed. Compatible with most controllers.	1	
PIC PTC Point of Connection 3/4"	3	
Irrigation Lateral Line PVC Cities 20 SDR 21 1/2"	7.8 lf	
Irrigation Manifile PVC Schedule 40 1/2"	85.3 lf	
Irrigation Manifile PVC Schedule 40 1/2"	117.2 lf	
Value Callout		
#	Value by Number	
in'	Value By Inch	
ft'	Value By Foot	

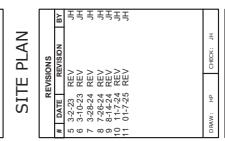
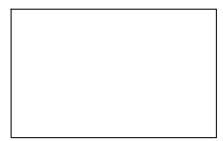


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318 DELRAY BEACH MIXED USE
318 S.E. 5TH AVE.
DELRAY BEACH
FL 33483





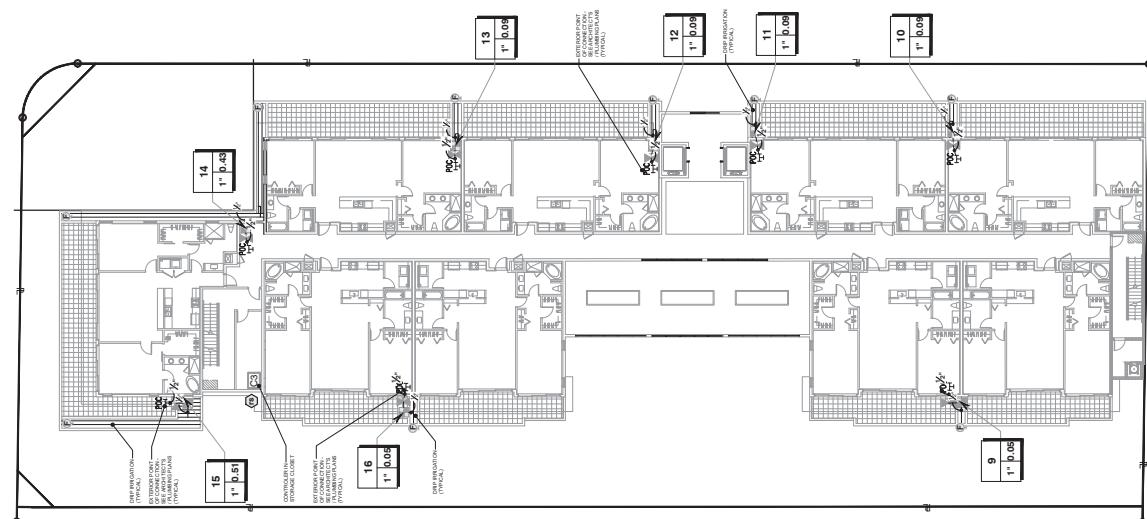
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THE NEW IRRIGATION FOR THIS SYSTEM HAS BEEN DESIGNED AND SHALL BE INSTALLED IN ACCORDANCE WITH ALL THE REQUIREMENTS OF APPENDIX E, CONSTRUCTION AND BUILDING CODES FOR DRAINAGE AND THE EXISTING IRRIGATION SYSTEM THAT IS TO REMAIN SHALL NOT BE MODIFIED UNDER SEPARATE CONTRACT TO COMPLY WITH THE REQUIREMENTS OF APPENDIX F.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY OR REPAIR THE EXISTING IRRIGATION DURING THE NEW CONSTRUCTION PERIOD TO PROVIDE FULL COVERAGE OF THE UNAFFECTED LANDSCAPE AREAS.

IRRIGATION SCHEDULE FLOOR 4

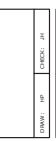
SYMBOL	MANUFACTURE/MODEL/DESCRIPTION	QTY	DETAIL
	Toro DZC-700 1" Low Flow Control Valve Kit With Tin, Inlet 700	700	8
	Universal Irrigation Line 100' per Reel, 1/2" GPM, Regulated Pressure at 40psi	286.6 ft.	9
	Flare Valve plumbed to flush manifold at low point.		
	Air to Remote Debitite		
	Toro RGP-15 Surface Compensating Landscape Dripline with FOOTGUARD technology, 53 GPH		
	Dripline with 100% coverage, 53 GPH		
	8-Sloton Valve Controller 4-Bit Station Model with one 4-slotted expansion module, Standard Surge	1	
	Toro TRS Wind Rain Sensor. Mount as required or approved. Use shutoff index. Normal Open or Normally Closed.	1	
	Compatible with most controllers.		
	Point of Connection 3/4"		
	Irrigation Lateral Line, PVC Class 200 SDR 21	27.71 ft.	
	Irrigation Mainline PVC Schedule 40 1/2"	3.51 ft.	
	Valve Callout		
	Valve Number		
	Valve Size		



4th FLOOR

SITE PLAN

#	DATE	REVISION	BY
2	6/3/2013	REV	JF
3	3/28/13	REV	JF
7	3/28/14	REV	JF
8	3/28/14	REV	JF
9	3/28/14	REV	JF
10	1/17/14	REV	JF
11	1/17/14	REV	JF



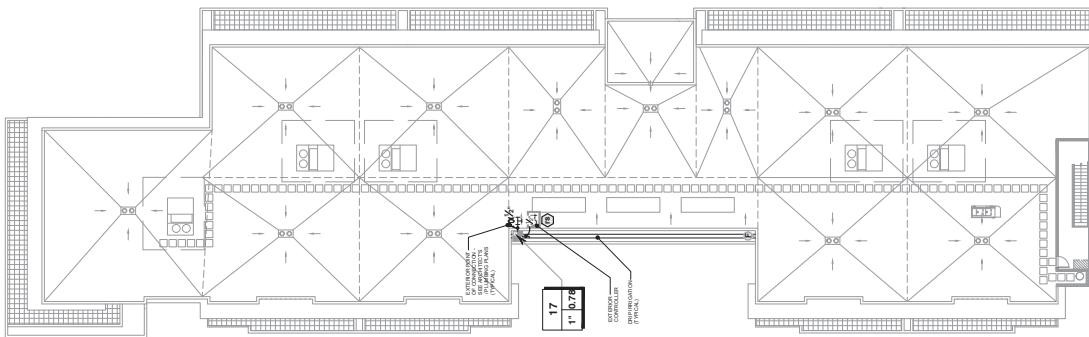
IT IS THE CONTRACTORS RESPONSIBILITY TO MODIFY OR REPAIR THE EXISTING IRRIGATION SHOWN THAT IS TO REMAIN SHALL BE MODIFIED UNDER SEPARATE CONTRACT TO COMPLY WITH THE REQUIREMENTS OF APPENDIX F.

CONTRACTORS RESPONSIBILITY TO MODIFY OR REPAIR THE

IT IS THE CO

IRRIGATION SCHEDULE ROOF

MANUFACTURER/MODEL/DESCRIPTION		QTY	DETAIL
SYMBOL	ICON	SYMBOL	ICON
Toro DZK-700 ¹		1	Low Flow Drip Control Valve Kit. With trim. 700 psi Regulator and Filter. No 1 GPM. 3/4" GPM. Regulated pressure at 40psi.
Toro T-FCU-FRT		1	Flush Valve. Plumber to flush manifold at low point. Also w/ Remote Options Tool RGS-216
			Surface Pressure Compensating Landscape Dripline with ROTOGARD Technology. 55 emitters at 18° O.C. Drip line emitter spaced at 18° apart. Wm emitter spacing for uniform pattern.
MANUFACTURER/MODEL/DESCRIPTION		QTY	DETAIL
Toro TMC-24E-QD		1	4-Salon Outdoor Controller. Base Model. Standard Sage.
			Two TRS Wired TR Sensor. Mount as told or approved. use with outdoor power transformer. Adjust fan speed. Not for indoor use. Normally-Closed. Compatible with most controllers.
			Point of Connection 34"
			Irrigation lateral line P/C Class 200 SDR 21 1/2"
			— — — Irrigation Mainline PVC Schedule 40 1/2"
			— — —
			4.2 l.f.
			3.6 l.f.
			LENGTH OF PIPE LAYOUT CONT RESPONSIBLE
			Value Callout
			# Value At Number
			% Value At Low
			% Value At High



ROOF LEVEL

D E S I G N
ARCHITECTURE
PLANNING
INTERIORS
2060 NW BOCAGE BLVD.
SUITE 2
BOCA RATON, FL 33431
TEL: 561-392-3848

A business card for Deejay Hangan. The card features a large logo on the left with the word "PLAN" in a stylized font. Below it is the company name "ARRG 4 DESIGN". To the right is a blue rectangular box containing the title "Deejay Hangan", "DN - CMO/John", and "Director of Marketing and Communications". Below this is a smaller box with "Hangan" and "John Quillan". At the bottom is a blue circular seal with a signature and the text "ARRG 4 DESIGN".

ONIX
DURAY BEACH
318 DELRAY
BEACH MIXED
USE
318 SE. 5TH AVE.
DELRAY BEACH
FL 33483

卷之三

REVISIONS			
#	DATE	REVISION	BY
5	3-22-23	REV	JH
6	3-10-23	REV	JH
7	2-28-24	REV	JH
8	7-26-24	REV	JH
9	8-14-24	REV	JH
10	1-17-24	REV	JH
11	0-7-25	REV	JH

DRAW: 14P CHECK: 14

Irrigation Plan Roof Level

SWEET

Lair-4

CONFIDENTIAL INFORMATION WHICH IS DRAFTED, PREPARED

