



Planning, Zoning and Building Department

BOARD ACTION REPORT – APPEALABLE ITEM

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|--------------------------|--|
| Project Name: | Subculture Coffee |
| Project Location: | 20 West Atlantic Avenue |
| Request: | Certificate of Appropriateness (COA) and Class III Site Plan Modification |
| Board: | Historic Preservation Board |
| Meeting Date: | July 19, 2017 |

Board Action:

Approved the COA and Class III Site Plan modification for a Change of Use from retail to restaurant for Subculture Coffee, on a 6 to 0 vote (Harden Absent).

Project Description:

The subject property is located at the southwest corner of W. Atlantic Avenue and North Swinton Avenue, is within the Old School Square Historic District, is zoned the Old School Square Historic Arts District (OSSHAD), is within the Central Business District (CBD) overlay and has a Future Land Use Map designation of Other Mixed Use (OMU). The subject Rectory Park building is considered non-contributing as it was constructed in 2001, which is outside the period of significance for the Old School Square Historic District (1902-1965).

The request is for a change of use for approximately 715 sq. ft. of retail space for use as restaurant and to combine this converted space with the adjacent 1,113 sq. ft. restaurant space, which was formerly occupied by Nature's Way Café. The new restaurant will occupy a total of 1,828 square feet of space within the Rectory Park building. No exterior structural/aesthetic improvements are proposed; therefore, existing elevations have not been included with the application. A site plan is included with this request as the parking requirements change as a result of the change of use application; however no changes to the parking layout is proposed, the only change to the site plan is the parking and square foot calculations noted in the site data box.

It is noted that this property is part of the larger overall project known as Swinton Commons and is currently subject to a separate review by various City boards and the City Commission.

Staff supported the Certificate of Appropriateness and Class III Site Plan Modification, subject to conditions of approval.

Board Comments:

The Board comments were supportive.

Public Comments:

No members of the public spoke for or against the project.

Associated Actions: All required actions were taken.

Next Action: HPB action is final.

HISTORIC PRESERVATION BOARD

CITY OF DELRAY BEACH

STAFF REPORT

MEETING DATE: July 19, 2017

ITEM: 20 West Atlantic Avenue, Old School Square Historic District-Certificate of Appropriateness, **(2017-178)** for a change of use from retail/commercial to restaurant.

RECOMMENDATION: Approve the Certificate of Appropriateness and Class III Site Plan Modification

GENERAL DATA:

Owner:..... Atlantic Ave Development, LLC

Applicant: Rodney Mayo – Subculture Coffee

Agent:..... John W. Szerdi, AIA
Living Designs Group Florida
Architects, Inc.

Location:..... 20 West Atlantic Avenue

Property Size:..... 1.308 Acres

Historic District: Old School Square Historic District

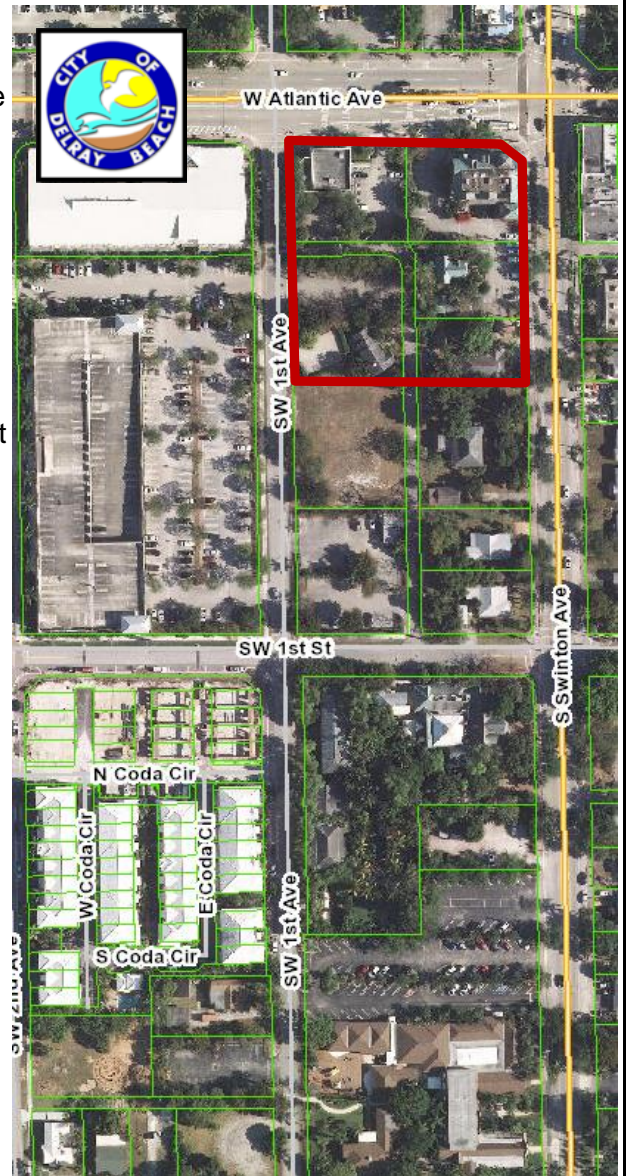
Current Zoning:..... OSSHAD

Adjacent Zoning:.....
North: OSSHAD
South: OSSHAD
East: OSSHAD
West: OSSHAD

Existing Future Land Use Designation:..... Other Mixed Use (OMU)

Water Service:..... Public water service is provided on site.

Sewer Service:..... Public sewer service is provided on site.



ITEM BEFORE THE BOARD

The item before the Board is the consideration of a Class III Site Plan Modification and Certificate of Appropriateness (COA) (2017-178) associated with a change of use for the **Subculture Coffee - 20 West Atlantic Avenue**, pursuant to Land Development Regulations (LDR) Sections 2.4.5(G)(5) and 2.4.6(H)(5).

BACKGROUND & PROJECT DESCRIPTION

The subject property is located at the southwest corner of W. Atlantic Avenue and North Swinton Avenue, is within the Old School Square Historic District, is zoned the Old School Square Historic Arts District (OSSHAD), is within the Central Business District (CBD) overlay and has a Future Land Use Map designation of Other Mixed Use (OMU). The subject Rectory Park building is considered non-contributing as it was constructed in 2001, which is outside the period of significance for the Old School Square Historic District (1902-1965).

The applicant, Subculture Coffee is seeking approval to change the use of approximately 715 sq. ft. of retail space for use as restaurant and to combine this space with the existing 1,113 sq. ft. adjacent restaurant space, which was formerly occupied by Nature's Way Café. The new restaurant will occupy a total of 1,828 square feet of space within the Rectory Park building.

It is noted that this property is part of the larger overall project known as Swinton Commons and is currently subject to review by various City boards and the City Commission.

No exterior structural/aesthetic improvements are proposed; therefore, existing elevations have not been included with the application. A site plan is included with this request as the parking requirements change as a result of the change of use application; however no changes to the parking layout is proposed, the only change to the site plan is the parking and square foot calculations noted in the site data box.

The Class III Site Plan Modification is now before the Board for consideration of a change of use from retail/commercial use to restaurant use for Subculture Coffee.

SITE PLAN ANALYSIS

Pursuant to LDR Section 3.1.1(D), Compliance with LDRs, whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. The applicable LDRs have been identified and reviewed throughout this report.

Article 4.4, Base Zoning District Regulations

Pursuant to LDR Section 4.4.24(B), Principal Uses and Structures, Restaurants are a permitted use within the Old School Square Historic Arts District (OSSHAD). The proposed change of use for the interior conversion of existing retail/commercial use to restaurant use is permitted.

Pursuant to LDR Section 4.4.13(I)(2(a), Minimum Number of Off-Street Parking Spaces Required in the CBD, the minimum number of parking spaces required in Section 4.6.9(C) (Number of Parking Spaces Required) is modified by this section for use in the CBD. Parking for restaurants not located within the Atlantic Avenue Parking District is required at a rate of 6 spaces per 1,000 square feet of gross floor area.

The proposed 1,828 sq. ft. restaurant is required to provide 11 parking spaces, which is a 3 space increase over the existing retail and restaurant uses. Overall, the project requires a total of 37

parking spaces and ample parking exists within two parking areas that contain a total of 44 parking spaces; therefore, this requirement has been met.

Article 4.6, Supplemental District Regulations

Pursuant to LDR Section 4.6.6(C)(1), dumpsters, recycling containers and similar service areas must be enclosed on three sides with vision obscuring gates on the fourth side, unless such areas are not visible from any adjacent public right-of-way.

Adequate facilities exist within a refuse container enclosure area central to the subject property with access to the east/west alley; thus this LDR requirement has been met.

Pursuant to LDR Section 4.6.9(C)(1)(b) Handicap Accessible Parking, special parking spaces designed for use by the handicapped shall be provided pursuant to the provisions of Florida Accessibility Code for Building Construction.

Handicap parking spaces exist within the two parking lots that contain 44 spaces; thus, this LDR requirement has been met.

Pursuant to LDR Section 4.6.18(B)(14)(i)(4), Architectural Elevations and Aesthetics for Buildings within the Downtown Area, roof mounted electrical, mechanical, air conditioning, and communication equipment shall be completely screened from adjacent properties and streets.

The requirements of this code section have been reviewed with the applicant to ensure compliance and the applicant has indicated that no cooking is proposed within the subject restaurant as the use is a coffee shop; therefore, no new mechanical/exhaust equipment which would require screening is proposed.

Site Plan Technical Items

While the revised site plan is adequate for review, the following site plan technical items still remain outstanding, and will need to be addressed prior to site plan certification and permit issuance:

1. Adjust the parking calculation numbers to correctly indicate the number of required parking spaces to be 37 spaces rather than 35 as noted on the site plan (sheet SP-1).

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| SECTION 4.5.1 HISTORIC PRESERVATION DISTRICTS AND SITES |
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Pursuant to LDR Section 2.4.6(H)(5), Procedures for Obtaining Permits and Approvals, Certificate of Appropriateness for Individually Designated Historic Structures and all Properties Located within Historic Districts, Findings, prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective A-4 of the Land Use Element of the Comprehensive Plan and specifically with provisions of Section 4.5.1, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

In accordance with the above, this criteria has been analyzed throughout this report.

Pursuant to LDR Section 4.5.1(E), Historic Preservation Sites and Districts, Development Standards, all development regardless of use within individually designated historic properties and/or properties located within historic districts, whether contributing or noncontributing, residential or nonresidential, shall comply with the goals, objectives, and policies of the Comprehensive Plan, these regulations, the Delray Beach Historic

Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

In accordance with the above, this criteria has been analyzed throughout this report.

Pursuant to LDR Section 4.5.1(E)(2)(c)(4), Major and Minor development: The subject proposal is classified as Minor Development as it is "The construction, reconstruction, or alteration of less than twenty-five percent (25%) of the existing floor area of the building and all appurtenances. For purposes of this section, all limitations and regulations shall be reviewed in a cumulative manner from the date of passage of this ordinance in 2008."

In accordance with the criteria above, the subject proposal has been review as Minor Development.

Pursuant to LDR Section 4.5.1(E)(5), Standards and Guidelines, a historic site, building, structure, improvement, or appurtenance within a historic district shall only be altered, restored, preserved, repaired, relocated, demolished, or otherwise changed in accordance with the Secretary of the Interior's Standards for Rehabilitation, and the Delray Beach Historic Preservation Design Guidelines, as amended from time to time.

The development proposal involves the interior conversion of floor area from retail/commercial use to restaurant use and does not affect exterior improvements to the structure nor spatial improvements to the subject property; thus, this LDR requirement is not applicable.

Pursuant to LDR Section 4.5.1(E)(8)(a-m), Visual Compatibility Standards, new construction and all improvements to both contributing and noncontributing buildings, structures and appurtenances thereto within a designated historic district or on an individually designated property shall be visually compatible.

The development proposal involves the interior conversion of floor area from retail/commercial use to restaurant use and does not affect exterior improvements to the structure nor spatial improvements to the subject property; thus, this LDR requirement is not applicable.

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| REQUIRED FINDINGS |
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Pursuant to LDR Section 2.4.5(G)(1)(c), Class III Site Plan Modification, a modification to a site plan which represents either a change in intensity of use, or which affects the spatial relationship among improvements on the land, requires partial review of Performance Standards found in LDR Sections 3.1.1, and 3.2.3, as well as required findings of LDR Section 2.4.5(G)(5).

Pursuant to LDR Section 2.4.5(G)(5), a finding that the proposed changes do not significantly affect the originally approved plan must be made concurrent with approval of a Class III modification.

The development proposal involves interior conversion of 715 square feet of existing retail/commercial use to restaurant use. Pursuant to LDR Section 2.4.5(G)(5), this minor modification does not significantly impact the previous findings; however, the applicable Future Land Use Map (FLUM) and Concurrency items as they relate to this development proposal are discussed below.

Pursuant to LDR Section 3.1.1 (Required Findings), prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body, which

has the authority to approve or deny the development application. These findings relate to the following areas:

LDR Section 3.1.1(A) - Future Land Use Map:

The subject property has a zoning designation of Old School Square Historic Arts District (OSSHAD) and a Other Mixed Use (OMU) Future Land Use Map designation. Restaurant is allowed pursuant to LDR Section 4.4.24(B)(7). Based upon the above, a positive finding can be made with respect to consistency with the Future Land Use Map (FLUM) designation.

LDR Section 3.1.1(B) - Concurrency

As described in Appendix "A", a positive finding of concurrency can be made as it relates to water and sewer, streets and traffic, drainage, and solid waste.

LDR Section 3.1.1(C) - Consistency

As described in Appendix "B", a positive finding of Consistency can be made as it relates to Standards for Site Plan Actions (LDR Section 3.2.3).

LDR Section 3.1.1(D) - Compliance with the Land Development Regulations

As described under the Site Plan Analysis section of this report, a positive finding of compliance with the LDRs can be made when all outstanding items attached as conditions of approval are addressed.

Comprehensive Plan Policies

A review of the objectives and policies of the adopted Comprehensive Plan was conducted and the following applicable objectives or policies are noted:

Future Land Use Objective A-1 Property shall be developed or redeveloped, in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

The development proposal involves interior conversion of 715 square feet of existing retail/commercial use to restaurant use. This minor modification does not entail modifications to the exterior of the existing structure and is consistent with the subject Objective. There are no concerns with respect to soil, topographic or other physical considerations. With respect to the adjacent land uses, the property is in an area surrounded by a mix of uses, primarily including commercial uses with residential uses located farther south and west. The property is in a mixed-use area zoned for both residential and office, as well as retail, restaurant, and other commercial uses. The proposal is appropriate and thereby consistent with the subject Objective.

Future Land Use Policy A-4.1 Prior to approval or recommending approval of any land use or development application for property located within a historic district or designated as a historic site, the Historic Preservation Board must make a finding that the requested action is consistent with the provisions of Section 4.5.1 of the Land Development Regulations relating to historic sites and districts and the "Delray Beach Design Guidelines".

Although the structure is non-contributing, it's commercial use is appropriate and assists in the maintenance and protection of the historic district. As indicated in this report, positive findings with respect to the LDRs have been made, more specifically to LDR Section 4.5.1, which provides

the review criteria for properties within historic districts. As a result, the proposal could be deemed to be consistent with the subject Objective and Policy.

The development proposal involves a change of use for an interior conversion of floor area from retail/commercial use to restaurant use and as demonstrated throughout this report, the proposal does not affect exterior improvements to the structure nor spatial improvements to the subject property.

REVIEW BY OTHERS

The proposed change of use is not in a geographic area requiring review by the Pineapple Grove Main Street (PGMS).

The request is scheduled for the Downtown Development Authority (DDA) meeting on July 10, 2017. As the DDA meeting occurs after the distribution of this report, the board's input will be conveyed at the HPB meeting.

The request is scheduled for the West Atlantic Redevelopment Coalition (WARC) meeting on July 13, 2017. As the WARC meeting occurs after the distribution of this report, the board's input will be conveyed at the HPB meeting.

The request was originally scheduled for the Community Redevelopment Agency (CRA) meeting of July 13, 2017; however, that meeting was rescheduled to July 27, 2017. The plans were sent to the CRA and any comments will be conveyed at the HPB meeting.

ASSESSMENT AND CONCLUSION

The development proposal is for the conversion of 715 sq. ft. of retail space for use as restaurant and to combine this space with the existing 1,113 sq. ft. adjacent restaurant space, for a total occupancy of 1,828 sq. ft. for restaurant use. No site changes nor architectural elevation changes are proposed. Therefore, positive findings can be made that the request is consistent with the Comprehensive Plan and meets criteria set forth in Sections 2.4.5(G)(5), 2.4.6(H)(5) and Chapter 3 of the Land Development Regulations, provided to the attached conditions of approval are addressed.

ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move approval of the Class III site plan and associated Certificate of Appropriateness (COA-178) for **Subculture Coffee**, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations Sections 2.4.5(G)(5) and 2.4.6(H)(5), subject to the attached conditions of approval.
- C. Move denial of the Class III site plan and associated Certificate of Appropriateness (COA-178) for **Subculture Coffee**, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not meet criteria set forth in the Land Development Regulations Sections 2.4.5(G)(5) and 2.4.6(H)(5).

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| STAFF RECOMMENDATION |
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Move approval of the Class III Site Plan modification and associated Certificate of Appropriateness (COA-178) for **Subculture Coffee**, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations Sections 2.4.5(G)(5) and 2.4.6(H)(5), subject to the following conditions:

1. That the site plan be amended to correctly indicate the number of required parking spaces to be 37 spaces rather than 35 spaces; and,
2. That the applicant provides a letter from Palm Beach County Traffic Engineering Division that indicates that Traffic Performance Standards have been met.

Attachments:

- Appendix "A" – Concurrency Findings
- Appendix "B" – Consistency Findings & Standards for Site Plan Actions
- Proposed Site Plan
- Proposed Floor Plans
- Survey

Report prepared by: Michelle Hoyland, Historic Preservation Planner

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| <p style="text-align: center;">APPENDIX "A" CONCURRENCY FINDINGS</p> |
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Pursuant to LDR Section 3.1.1(B), Concurrency, as defined pursuant to Objective B-2 of the Land Use Element of the Comprehensive Plan, must be met and a determination made that the public facility needs of the requested land use and/or development application will not exceed the ability of the City to fund and provide, or to require the provision of, needed capital improvements for the following areas:

Water and Sewer:

Water and sewer services are existing on site. Pursuant to the Comprehensive Plan, treatment capacity is available at the City's Water Treatment Plant and the South Central County Waste Water Treatment Plant for the City at build-out. Based upon the above, positive findings can be made with respect to this level of service standard.

Drainage:

There are no modifications to the footprint of the building and the existing drainage system will be maintained. Thus, there should be no impact on drainage as it relates to this level of service standard.

Traffic:

The applicant has provided a traffic statement from Kimley Horn, Inc. A Traffic Performance Standards determination has been requested of by Palm Beach County Traffic Division.

Ten new (net) trips will be generated by the proposed use, an increase of four net new external AM peak hour trips (1 in, 3 out) and an increase of 1 net new external PM peak hour trip (1 in, 0 out) on an average weekday when compared to the existing development. The site is located within the Delray Beach Transportation Concurrency Exception Area (TCEA); thus, the change of use will not significantly affect traffic circulation and will not negatively impact the neighborhood.

Parks and Recreation:

Non-residential uses are not considered to have an impact on the City's Parks and Recreation facilities.

Solid Waste:

The existing 715 sq. ft. retail/commercial use generated 3.64 tons of solid waste per year. Conversion of the 715 sq. ft. to restaurant use will generate 8.90 tons of solid waste per year; thus, the change of use will result in an increase of 5.26 tons of solid waste per year. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2046, thus a positive finding with respect to this level of service standard can be made.

Schools:

School concurrency findings do not apply for non-residential uses. Thus, the proposed development will not have an impact with respect to this level of service standard.

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| APPENDIX "B" CONSISTENCY FINDINGS & STANDARDS FOR SITE PLAN ACTIONS |
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- A. Building design, landscaping and lighting (glare) shall be such that they do not create unwarranted distractions or blockage of visibility as it pertains to traffic circulation.**

Not applicable _____
Meets intent of standard X
Does not meet intent _____

- B. Separation of different forms of transportation shall be encouraged. This includes pedestrians, bicyclists and vehicles in a manner consistent with policies found under Objectives D-1 and D-2 of the Transportation Element.**

Not applicable _____
Meets intent of standard X
Does not meet intent _____

- C. Open space enhancements as described in Policies found under Objective B-1 of the Open Space and Recreation Element are appropriately addressed.**

Not applicable X
Meets intent of standard _____
Does not meet intent _____

- D. The City shall evaluate the effect that any street widening or traffic circulation modification may have upon an existing neighborhood. If it is determined that the widening or modification will be detrimental and result in a degradation of the neighborhood, the project shall not be permitted.**

Not applicable _____
Meets intent of standard X
Does not meet intent _____

- E. Development of vacant land which is zoned for residential purposes shall be planned in a manner which is consistent with adjacent development regardless of zoning designations.**

Not applicable X
Meets intent of standard _____
Does not meet intent _____

- F. Property shall be developed or redeveloped in a manner so that the future use and intensity are appropriate in terms of soil, topographic, and other applicable physical considerations; complementary to adjacent land uses; and fulfills remaining land use needs.**

Not applicable _____
Meets intent of standard X - Subject to attached conditions of approval.
Does not meet intent _____

- G. Redevelopment and the development of new land shall result in the provision of a variety of housing types, which shall continue to accommodate the diverse makeup of the City's demographic profile, and meet the housing needs identified in the Housing Element. This shall be accomplished through the implementation of policies under Objective B-2 of the Housing Element.**

Not applicable ☒

Meets intent of standard ☐

Does not meet intent ☐

- H. The City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If it is determined that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.**

Not applicable ☐

Meets intent of standard ☒ - Subject to attached conditions of approval.

Does not meet intent ☐

- I. Development shall not be approved if traffic associated with such development would create a new high accident location, or exacerbate an existing situation causing it to become a high accident location, without such development taking actions to remedy the accident situation.**

Not applicable ☐

Meets intent of standard ☒ - Subject to attached conditions of approval.

Does not meet intent ☐

- J. Tot lots and recreational areas, serving children from toddler to teens, shall be a feature of all new housing developments as part of the design to accommodate households having a range of ages. This requirement may be waived or modified for residential developments located in the downtown area, and for infill projects having fewer than 25 units.**

Not applicable ☒

Meets intent of standard ☐

Does not meet intent ☐

RECTORY PARK PROPERTIES

RECTORY (BUILDING L) = 8 SPACES
FIRST FLOOR: 1,099 S.F. (TEAROOM)
SECOND FLOOR: 745 S.F. (OFFICE)
TOTAL AREA 1,845 S.F.

TEAROOM SPACE: 6 SPACE / 1000 S.F.
1,099 S.F. @ 6/1000S.F. = 6.6 SPACES
OFFICE SPACE: 1 SPACE / 500 S.F
745 S.F./ 500 S.F. = 2 SPACES

RECTORY APARTMENTS (BUILDING M) = 23 SPACES
FIRST FLOOR: 3,826.7 S.F. (INTERIOR SPACE)

COMMERCIAL SPACE: 1 SPACE / 500 S.F.
1,999 S.F. / 500 S.F. = 4.0 SPACES REQUIRED
RESTAURANT SPACE: 6 SPACE / 1000 S.F
1,828 S.F. @ 6/1000S.F. = 11 SPACES REQUIRED*
SECOND FLOOR: 3 RES. 2BR UNITS EXISTING
3 UNITS x 2.25 SPACE = 6.75 SPACES REQUIRED

HOUSE I (OFFICE) 1540 SF/500 S.F. = 3 SPACES
HOUSE K (COMMERCIAL) 555 SF/ 500 S.F = 1 SPACES

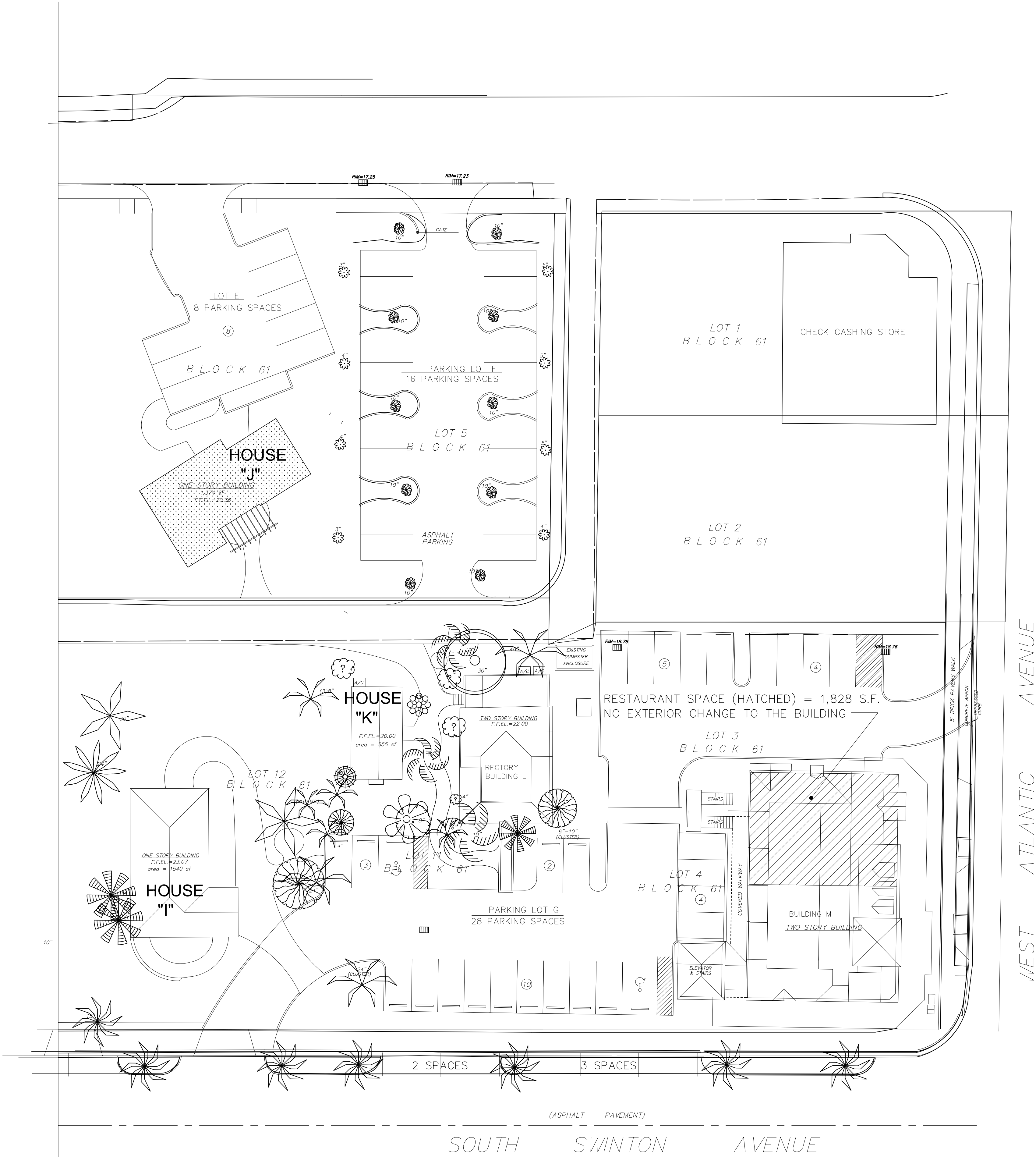
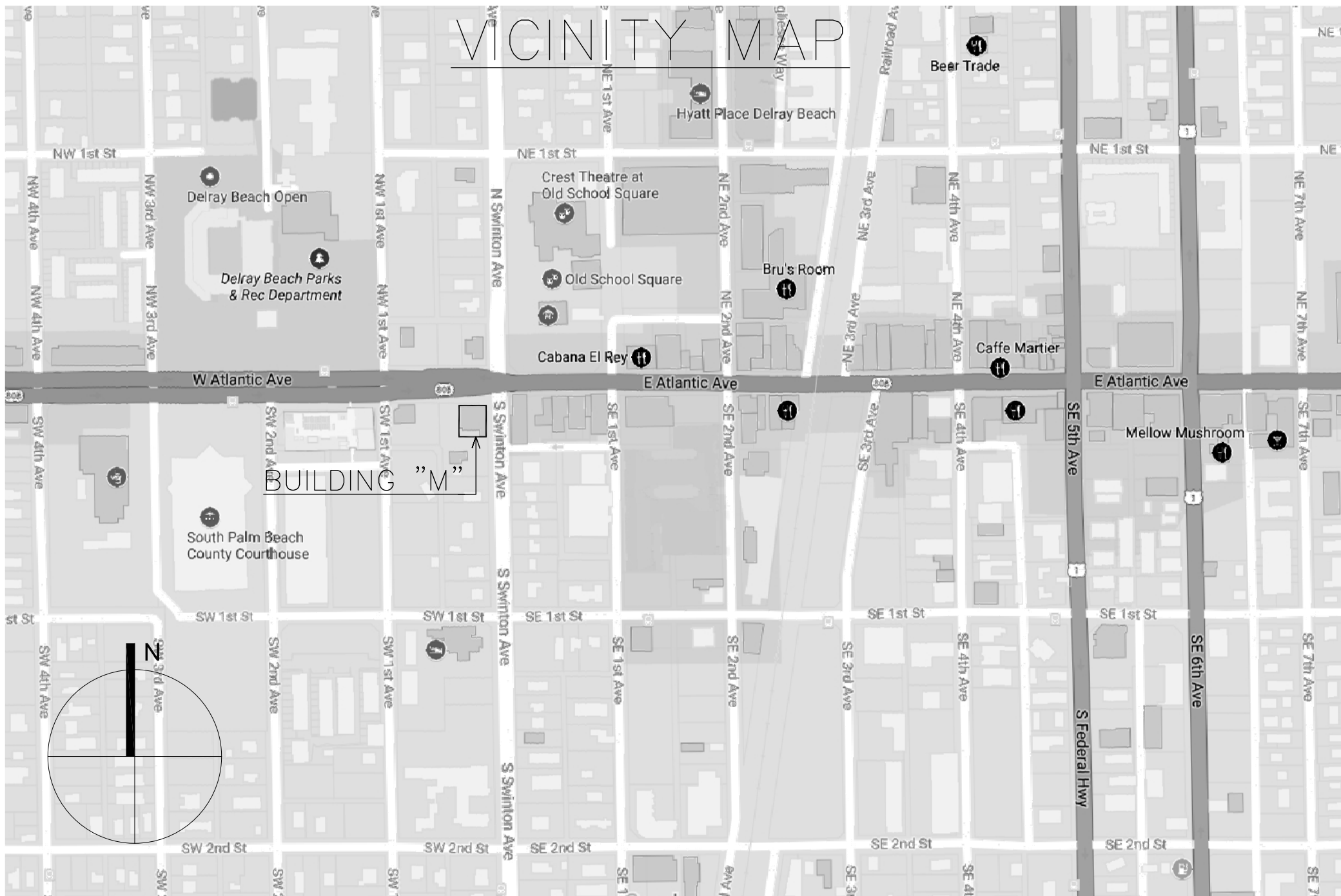
*1,828 S.F. INCLUDES NATURES WAY SPACE AND ADJACENT SPACE

SUBTOTAL STANDARD PARKING REQUIRED 35 SPACES REQUIRED

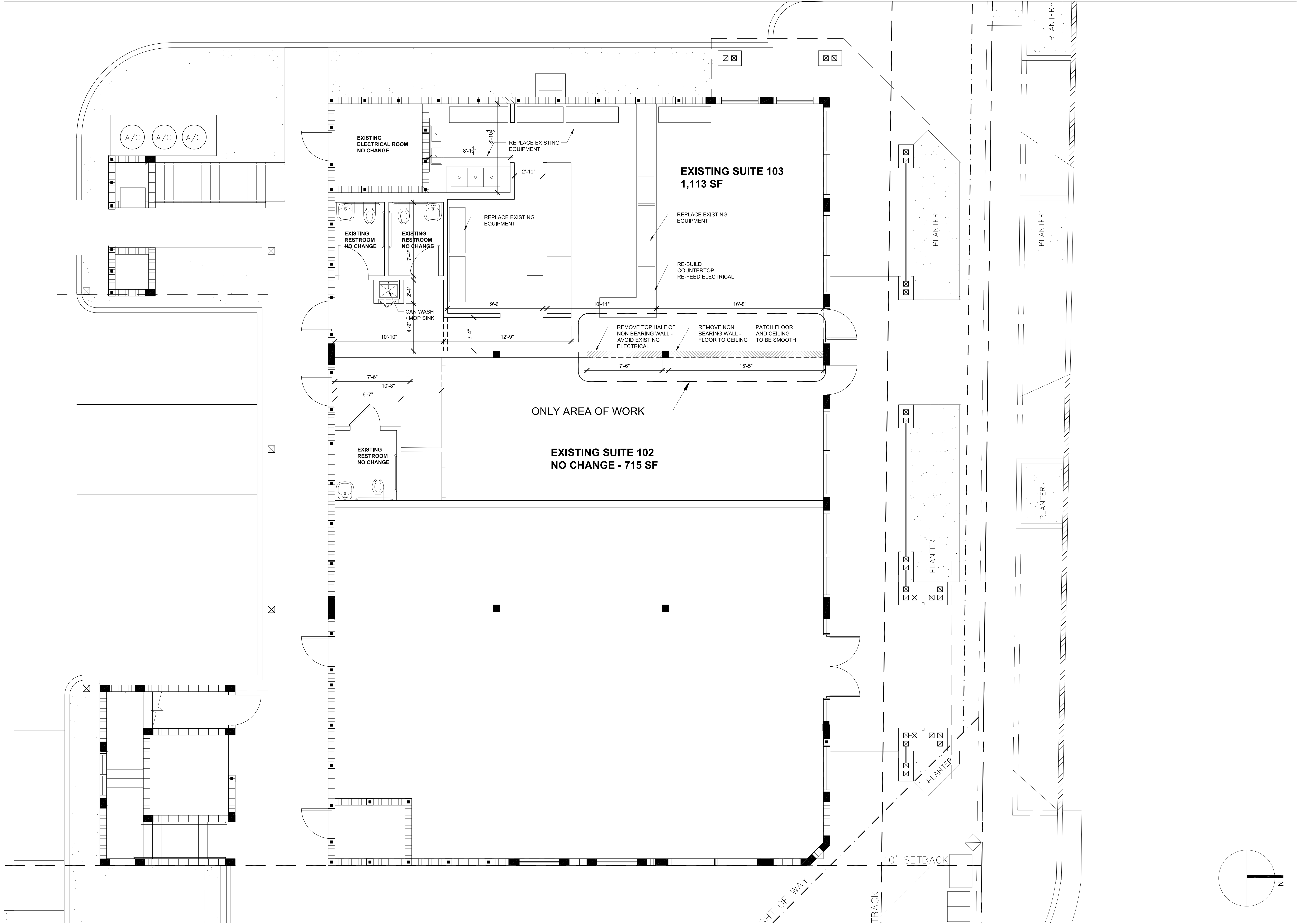
LOT "F" PARKING EXISTING 16 SPACES
LOT "G" PARKING EXISTING 28 SPACES (2 HANDICAP)

SUBTOTAL STANDARD PARKING EXISTING 44 SPACES PROVIDED

HOUSE "J" (OFFICE) 1374 SF.
1/500 SF = 3 SPACES REQUIRED (8 SPACES PROVIDED)



| REVISION: | DATE: |
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LDG | Living Designs Group Florida Architects, Inc.
1005 Lake Avenue Lake Worth, FL 33460
www.livingdesignsgroupfla.com

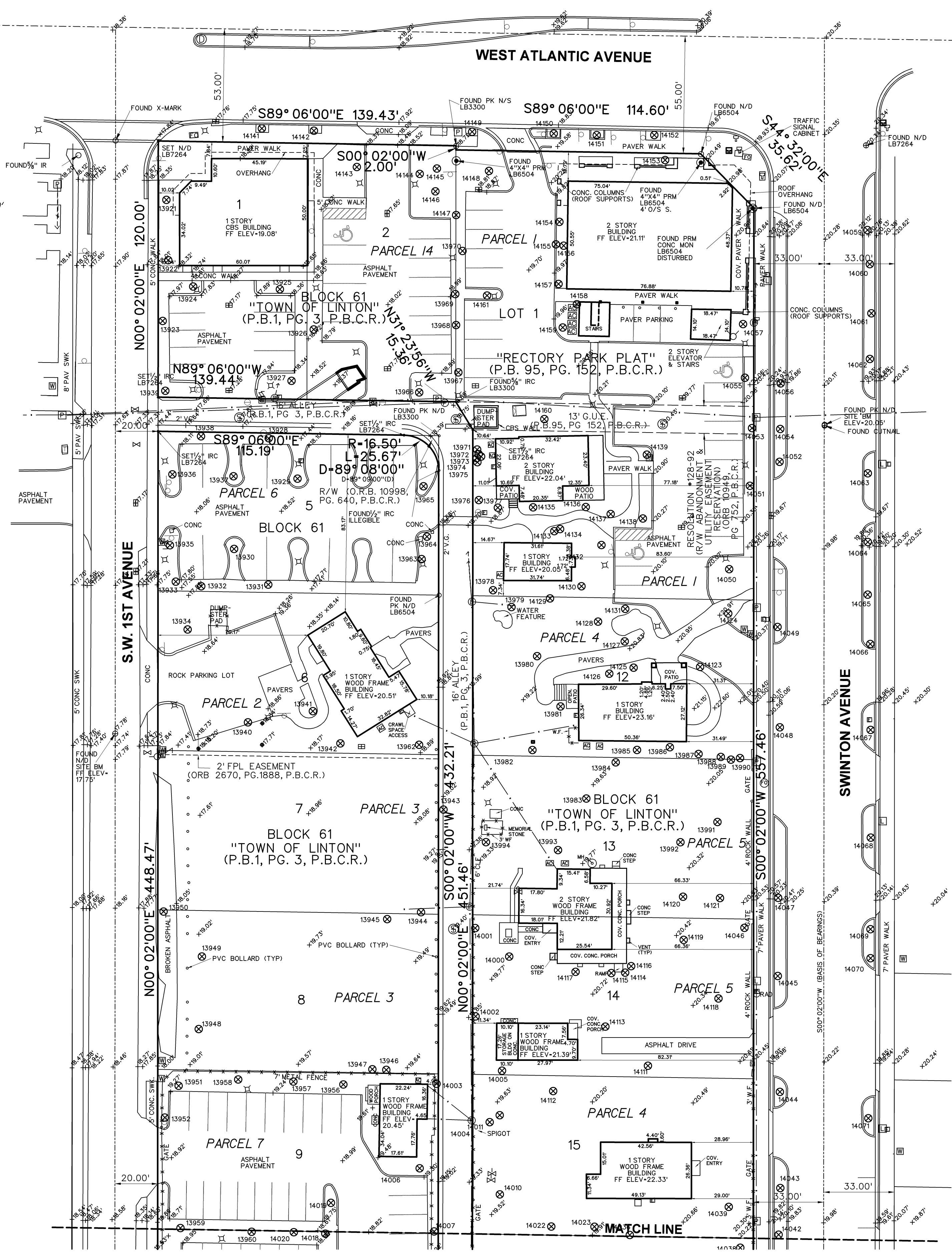
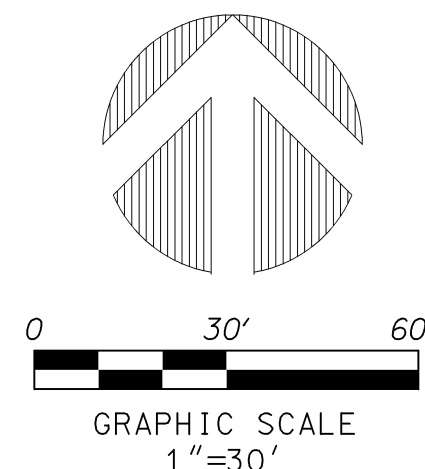
SUITE 103
20 W ATLANTIC AVE, DELRAY BEACH, FL 33444
INTERIOR WALL MODIFICATION

| REVISION: | DATE: |
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EXISTING AND DEMO FLOOR PLAN

DATE: 06.27.2017
SCALE: 1/4" = 1'-0"
DRAWN BY: JBS, DAG
CHECKED BY: JWS
REFERENCE: 1701

DRAWING:
D1.0



NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. EASEMENTS AND RIGHTS-OF-WAY LISTED IN SCHEDULE B.II OF TITLE COMMITMENT NUMBER HUDS002, AS PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, EFFECTIVE DATE: DECEMBER 17, 2013 AT 11:00 PM, ARE SHOWN HEREON. EASEMENTS AND RIGHTS-OF-WAY LISTED IN SCHEDULE B OF TITLE COMMITMENT NUMBER CCS, AS PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, EFFECTIVE DATE: JANUARY 20, 2014 AT 11:00 PM, ARE SHOWN HEREON.
3. NO TITLE INFORMATION WAS PROVIDED OR REVIEWED FOR PARCEL 15.
4. ELEVATIONS SHOWN HEREON ARE BASED ON PALM BEACH COUNTY BENCH-MARK "SRD 17.16", HAVING AN ELEVATION OF 17.17' NGVD 1929. ALL ELEVATIONS ARE RELATIVE TO NGVD 1929.
5. BEARINGS SHOWN HEREON ARE BASED ON THE CENTERLINE OF SWINTON AVENUE HAVING AN ASSUMED BEARING OF SOUTH 00°02'00" WEST.
6. UNDERGROUND IMPROVEMENTS ARE NOT SHOWN.
7. SURVEYED PROPERTY CONTAINS 6.627 ACRES, MORE OR LESS.
8. TREES ARE IDENTIFIED TO THE BEST OF OUR ABILITY. FOR A MORE EXACT SPECIES DETERMINATION, A BIOLOGIST OR SIMILAR PROFESSIONAL SHOULD BE CONSULTED. TREES WERE NOT LOCATED FOR BLOCK 62.
9. FLOOD INFORMATION IS AS FOLLOWS:
COMMUNITY NUMBER : 125102
PANEL NUMBER : 0004
SUFFIX : D
DATE OF FIRM : JANUARY 5, 1989
ZONE : X
BASE FLOOD ELEV. : N/A
10. THIS SURVEY IS CERTIFIED TO:
A. MGM SUNDY HOUSE LLC, A FLORIDA LIMITED LIABILITY COMPANY.
B. ATLANTIC AVE DEVELOPMENT LLC, A FLORIDA LIMITED LIABILITY COMPANY.
C. OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
D. RENAISSANCE TITLE CORPORATION
E. STEVEN I. GREENWALD, P.A.
F. FLORIDA GENERAL CREDIT, LLC, A FLORIDA LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND/OR ASSIGNS

TITLE INFORMATION

PARCELS 1-13
SCHEDULE B.II OF TITLE COMMITMENT NUMBER HUDS002
PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY,
EFFECTIVE DATE: DECEMBER 17, 2013 AT 11:00 PM

| BOOK, PAGE | DESCRIPTION | AFFECTS PARCELS | PLOTTED? |
|-----------------------|-----------------------------|-----------------|----------|
| 4 ORB 25804, PG 392 | NOTICE OF COMMENCEMENT | 4 | NO |
| 9 ORB 26099, PG 1649 | NOTICE OF COMMENCEMENT | 4 | NO |
| 9 ORB 26256, PG 184 | NOTICE OF COMMENCEMENT | 4 | NO |
| 7 ORB 25804, PG 391 | NOTICE OF COMMENCEMENT | 7 | NO |
| 8 ORB 26256, PG 185 | NOTICE OF COMMENCEMENT | 7 | NO |
| 10 PB 95, PG 152 | PLAT (RECTORY PARK) | 1 | YES |
| 10 ORB 26980, PG 793 | SURVEYOR'S AFFIDAVIT | 1 | NO |
| 11 PB 1, PG 3 | PLAT (TOWN OF LINTON) | ALL | YES |
| 11 ORB 7498, PG 1872 | RESOLUTION | 8,9,10 | YES |
| 11 ORB 10949, PG 752 | RESOLUTION | 1 | YES |
| 12 PB 69, PG 166 | PLAT (SUNDY ESTATES) | 9,10 | YES |
| 13 PB 5, PG 17 | PLAT (SUNDY & CROMER) | 11,12,13 | YES |
| 14 ORB 734, PG 735 | ORDINANCE (HISTORICAL DIST) | ALL | NO |
| 15 ORB 12279, PG 152 | UNITY OF TITLE | 1 | NO |
| 16 ORB 13036, PG 874 | UNITY OF TITLE | 1,2,6&POR.4 | NO |
| 17 ORB 10316, PG 1187 | UNITY OF TITLE | 7,9,10 | NO |
| 18 ORB 13841, PG 1270 | UNITY OF TITLE | 7, 9-13 | NO |
| 19 ORB 11378, PG 482 | UNITY OF TITLE | 11 | NO |
| 20 ORB 2670, PG 1888 | FPL EASEMENT | 3 | YES |
| 21 ORB 12004, PG 932 | OFF-SITE PARKING AGREEMENT | 7,10,11 | YES |
| 22 ORB 10406, PG 937 | EASEMENT (DELRAY BEACH) | 9 | YES |
| 23 ORB 10521, PG 162 | FPL EASEMENT | 9 | YES |
| 24 ORB 7531, PG 331 | HOLD HARMLESS AGREEMENT | 10 | NO |
| 25 ORB 8332, PG 1362 | OFF-SITE PARKING AGREEMENT | 10 | YES |
| 26 ORB 8334, PG 620 | OFF-SITE PARKING AGREEMENT | 10 | NO |

| PARCEL 14 SCHEDULE B OF TITLE COMMITMENT NUMBER CCS PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, EFFECTIVE DATE: JANUARY 20, 2014 AT 11:00 PM | | | |
|--|-----------------------|----------------|----------|
| BOOK, PAGE | DESCRIPTION | AFFECTS PARCEL | PLOTTED? |
| 4 PB 1, PG 3 | PLAT (TOWN OF LINTON) | YES | YES |
| 5 ORB 9932, PG 927 | UNITY OF TITLE | YES | NO |

LEGAL DESCRIPTION

- Parcel 1:
Lot 1, Rectory Park Plat, according to the Plat thereof, recorded in Plat Book 95, Page 152, Public Records of Palm Beach County, Florida.
- Parcel 2:
Lot 6, Block 61, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.
- Parcel 3:
Lots 7 and 8, Block 61, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.
- Parcel 4:
Lots 12, 15 and 16, Block 61, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.
- Parcel 5:
Lots 13 and 14, Block 61, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.
- Parcel 6:
Lot 5, Block 61, Map of The Town of Linton (now Delray Beach), according to the Plat thereof, recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida, LESS and EXCEPT that certain portion thereof conveyed to the City of Delray Beach, Florida, by Warranty Deed recorded in O.R. Book 10998, Page 640, said portion being more particularly described as follows:
Begin at the Northeast corner of said Lot 5, thence South 00°00'00" East, a distance of 16.25 feet to the point of curvature, said curve being concave to the Southwest having a radius of 16.50 feet; thence Northwesterly along the arc of said curve through a central angle of 89°09'00" a distance of 25.67 feet; thence South 89°09'00" East along the North line of said Lot 5, a distance of 16.25 feet to the Point of Beginning.
- Parcel 7:
Lots 9 and 10, Block 61, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.
- Parcel 8:
Lot 11, Block 62, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.
- Parcel 9:
Lot 1, Sundry Estates, according to the Plat thereof as recorded in Plat Book 69, Page 166, Public Records of Palm Beach County, Florida.
- Parcel 10:
Lots 2 and 3, Sundry Estates, according to the Plat thereof as recorded in Plat Book 69, Page 166, Public Records of Palm Beach County, Florida.
- Parcel 11:
Lots 20, 21 and 22, Block 70, Amended Plat of Sundry and Cromer's Subdivision of Block 70, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 6, Page 17, Public Records of Palm Beach County, Florida.
- Parcel 12:
Lot 23, Block 70, Amended Plat of Sundry and Cromer's Subdivision of Block 70, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 6, Page 17, Public Records of Palm Beach County, Florida.
- Parcel 13:
Lot 24, Block 70, Amended Plat of Sundry and Cromer's Subdivision of Block 70, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 6, Page 17, Public Records of Palm Beach County, Florida.
- Parcel 14:
Lots 1 and 2, Block 61, Town of Linton (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida, less and except the North 20.00 feet thereof.
- Parcel 15:
Lots 16, 17 and 18, "Subdivision of Block 69", according to the plat thereof, as recorded in Plat Book 2 at page 43 of the Public Records of Palm Beach County, Florida.
- Parcel 16:
Lot 19 of "Subdivision of Block 69, Delray, Florida", according to the plat thereof, as recorded in Plat Book 2 at page 43 of the Public Records of Palm Beach County, Florida, Less and except the West two feet, the South two feet and the East five feet thereof, and further Less and except that portion of Lot 19 as conveyed to Block 77 Development Group, L.C., a Florida limited liability company, in that certain Special Warranty Deed recorded February 8, 2007 in Official Records Book 21395, Page 1356, of the Public Records of Palm Beach County, Florida.

LEGEND

- ⊗ STORM MANHOLE
- ⊕ CONC. POWER POLE
- ⊖ ELEC. HANDHOLE
- ⊙ CATCH BASIN
- ⊗ SANITARY MANHOLE
- ⊖ CLEAN OUT
- ⊕ WOOD POWER POLE
- ⊖ METAL LIGHT POLE
- ⊙ ANCHOR
- ⊖ SIGN
- ⊕ WATER VALVE
- ⊖ FIRE HYDRANT
- ⊕ WATER METER
- ⊖ TELEPHONE BOX
- ⊕ TELEPHONE MANHOLE
- ⊖ CABLE TV BOX
- ⊕ FPL TRANSFORMER
- ⊖ HANDICAP SPACE
- ⊕ BACKFLOW PREVENTER
- OVERHEAD LINE
- FENCE
- ⊗ TREE

ABBREVIATIONS

- (C) CALCULATED
- C&G CURB & GUTTER
- CONC. CONCRETE
- C.C.F. CHAIN LINK FENCE
- D.C.R. DADE COUNTY RECORDS
- COR. CORNER
- D.E. DRAINAGE EASEMENT
- I.R. IRON ROD
- I.R.C. IRON ROD AND CAP
- L.B. LICENSED BUSINESS
- L.S. LICENSED SURVEYOR
- (M) MEASURED
- MON. MONUMENT
- O.R.B. OFFICIAL RECORDS BOOK
- P.B. PLAT BOOK
- P.B.C.R. PALM BEACH COUNTY RECORDS
- PG. PAGE
- P.S.-M. PROFESSIONAL SURVEYOR & MAPPER
- U.E. UTILITY EASEMENT
- W.F. WOOD FENCE

CERTIFICATION

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON COMPLIES WITH MINIMUM TECHNICAL STANDARDS FOR SURVEYS AS CONTAINED IN CHAPTER 5J-17.051, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT SAID SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED UNDER MY DIRECTION.

JEFF S. HODAPP
SURVEYOR AND MAPPER
FLORIDA LICENSE NO. LS5111
LAST DATE OF FIELD WORK : DECEMBER 16, 2015

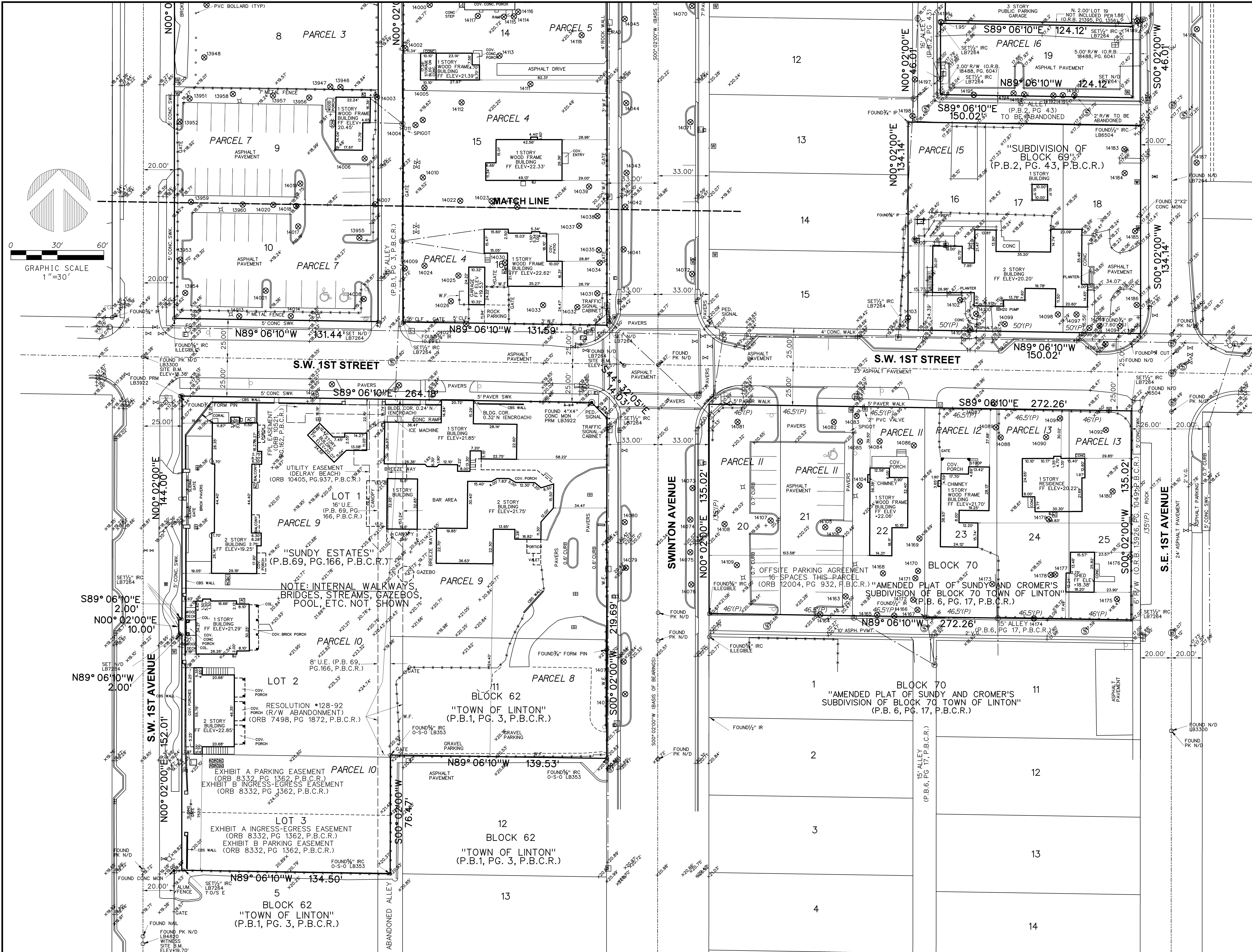


947 Clint Moore Road
Boca Raton, Florida, 33487
Tel: (561) 241-9988
Fax: (561) 241-5182
Certificate of Authorization No. LB7264

**BOUNDARY SURVEY FOR MGM SUNDY HOUSE LLC
AND ATLANTIC AVE DEVELOPMENT LLC
BOUNDARY, TREE AND TOPOGRAPHIC SURVEY**

| NO. | DATE | BY | CK'D | REVISIONS: | FB/PG |
|-----|------------|-----|------|---------------------|-------|
| 1 | 7/9/2014 | JSH | | MINOR REVISIONS | |
| 2 | 2/8/2015 | JSH | | ADD PARCEL 15, TOPO | |
| 3 | 5/8/2015 | JSH | | ADD PARCEL 16 | |
| 4 | 11/23/2015 | JSH | | ADD TREE SURVEY | |
| 5 | 12/16/2015 | JSH | | UPDATE SURVEY | |
| 6 | 6/20/2017 | JSH | | UPDATE SURVEY | |

| | |
|---------|--------|
| JOB NO. | 14104 |
| SCALE | 1"=30' |
| FB/PG | AT/J |
| DRAWN | JEK |
| CHECKED | JEK |



| TREE LIST | | | |
|-----------|-------|---------------------|------------------------------|
| 13921 | 12" | OAK | 14066 10" PALM |
| 13922 | 14" | OAK | 14067 14" OAK |
| 13923 | 12" | OAK | 14068 10" OAK |
| 13924 | 12" | OAK | 14069 10" PALM |
| 13925 | 12" | OAK | 14070 10" PALM |
| 13926 | 2" | OAK | 14071 12" OAK |
| 13927 | 2" | BLACK OLIVE | 14072 12" PALM |
| 13928 | 4" | OAK | 14073 10" PALM |
| 13929 | 12" | GUMBO LIMBO | 14074 10" OAK |
| 13930 | 12" | GUMBO LIMBO | 14075 12" PALM |
| 13931 | 2" | OAK | 14076 14" OAK |
| 13932 | 2" | OAK | 14077 10" PALM |
| 13933 | 2" | BLACK OLIVE | 14078 10" PALM |
| 13934 | 12" | SCHIFFERIA | 14079 12" OAK |
| 13935 | 10" | GUMBO LIMBO | 14080 12" OAK |
| 13936 | 4" | GUMBO LIMBO | 14081 27" BANYAN |
| 13937 | 12" | GUMBO LIMBO | 14082 12" BANYAN |
| 13938 | 12" | OAK | 14083 8" BANYAN |
| 13939 | 4" | BLACK OLIVE | 14084 6" BANYAN |
| 13940 | 4" | GUMBO LIMBO | 14085 2'14" PALM |
| 13941 | 12" | BANYAN | 14086 12" BANYAN |
| 13942 | 6" | BANYAN | 14087 24" SEAGRAPE |
| 13943 | 3'10" | TAMARIND | 14088 12" OAK |
| 13944 | 10" | TAMARIND | 14089 12" SEAGRAPE |
| 13945 | 24" | TAMARIND | 14090 12" PALM |
| 13946 | 12" | PALM | 14091 12" PALM |
| 13947 | 6" | OAK | 14092 24" OAK |
| 13948 | 4" | OAK | 14093 4" POINC |
| 13949 | 20" | GUMBO LIMBO | 14094 1'16" PALM |
| 13950 | 10" | GUMBO LIMBO | 14095 10" PALM |
| 13951 | 24" | GUMBO LIMBO | 14096 10" PALM |
| 13952 | 24" | OAK | 14097 2'16" PALM |
| 13953 | 18" | GUMBO LIMBO | 14098 12" SEAGRAPE |
| 13954 | 10" | GUMBO LIMBO | 14099 10" TAMARIND |
| 13955 | 10" | GUMBO LIMBO | 14100 12" PALM |
| 13956 | 16" | GUMBO LIMBO | 14101 2'4" BANYAN |
| 13957 | 12" | PALM | 14102 18" BANYAN |
| 13958 | 16" | PALM | 14103 24" SEAGRAPE |
| 13959 | 16" | GUMBO LIMBO | 14104 24" BANYAN |
| 13960 | 16" | TAMARIND | 14105 4" SEAGRAPE |
| 13961 | 6" | PALM | 14106 10" TAMARIND |
| 13962 | 3'8" | GUMBO LIMBO | 14107 6" UNKNOWN TREE |
| 13963 | 12" | GUMBO LIMBO | 14108 18" TAMARIND |
| 13964 | 12" | OAK | 14109 12" BANYAN |
| 13965 | 12" | PALM | 14110 14" PALM |
| 13966 | 12" | PALM | 14111 8" OAK |
| 13967 | 14" | BANYAN | 14112 12" AVOCADO |
| 13968 | 14" | BANYAN | 14113 10" PALM |
| 13969 | 4" | GUMBO LIMBO | 14114 10" PALM |
| 13970 | 12" | PALM | 14115 10" PALM |
| 13971 | 12" | PALM | 14116 2'14" PALM |
| 13972 | 12" | PALM | 14117 2'4" PALM |
| 13973 | 12" | PALM | 14118 2'14" BANYAN |
| 13974 | 10" | PALM | 14119 14" BANYAN |
| 13975 | 10" | PALM | 14120 14" BANYAN |
| 13976 | 10" | PALM | 14121 14" STANLEY FRUIT TREE |
| 13977 | 20" | BANYAN | 14122 4" PALM |
| 13978 | 20" | PALM | 14123 4" PALM |
| 13979 | 3'16" | PALM | 14124 10" PALM |
| 13980 | 14" | PALM | 14125 10" PALM |
| 13981 | 14" | BANYAN | 14126 10" PALM |
| 13982 | 14" | BANYAN | 14127 40" PALM |
| 13983 | 14" | BANYAN | 14128 24" BANYAN |
| 13984 | 12" | OAK | 14129 10" PALM |
| 13985 | 6" | BANYAN | 14130 6" PALM |
| 13986 | 6" | BANYAN | 14131 4" PALM |
| 13987 | 8" | GUMBO LIMBO | 14132 12" UNKNOWN TREE |
| 13988 | 4" | PALM | 14133 12" PALM |
| 13989 | 14" | PALM | 14134 4" PALM |
| 13990 | 14" | PALM | 14135 6" OAK |
| 13991 | 14" | BANYAN | 14136 6" PALM |
| 13992 | 14" | BANYAN | 14137 12" PALM |
| 13993 | 36" | OAK | 14138 6" BANYAN |
| 13994 | 6" | BANYAN | 14139 16" UNKNOWN TREE |
| 14000 | 12" | BANYAN | 14140 4" OAK |
| 14001 | 12" | PALM | 14141 8" OAK |
| 14002 | 12" | PALM | 14142 8" OAK |
| 14003 | 12" | BANYAN | 14143 12" PALM |
| 14004 | 48" | SEAGRAPE | 14144 12" PALM |
| 14005 | 2'10" | TAMARIND | 14145 12" PALM |
| 14006 | 12" | BANYAN | 14146 12" PALM |
| 14007 | 12" | GUMBO LIMBO | 14147 6" BANYAN |
| 14008 | 14" | GUMBO LIMBO | 14148 30" UNKNOWN TREE |
| 14009 | 6" | BANYAN | 14149 10" PALM |
| 14010 | 12" | BANYAN | 14150 14" PALM |
| 14011 | 4" | OAK | 14151 12" OAK |
| 14012 | 16" | GUMBO LIMBO | 14152 12" OAK |
| 14013 | 16" | GUMBO LIMBO | 14153 6" PALM |
| 14014 | 16" | PALM | 14154 6" BANYAN |
| 14015 | 3'14" | PALM | 14155 6" UNKNOWN TREE |
| 14016 | 6" | SPANISH CHERRY TREE | 14156 4" PALM |
| 14017 | 14" | TAMARIND | 14157 12" PALM |
| 14018 | 12" | POND APPLE | 14158 10" GUMBO LIMBO |
| 14019 | 14" | TAMARIND | 14159 8" GUMBO LIMBO |
| 14020 | 4" | PALM | 14160 18" BANYAN |
| 14021 | 14" | TAMARIND | 14161 8" BANYAN |
| 14022 | 24" | OAK | 14162 16" TAMARIND |
| 14023 | 12" | AVOCADO | 14163 6" UNKNOWN TREE |
| 14024 | 12" | AVOCADO | 14164 6" TAMARIND |
| 14025 | 2'16" | AVOCADO | 14165 12" TAMARIND |
| 14026 | 12" | AVOCADO | 14166 12" UNKNOWN TREE |
| 14027 | 12" | GUMBO LIMBO | 14167 16" BANYAN |
| 14028 | 6" | AVOCADO | 14168 24" BANYAN |
| 14029 | 12" | PALM | 14169 12" PALM |
| 14030 | 4" | AVOCADO | 14170 12" PALM |
| 14031 | 4" | AVOCADO | 14171 12" PALM |
| 14032 | 4" | AVOCADO | 14172 12" PALM |
| 14033 | 12" | PALM | 14173 12" PALM |
| 14034 | 12" | PALM | 14174 20" UNKNOWN TREE |
| 14035 | 12" | PALM | 14175 20" UNKNOWN TREE |
| 14036 | 12" | AVOCADO | 14176 36" UNKNOWN TREE |
| 14037 | 12" | AVOCADO | 14177 12" PALM |
| 14038 | 2'12" | TAMARIND | 14178 10" UNKNOWN TREE |
| 14039 | 24" | PALM | 14179 12" PALM |
| 14040 | 10" | OAK | 14180 46" UNKNOWN TREE |
| 14041 | 10" | OAK | 14181 20" BLACK OLIVE |
| 14042 | 10" | OAK | 14182 12" BLACK OLIVE |
| 14043 | 10" | OAK | 14183 12" PALM |
| 14044 | 10" | OAK | 14184 12" PALM |
| 14045 | 16" | OAK | 14185 12" PALM |
| 14046 | 16" | PALM | 14186 10" PALM |
| 14047 | 10" | OAK | 14187 12" OAK |
| 14048 | 24" | OAK | 14188 12" PALM |
| 14049 | 12" | PALM | 14189 10" PALM |
| 14050 | 12" | OAK | 14190 12" PALM |
| 14051 | 10" | BANYAN | 14191 12" PALM |
| 14052 | 12" | PALM | 14192 12" PALM |
| 14053 | 10" | BANYAN | 14193 12" PALM |
| 14054 | 14" | PALM | 14194 12" PALM |
| 14055 | 12" | PALM | 14195 12" PALM |
| 14056 | 10" | PALM | 14196 14" PALM |
| 14057 | 10" | PALM | 14197 14" PALM |
| 14058 | 10" | PALM | 14198 12" PALM |
| 14059 | 10" | PALM | 14199 12" PALM |
| 14060 | 10" | OAK | 14200 20" BANYAN |
| 14061 | 12" | OAK | 14201 12" PALM |
| 14062 | 10" | PALM | 14202 12" PALM |
| 14063 | 10" | PALM | 14203 12" BLACK OLIVE |
| 14064 | 8" | PALM | |