



**Meeting Agenda
Monday, June 3, 2024**

5:30 PM

REGULAR

Cocoa Beach Country Club - 5000 Tom Warriner Boulevard, Cocoa Beach

WELCOME

- A. Call to Order
 - 1. Pledge of Allegiance
 - 2. Roll Call
 - 3. Disclosure of Conflict
- B. Public Comment
- C. Staff Reports and Announcements
 - 1. Report from Staff Representative
- D. Board Members Reports and Announcements
 - 1. Report from Board/Committee Member
- E. Consent Agenda
 - 1. Approval of Minutes
- F. New Business
 - 1. *Vacation or Disposal of Public Property - LDC Section 4-20. Right of way easement on east side of McNabb Parkway North @ 488 N. 4th Street . (Case: PZ-24-4)*
 - 2. Master Conceptual Site Plan Development review and recommendation - 401 Mead Ave (Case # PZ-22-22)
- G. General Public Comment

H. Adjournment

1. Next Meeting Date

Note: more than one member of the City Council may be in attendance at the meeting and may participate in discussions.

Pursuant to 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by this Board, agency or meeting or hearing, he will need a record of the proceedings, and that for such purpose, affected persons may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Financial Services Department at (321/608-7010), no later than 5:00 p.m., at least 48 hours prior to the meeting.

**CITY OF COCOA BEACH – PLANNING BOARD
MEETING MINUTES**

Monday, April 1, 2024 @ 5:30 P.M.

A. CALL TO ORDER AND ROLL CALL: Chari Called the Meeting to Order at 5:33 P.M.

Pledge of Allegiance:

Members Present: Lennie Arnold, Chair; Lisa Colloredo, Vice-Chair; Margaret Schneider; Charles Mason; Alexandra Bobo

Alternate Members: Alt 1: TBD; Alt 2: Matt Tschaar

School District Board Representative Alternate Present: *Loi Mckiney*

Members Absent: Alt. Matt Tschaar, attended the meeting at approximately 6:00 P.M.

Staff Present: Cory Hall, Loren Wiltse, Randy Stevenson

Visitors Present: 3

Approval of Agenda: Chair call for approval of the agenda, Board approved the agenda as presented.

Approval of Meeting Minutes: Margaret Schneider moved to approve the February 5, 2024, minutes, Second provided by: Lisa Colloredo, Motion approved unanimously

UNFINISHED BUSINESS: None

B. NEW BUSINESS:

1. Conceptual Large Scale Site Plan Review- STINA Project (Glass Bank) 505 N Orlando Ave. Planner, Cory Hall introduced a conceptual mixed use redevelopment plan being planned for the downtown center redevelopment district. A video showing the applicants conceptual plans that may include 60 transient lodging units, 7,000 square feet of retail/commercial, 4,000 square feet of restaurant space, and associated parking and street scape design was shared with the planning board.

Following the presentation the Chair opened the meeting for the planning board and public to share their thoughts, ask questions, and provide pre-submittal comments to the applicant.

2. Comp Plan 2024 Process Introduction:

C. STAFF AND ATTORNEY REPORTS:

1. Randy Stevenson provided an update on the comprehensive plan process.

D. GENERAL PUBLIC COMMENTS: _____ encouraged the Board to make sure the height of a future STINA project's buildings height does not exceed the height set by the Commission.

E. BOARD FINAL COMMENTS: None

F. ADJOURNMENT: No other items were discussed. The meeting adjourned at 6:20 p.m.

Cory Hall, Planner I

Lennie Arnold, Chair



DEPARTMENT OF DEVELOPMENT SERVICES
PLANNING BOARD
Vacation or Disposal of Public Property
June 3rd, 2024

REQUEST: Review and consider a proposal to vacate a portion of the McNabb Parkway Right of Way.
CASE NO: PZ-24-4
DATE OF BRIEFING: June 3rd, 2024

Applicant: Suzanna Ballesteros
Location: 488 N. Fourth Street
Parcel ID: 25-37-10-75-*-13
Zoning Current: RS1 Single Family Residential
Land Use: Residential
Area: Approx. 10,515sqft (.24 Acres)

Request:

On April 04, 2024, an application was submitted to vacate a portion of the McNabb Parkway, Right of Way. The site is located on the corner of 488 N Fourth Street and McNabb Parkway. A fence has been in the Right of Way for over 20 years.

Background:

1. This Vacation of Right of way is the first in a couple of legislative steps to facilitate the eventual pool installation on the West side of the house. Currently a pool cannot be installed in the backyard because of a sewer and overhead powerline easement.
 - a. The Vacation will require a unanimous vote of the Commission.
 - b. If the Commission approves the Vacation, an ordinance will be drawn up and must be presented to the Commission for approval.
 - c. Next, a variance will be required to allow a (6) foot fence to be placed on the property line. This will have to be granted by the Board of Adjustments.
 - i. LDC Section 3-32 (L,3) *On a corner lot, a fence constructed along the side street property line abutting the right-of-way shall have a maximum height of four (4) feet. Alternatively, if the fence is set back a minimum of five (5) feet from the property line abutting the right-of-way, the fence height is permitted to be a maximum of six (6) feet.*
 - d. A variance will also be required for modified Setback measurements for the pool. This will also have to be approved by the Board of Adjustments. Based on the Survey, there is approximately 20 feet from the house to the proposed Vacation property line.
 - i. LDC, Section 3-31 (K,2) *States: In no event shall the vertical wall of a pool be permitted with a setback less than eight (8) feet from the seawall or the side property lines.*

Land Development Code Regulations:

The City's LDC Section 4-20. Vacation or Disposal of Public Property

Section 4-20. Vacation or disposal of public property.

- A. The city commission shall have the authority to authorize the abandonment or vacation of any public road, public street, public alley, or other public right of way within its jurisdiction. Approval shall be by ordinance and a unanimous vote of the commission is required for approval of such action.
- B. The city commission shall have the authority to authorize the disposal, sale, or relinquishment of interests in real property owned by the city. Approval shall be by ordinance and a unanimous vote of the commission is required for approval of such action.
- C. Any approval for the vacation or disposal of public property must be consistent with the City Charter, Comprehensive Plan, and these land development codes (LDC).
- D. A citizen request for the vacation or disposal of public property must be made in writing, in accordance with the guidelines below:
 - 1. Completion of a city provided application with a letter of rationale for approval of the request.
 - 2. A legal description of the property to be disposed or vacated.
 - 3. A boundary survey, as applicable, of properties affected by the request.
 - 4. Authorization from public utilities, as applicable, indicating no objection or evidence that necessary utility easements are being provided.
 - 5. Property owner addresses, received from Brevard County GIS, for all property owners within three hundred (300) feet of the subject site for the purpose of providing written notification of the request.
 - 6. Payment of all required applications and legal notification fees.
 - 7. Any other applicable information which may be required to provide a complete background of the request.
- E. Each request for the vacation or disposal of public property is required to be reviewed by city staff and the planning board prior to submittal to the city commission.
 - 1. The deadline for submitting a request is thirty (30) days prior to the next regularly scheduled planning board meeting.
 - 2. City staff will conduct an initial review of the request and provide the findings to the planning board.
 - 3. One (1) public hearing before the planning board is required, whereby the board will issue a recommendation to the city commission.

(Ord. No. 1649, § 2(Exh. A), 10-1-2020)

Approval Considerations/Recommendations:

- 1. Planning Board to consider and provide a recommendation on the request to vacate a portion of the McNabb Parkway, Right of Way.

Findings:

1. The fence has been in the Right of Way for 20 plus years.
2. Sewer and overhead powerlines eliminate the backyard as an option for a pool.
3. Sewer and Power Lines cross the Right of Way perpendicular.
4. The Stormwater project was designed to avoid that portion of the Right of Way that is requested to be vacated.

Attachments:

1. Letter of Rational
2. Radius Map
3. Boundary Survey
4. LDC Section 4-20 Vacation or disposal of Public Property

April 4, 2024

Re: Right of Way and Easement Vacation at McNabb Parkway / 488 N. 4th Street, Convair Cove subdivision

City of Cocoa Beach Board of Commissioners,

We're respectfully requesting the Planning Board vacate a portion of the right of way easement that runs along McNabb Parkway @ N. 4th Street to the canal, so as to allow the present fence line to become the new easement boundary. As it turns out, the present fence line utilized by ourselves and past owners of 488 N. Street since the 1960's, encroaches into the City's right of way easement by several feet, preventing the City from permitting our installation of a much-needed new fence along that current fence line. For us to give up property in an already narrow side yard by building the fence that much closer to the house, would deny our family the ability to enjoy and enhance the side portion of the backyard as we had intended, which includes the installation of an in-ground pool. Maintaining the present depth of the side backyard is important to us, as a hardship exists in the major back portion of the yard where a city sewer line and power lines run the entire length of the rear yard, deeming that space constrained for pool construction.

Our intent upon purchasing the property in 2018 was to install an in-ground pool, offering Bob--who is partially handicapped--that exercise option to aid in his overall health and rehabilitation. The sewer and power line hardships in the backyard forced us to move plans for a pool to the backyard's west side, which would accommodate a narrow pool and deck between the garage wall and the fence. After building a new seawall last summer (and adding the new return inside the City's right of way easement, as permitted by the City and at our expense), a new replacement fence was needed. When our fence contractor applied for a City permit, it was denied since the proposed fence would mimic the existing fence line and encroach into the City's right of way easement. Our intent is to install vinyl privacy fencing from the north end of the fence line, eventually changing to aluminum rung fencing as it approaches the seawall. The aluminum rung fencing would continue along the seawall return's edge southward to the water in order to prevent public loitering at the seawall corner and potential liability concerns. Our fence plan includes installing a 10' double gate where the sewer line runs through the backyard, so as to accommodate any City utility vehicles that may need to access the backyard.

McNabb Parkway North is not currently a through street and dead ends at the seawall/canal. Should the City choose to vacate the portion of easement we

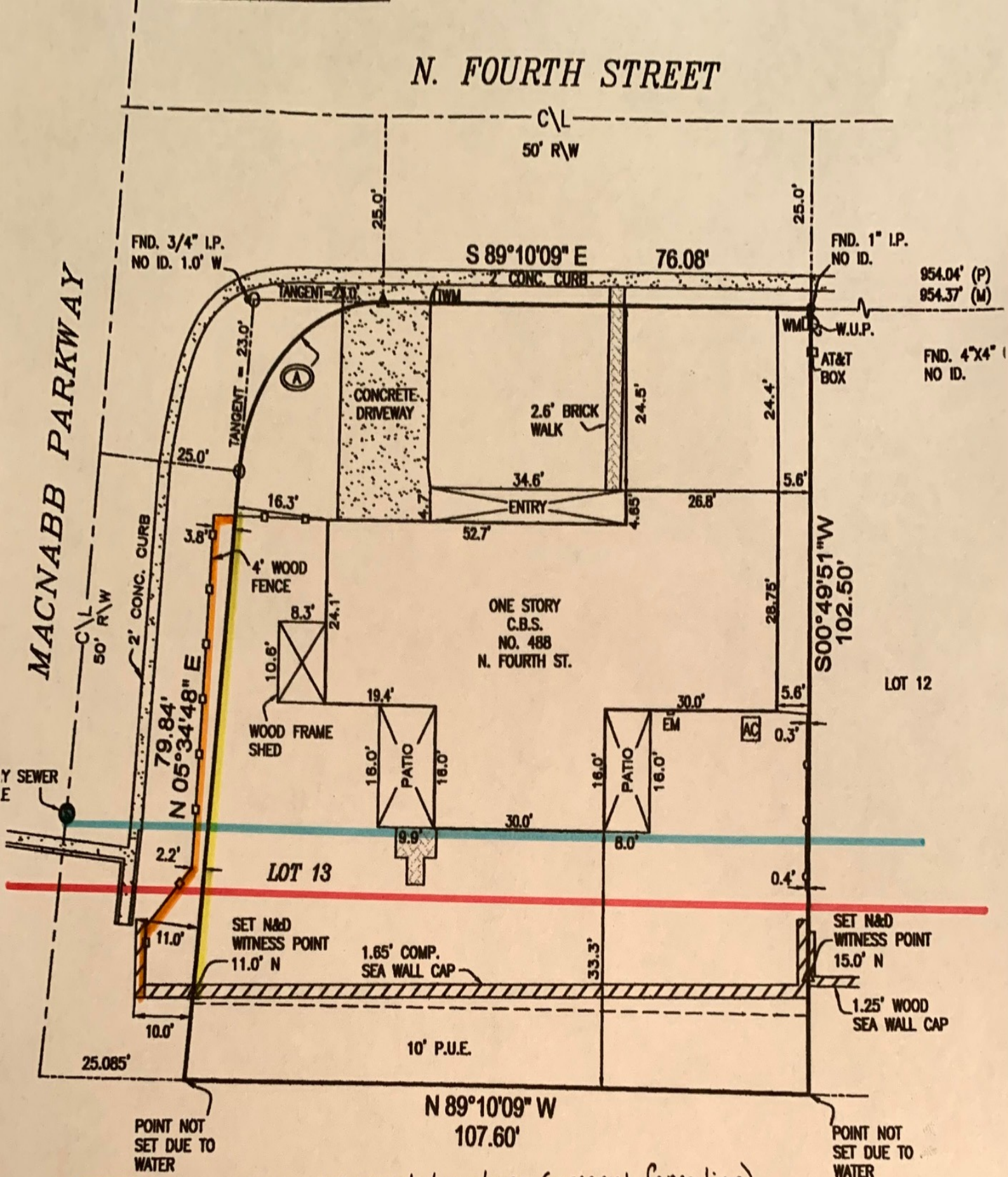
are requesting, a fence at the proposed new boundary line would not impede visibility for motorists or cyclists, since no cars travel on the McNabb stub.

Since 2018, we have been faithfully maintaining the McNabb right of way easement at our expense. We have always been good stewards of the easement so that it is safe, neat and an aesthetically pleasing part of our neighborhood. We are looking forward to soon having a fence that would be equally attractive and functional, while allowing us to enjoy the limited backyard space we do have, as we envisioned.

Sincerely,

Suzanna Ballesteros
Bob Celsor
488 N. 4th Street
Cocoa Beach, FL 32931
(415) 806-7106
(321) 501-6934

N. FOURTH STREET



proposed new easement boundary (present fence line)

present easement boundary

CANAL

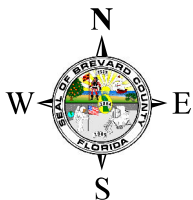
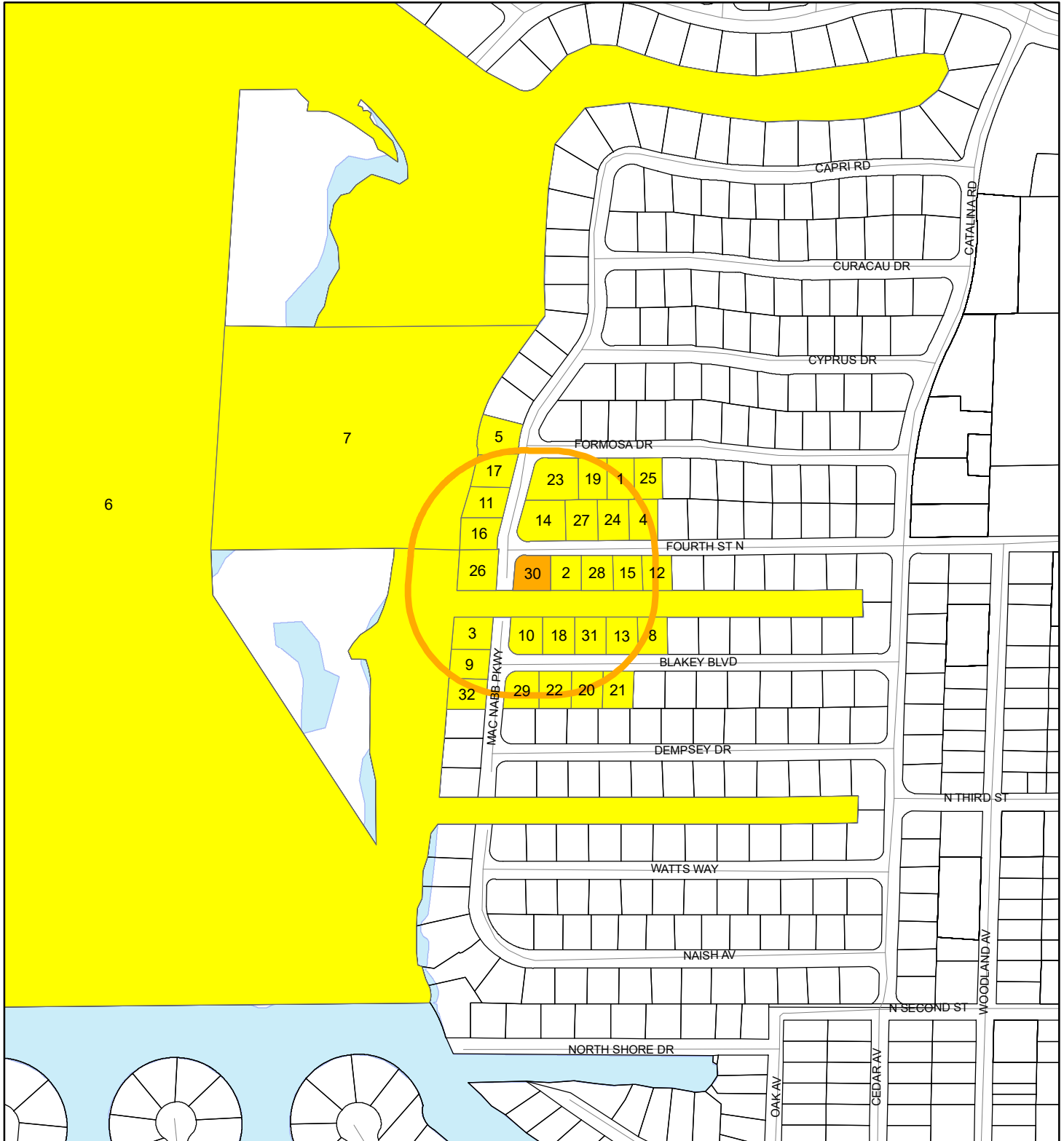
Sewer line

overhead utility lines

RADIUS MAP

SUZANNA L BALLESTEROS FAMILY TRUST

Suzanna Ballesteros 2516981



1:4,800 or 1 inch = 400 feet

Buffer Distance: 300 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/6/2023

- Buffer
- Subject Property
- Notify Property
- Parcels

CONNOR FARMS LLC
17037 CLARIDON TROY RD
BURTON OH 44021-9611

DE LOUREIRO, ANTONIO JR
WITIK, JAYNE
480 N 4TH ST
COCOA BEACH FL 32931-2802

DESCHENES, PAUL S
WALTERS, DIANE M
580 MCNABB PKWY
COCOA BEACH FL 32931-2810

DRUESEDOW, ANNE SUTTON
471 N 4TH ST
COCOA BEACH FL 32931-2801

ERICKSON, CARL B JR TRUSTEE
868 ATLANTIC HWY
WALDOBORO ME 04572-

FLORIDA, STATE OF (IITF)
3900 COMMONWEALTH BLVD, STOP 108
C/O DEP, DIVISION OF STATE LANDS
TALLAHASSEE FL 32399-6575

GREEN, LORI STOTTLER
457 BLAKEY BLVD
COCOA BEACH FL 32931-2803

GREGORY, DAVID R
GREGORY, KAREN E
208 MORNINGSTAR LANE
CORRALES NM 87048-

GUPTILL, WALTER A
SIEGEL, LISA M
489 BLAKEY BLVD
COCOA BEACH FL 32931-2803

HALL, ELHANON W III
HALL, KAREN H
601 CAPRI RD
COCOA BCH FL 32931-

HICKS, JASON A
HICKS, JESSICA PELTO
456 N 4TH ST
COCOA BEACH FL 32931-2802

HYATT, JAMIE
238 GARDEN CIR S
DUNEDIN FL 34698-

JEVITT, BETTY ANNE
STEVENS, CHARLES B TRUSTEE
PO BOX 321622
COCOA BCH FL 32932-1622

JULIANO, ERICK D
JULIANO, KAROL ANN
464 N FOURTH ST
COCOA BCH FL 32931-

LASLEY, MARY L
605 CAPRI RD
COCOA BEACH FL 32931-3076

MAURER, KENNETH L
MAURER, NANCY A BADDERS
PO BOX 622064
OVIEDO FL 32762-2064

MCCURRY, TOBIAS EDWARD
MCCURRY, MELISSA MARIE
481 BLAKEY BLVD
COCOA BEACH FL 32931-2803

MITCHELL, JOHN E
MITCHELL, CYNTHIA J
388 FORMOSA DR
COCOA BEACH FL 32931-3042

NAIL, DERROL J
466 BLAKEY BLVD
COCOA BEACH FL 32931-2804

NAIL, DERROL J
NAIL, RACHAEL JOY
466 BLAKEY BLVD
COCOA BEACH FL 32931-2804

NICHOLS, MICHAEL
482 BLAKEY BLVD
COCOA BEACH FL 32931-2804

OWEN, E FOREST MORGAN
OWEN, ELIZABETH
12400 NE RUSSELL ST
PORTLAND OR 97230-1847

REED, BRANDON S
REED, BRANDON STEVEN
1735 CEDAR ST
ROCKLEDGE FL 32955-3132

RIPPERGER, RYAN
372 FORMOSA DR
COCOA BEACH FL 32931-3042

SESTILE, RYAN
398 MCNABB PKWY
COCOA BEACH FL 32931-2808

SESTILE, RYAN
485 N 4TH ST
COCOA BEACH FL 32931-2801

SILES, MICHELLE
SILES, CARLOS E
472 N 4TH ST
COCOA BEACH FL 32931-2802

SOUTHALL-JOLY, DAWN M
JOLY, MARK R
490 BLAKEY BLVD
COCOA BCH FL 32931-

Suzanna_Ballesteros_2516981
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SUZANNA L BALLESTEROS FAMILY
TRUST
488 N 4TH ST
COCOA BEACH FL 32931-2802

TIMPY, ERNEST
473 BLAKEY BLVD
COCOA BCH FL 32931-

WEBB, RANDALL L
560 MCNABB PKWY
COCOA BCH FL 32931-



DEPARTMENT OF DEVELOPMENT SERVICES PLANNING BOARD BRIEFING June 3, 2024

REQUEST: Staff request that the Planning Board review and consider a proposal for a Planned Development and its associated request for rezoning, master concept plan and development agreement. Staff has also included a related three party agreement to facilitate access for the beach renourishment program.

CASE NO: PZ-22-22

Applicant: Westgate Cocoa Beach Pier, LLC
Location: 401 Mead Avenue
Zoning Current: OC Oceanside
Zoning Proposed: PD Planned Development
Land Use: Redevelopment
Area: 4.667 acres

Background

The proposed project is on the Westgate Pier property and is located in the North Cocoa Beach Redevelopment District. The property is currently zoned Oceanside. The subject of this agenda item is a request for the Planning Board to review and consider a recommendation to the City Commission for a rezoning, master concept plan, and development site plan for the proposed planned development (PD) to be known as the Westgate Resort at the Cocoa Beach Pier. Along with the project plans and the rezoning request are the associated Development Agreement (DA) and a three-party agreement between the developer, Brevard County and Cocoa Beach to facilitate an access easement as detailed on the project plans for beach access to the north side of the pier for the beach renourishment program.

The city's land development code section 2-26 governs the requirements for the creation of a PD and requires that a master plan for development that is incorporated within a development agreement between the applicant and the city commission be approved by the city. Upon final approval of the planned development with the development master plan and development agreement, the zoning designation for 401 Mead Avenue will be changed to PD (Planned Development). The master plan and the development agreement will serve as the governing documents for the development of the project.

Project details

The proposed planned development project is a total demolition and redevelopment of the current Trader Rick's Marketplace and Surf Rental's, parking lot, and buildings adjacent to the Pier Entry, many of which were constructed in the early 1960's. The existing infrastructure, stormwater, landscaping, beach access areas need to be upgraded or enhanced to meet current codes and attain environmental sustainability. Eliminating an aging facility/site will bring renewed vitality to the area.

The applicant is proposing to redevelop two properties that abut Meade Avenue into a multi-million-dollar resort hotel, complete with resort style pool, parking garage, beach frontage, new

public beach access, replacement public parking spaces, landscaping, upgraded utilities, improved stormwater, restored dunes, and other amenities. The parking garage and “back of house” for the resort are estimated to be 197,250 SF and the hotel will be 182,000 SF with 116 rooms. Density is based on a site area of 4.16 acres at 28 units per acre. The project will implement a vital need in Cocoa Beach’s economic development and redevelopment plans.

Prior Approvals for the Proposed Development

On July 7, 2022, the City Commission approved a variance to the city’s land development code (LDC) sections 2-42 and 2-43 to allow a resort hotel with a parking garage to be constructed to a maximum height of 70 feet. On March 17, 2022, the City Commission approved the vacation of a portion of Meade Avenue to facilitate the future development (Ordinance 1668). This vacation is subject to the approval of the site development plan and execution of the DA as well as the recording of an agreement between Westgate Cocoa Beach Pier, LLC., City of Cocoa Beach, and Brevard County. The agreement addresses beach access, vehicle parking, public restroom access, as well as construction access, sand placement and other operations associated with the Brevard County Shore Protection Program including Army Corps of Engineers beach renourishment easements.

Staff analysis and recommendation

The city adopted the planned development option within the land development code for those larger properties within the redevelopment land use districts as a method for the strategic development of a large-scale project. The creation of a planned development involves the review and approval of a master plan, which is referenced within the required development agreement between the property owner and the city. Shown on the master plan is the layout of the project, including vehicle, public transportation, and pedestrian access areas; landscaping, lighting, and signage requirements; and the incorporation of low impact infrastructure solutions for elements such as onsite storage of stormwater and the protection of coastal areas.

The Westgate Resorts at the Cocoa Beach Pier is being proposed as a Planned Development (PD) which, in its basic form, means a negotiated development between the owners of the property (private sector) and the City of Cocoa Beach. This PD approach allows the private sector and the city to accomplish, within the redevelopment districts, a more desirable environment and efficient land use pattern than would be possible through the application of conventional zoning and the form-based code, while adhering to the provisions of the comprehensive plan and applicable federal and state regulations.

City staff and the applicant have had numerous meetings and discussions to make sure the conceptual site design and Development Agreement regulations have been incorporated into the request and that these items will work together to create a quality project that will be a credit to both the developer and the city. We are now in the final stages of master plan, zoning and development agreement approval. The master plan/site plan and development agreement will be forwarded to the city commission along with the planning board’s recommendation. Should the project proposal be approved, the final engineering and architectural plans along with all required studies (traffic, stormwater, etc.) will be submitted to city staff for review and approval and, once approved, a permit for demolition and construction will be issued.

Staff recommends that the Planning Board review and provide a recommendation of approval to the City Commission for the proposed project to be known as the Westgate Resorts at the Cocoa Beach Pier.

Attachments:

- A. Master Conceptual Development Plan
- B. Master Conceptual Site Plan
- C. PD Development Agreement
- D. Three Party Agreement between Brevard County, City of Cocoa Beach and Westgate Cocoa Beach Pier, LLC,.
- E. Draft Ordinance (Reflecting approval of the PD, DA, Three Party Agreement, and effective zoning change required if PD is approved)

Planning Board Review and Recommendation

It has been determined by city staff that the development master plan submittal does meet the requirements provided by the Cocoa Beach Land Development Code Section 2-26 for approval of the proposed planned development. After the Planning Board review and recommendation, the request will be forwarded to the City Commission for final review and approval.

A sample motion is provided below for form only and is subject to revision, per the wishes of the Board.

Sample motion.

For the proposed planned development (PD) at 401 Meade Avenue, I move to forward planned development case # PZ-22-22, with its associated master development site plans, development agreement, three-party agreement, and zoning change from Oceanside (OC) to Planned Development (PD), to the City Commission with a recommendation of approval [denial].

LAND DEVELOPMENT CODE – CHAPTER II – ZONING DISTRICTS

ARTICLE IV. - ESTABLISHMENT OF OVERLAY AND PLANNED DEVELOPMENT DISTRICTS

Section 2-26. Planned development (PD).

- A. *Purpose and intent.* The planned development approach is an option that may be used by the private sector and city to achieve redevelopment and economic development, environmental reparation and enhancement, and social and cultural enrichment. The intent and purpose of the planned development (PD) district is to accomplish within the redevelopment districts, a more desirable environment and efficient land use pattern than would be possible through the application of conventional zoning and the form-based code, while adhering to the provisions of the comprehensive plan and applicable federal and state regulations. The purpose of the PD is further defined to:
 - 1. Allow a more flexible management structure for the efficient, orderly, and sustainable integration of uses, consistent with and complementary to their context within the community;

2. Achieve higher quality urban design amenities, which serve to encourage redevelopment and infill development;
3. Promote a mix of commercial, retail, professional, and residential uses, with positive interactions among and between these uses that could not be readily accomplished through conventional zoning;
4. Create a greater sense of place, community, and neighborhood identity, through superlative urban design and innovation;
5. Provide an environment that encourages and is based upon a more walkable and less auto-centric community;
6. Provide a development plan that is compatible with and complements the surrounding community, creating a safe inviting environment, a sense of place, and neighborhood cohesiveness;
7. Maintain, enhance, and preserve salient or otherwise significant existing natural features, by identifying these features and designing the project to incorporate them as view-sheds, terminating vistas, focal points, and/or other scenic amenities;
8. Provide the greatest choice of realistic, safe, functional, interconnected, and convenient multi-modal transportation options within the PD and surrounding areas;
9. Limit urban sprawl, greenhouse gas emissions, stormwater runoff, and vehicle miles traveled;
10. Provide economically efficient means for delivery of government services and increased infrastructure stability;
11. Provide a mix of housing designed in pedestrian scale neighborhood unit increments;
12. Incorporate energy and water efficient land use patterns and technologies beyond the minimums required by state law or the Florida Building Code;
13. Incorporate crime prevention through environmental design (CPTED) principles compatible with the pedestrian-oriented design; and
14. Further the goals, objectives and policies of the comprehensive plan.

B. *Development agreement and master plan.*

1. *Development agreement.*
 - a. The PD zoning designation requires the review, approval, execution and recording of a development agreement between the applicant and city commission.
 - b. No site work, other than that normally associated with surveying and soil boring, may be initiated prior to recordation of such development agreement
 - c. Demolition of structures, wells, and/or septic systems or hazardous material cleanups may be permitted if not otherwise prohibited by this Code.
2. *Master plan.* The PD district requires the review and approval of a master plan, which is approved as an exhibit to or by reference in a development agreement.
3. *Amendments.*

- a. Proposed amendments to an approved development agreement shall be reviewed and approved in the same manner as the approved development agreement.
- b. Proposed amendments to an approved master plan shall be considered an amendment to the approved development agreement.

C. *General guidelines and standards for planned developments.*

1. *Unified control.*

- a. At the time of application, all properties within a proposed PD shall be under unified ownership or control, as demonstrated by appropriate legal documents submitted by the applicant.
- b. These documents shall be reviewed for and are subject to a determination of legal sufficiency by the city attorney.

2. *Minimum size.* The minimum parcel size for a PD is three (3) acres.

3. *Land use.* The planned development option is available within the redevelopment land use district.

4. *Permissible uses.*

- a. Permissible uses within the PD shall be established within the development agreement, consistent with the underlying future land use designation(s) identified on the future land use map of the comprehensive plan.
- b. A PD can be comprised of a single use, such as residential, or a mixture of residential and nonresidential uses.
- c. In furtherance of the City's Comprehensive Plan and Strategic Plan goals of promoting mixed use development, the PD may contain both residential and transient accommodations, as well as attendant non-residential uses.
- d. When more than one (1) residential type is included within a PD, the development shall assign a designated amount of acreage to each residential type, such that the densities enumerated in the city charter are not exceeded.
- e. In compliance with Comprehensive Plan Policy IV.2.2, non-residential development may occur at a maximum floor area ratio (FAR) of 3.0. The intensity of non-residential development shall be considered independently.

5. *Size and dimensional regulations.* The location, size, dimensions, and design of yards, building and parking setbacks, vehicular access, loading and unloading areas, accessory structures, and utility areas (including, but not limited to, permanent areas for dumpster enclosures, utility infrastructure, stormwater management facilities, outdoor storage of vehicles, machines, and materials) shall be identified and set forth in the development agreement and master plan, and/or preliminary engineering plans for each applicable portion of the PD.

6. *Conflicts.*

- a. In the event of any conflict between the requirements of this section and any declarations of covenants and restrictions governing site conditions of a PD development within the city, the more restrictive shall apply.

- b. In the event of any conflict between the requirements of this section and any recorded development agreement approved by the city commission or court approved settlement agreement governing site conditions of a PD development within the city, the provision in the development agreement or court approved settlement agreement shall prevail.

7. *Perimeter transition.*

- a. *General.* The transition between existing development and the PD shall provide a progression of complementary uses to the greatest extent reasonably possible. The goal is to encourage interconnectivity, to avoid the need for or use of walls, earthen berms, or other obstacles, and to encourage access and positive interaction and synergy among and between uses.
- b. *Landscape buffers.* If the City Commission determines that a buffer is required, the buffer shall be dedicated on the plat, if applicable, and shall be held in common ownership to ensure adequate and uniform maintenance. Any buffer plantings around the perimeter of the PD or any portion of the PD shall be comprised of at least seventy-five (75) percent native plant species and shall be compatible with the soil pH conditions and hydrology.

8. *Street dedication and public access.*

- a. In new development or substantial redevelopment, emergency, pedestrian, and bicycle access shall be maximized to the extent that is reasonable, even if or when motor vehicle access cannot be expanded.
- b. Intersections within the PD shall be designed to ensure pedestrian safety.
- c. Pedestrian-oriented block size of approximately one-quarter ($\frac{1}{4}$) mile in length, interconnected roadways, and building orientation toward the most prominent public spaces are key elements to be considered in the review of a new PD.

9. *Sidewalks and trails.*

- a. Sidewalks, a minimum of six (6) feet in width, or pedestrian transportation trails, a minimum of eight (8) feet in width, shall be provided within any new PD or any new or redeveloped subdivision within an existing PD.
- b. Sidewalks and trails shall be planned, designed, and constructed to provide maximum safe connection to mass transit, other trails and sidewalks, schools, parks, restaurants, shopping, and other activity centers.

10. *Lighting and signage.*

- a. Street lighting and signage which promotes aesthetics and reinforces appropriate pedestrian-oriented streetscape design is expected to be incorporated throughout the PD.
- b. On-site lighting is to be designed so that off-site light spillage is limited to not more than one-half (0.5) foot-candles, unless otherwise approved by the city commission.
- c. Adequate lighting will be provided within pedestrian walkways, trails and parking areas to ensure pedestrian safety.

- d. Street and parking lot lighting within or adjacent to residential portions of the PD shall be designed to be consistent with residential development in such a manner that lights do not interfere with residential activities and light source glare is not visible from adjacent residential properties.
 - e. Signage will incorporate a common architectural and aesthetic integrity, context harmony, and theme, which will be subject to approval by the city commission for aesthetics, dimensions, materials, colors, illumination, context and location, and must be detailed within the development agreement.
11. *Environmental impact.* An environmental impact assessment of the project site is required which, at a minimum, shall consist of a description of the existing environmental elements and the potential positive and negative impacts as a result of the proposed development.
12. *Stormwater management.*
- a. Stormwater management shall be master planned for the PD.
 - b. Innovative, low impact designs shall be incorporated including, but not limited to, Florida-friendly landscaping, cisterns, green roofs, rain gardens, pervious pavement to limit stormwater pollution, to off-set potable water use for irrigation, and to aid in efficient and economical heating and cooling of buildings.
13. *Traffic impact study.*
- a. A traffic impact study is required for both vehicular, cycling, and pedestrian traffic.
 - b. The study shall include trip generation and distribution, intersection capacity and any potential trip mitigation as result of the mixed-use components creating a degree of trip capture.
 - c. If the proposed PD represents the redevelopment of a property, the traffic study must include existing impacts compared to the projected impacts of the proposed redevelopment project.
14. *Parking plan.*
- a. A parking/pedestrian circulation plan is required and must include the access/circulation routing for both vehicular and pedestrian traffic. The use of innovative design alternatives, such as pervious pavements and recessed landscaping islands, is strongly encouraged.
 - b. All vehicle parking should be screened, to the extent possible, from any roadway frontages.
15. *Utilities.*
- a. All new or relocated utility lines shall be located underground and installed or relocated at the developer's expense.
 - b. Unshielded utility features shall not be visible from private or public rights-of-way or other public places. Placement of a utility feature in conflict with this provision in a new development or substantial redevelopment shall be relocated at the developer's expense.

- c. All PDs shall connect to city potable water and sanitary sewer services at the developer's expense. The applicant/developer shall extend or upgrade the utility distribution lines to accommodate the PD and adjacent properties.
- d. Where the city requests utility lines of greater capacity than required for the proposed development, the city shall be responsible for providing the greater capacity and shall reimburse the developer for such excess costs.
- e. No interim water or sewer service other than the city system shall be allowed.
- f. Where available, connection to reclaimed effluent shall be required.

16. *Architectural aesthetic concepts.*

- a. The use of innovative, as well as traditional, architectural concepts is encouraged within the PD, and will be part of the negotiated development agreement.
- b. Construction which is straightforward and functional, and which draws its ornament and variety from the assembly of genuine materials is to be considered as a key element in the selection of architectural design.

17. *Landscaping.*

- a. A landscape plan shall be submitted and must include the locations and layout of landscape islands, buffers, and any required or optional fencing.
- b. All planted material shall be certified as Florida number one grades and standards, most recent iteration, before installation and shall be installed pursuant to plan specifications or as approved by the City.
- c. Landscaping installation specifications shall be consistent with the Institute for Agricultural Sciences (IFAS) standards and best practices.
- d. After installation, the applicant's landscape architect shall certify that the landscape materials have been appropriately installed pursuant to the specifications set forth on the landscape plans approved by the City, relative to species, quality, height, location, spacing, quantity, site preparation, planting, and mulching.
- e. Certification by the landscape architect is required to ensure that plantings are at the prescribed and appropriate depth, in relation to adjacent grade, to ensure survivability.

18. *School capacity.* For PDs which propose the additional of new residential units, a Brevard County School Impact Analysis (SIA) is required to be submitted. Upon review and approval by the Brevard County Public School District, the applicant will be issued a capacity determination letter (CDL).

D. *Procedures for approval of planned developments (PDs).*

- 1. The process for approval of a development agreement with a PD master plan is detailed in the subsections below.
- 2. Development agreements constitute a contract between the applicant and the City Commission of the City of Cocoa Beach.
 - a. Since these contracts are specific to land development efforts, they shall be drafted in concert with development of the master plan.

- b. The draft development agreement shall be reviewed formally by the development services department and other departments as necessary to determine the feasibility and suitability of the proposal prior to the submission of the master plan and development agreement to the planning board.
 - c. Staff shall provide comments on the proposed master plan and development agreement in accordance with the factors set forth in this section.
- 3. *Planning board public hearing.* The planning board shall hold a public hearing to consider the master plan and proposed development agreement. The board shall make recommendations to the city commission for approval, approval with modifications/conditions, or denial of the request, stating their reasons for such action. In making a recommendation, the planning board shall make findings of fact based upon the following:
 - a. Consistency between the proposal and the City Charter, Comprehensive Plan and City Codes;
 - b. Compatibility with the surrounding land uses, both existing, approved entitlements, and those currently or actively proposed for development;
 - c. Adequacy of existing infrastructure to accommodate the development and existing entitlements;
 - d. Financial impact to the city for installed or upgraded infrastructure;
 - e. Significant ecological, geological, or aesthetic features which may be incorporated into the plan. These may include, but are not limited to approximate wetland boundaries, listed species survey, and general assessment by both an ecologist and landscape architect; and
 - f. The nature, design, and appropriateness of the proposed development arrangement to the properties involved.
- 4. *City commission public hearing.* At a public hearing, noticed in accordance with the requirements of section 4-44 of these LDC regulations, the city commission shall review the master plan, proposed development agreement, the development review comments, and the planning board recommendations.
 - a. Approval of the PD is by ordinance, heard and considered according to the requirements of F.S. § 166.041.
 - b. The decision of the city commission shall be based on consideration of the facts specified within subsection 3 above.
 - c. In approving a PD, the city commission may establish any reasonable conditions or requirements in addition to those provided in this Code.
 - 1) Such additional conditions or requirements shall be entered into the development agreement and/or depicted on the master plan prior to execution of the development agreement by the city and are enforceable in the same manner and to the same extent as the other requirements of the development agreement and/or master plan.

- d. If the request is approved, the property shall have a zoning designation of PD planned development and shall be so designated on the official zoning map.
- 5. The applicant shall pay all costs to record the development agreement and provide the city with a copy of such recording within thirty (30) days after the effective date.

MASTER CONCEPTUAL DEVELOPMENT PLAN REVISED DOCUMENT

- 1 LOBBY

2 GARAGE WITH 50 PUBLIC PARKING SPACES - Agreement Section 4

3 PUBLIC BEACH RENOURISHMENT ACCESS (NORTH-SOUTH BEACH ACCESS) *Easement Boundaries per Brevard County Shore Protection Beach Renourishment Easement EXH C/Agreement Section 6

4 POOL

5 LAP POOL

6 15' PUBLIC BEACH AND PIER WALKWAY EASEMENT EXH B/ Agreement Section 3

7 POOL DECK FOR GUEST ACCESS

8 BIKE PARKING

9 BEACH BAR

10 MULTI-LEVEL PARKING STRUCTURE (555 P.S.)

11 6-STORY GUESTROOM BUILDING

12 BEACH RESTROOMS

13 DROP OFF

14 PULSIPHER PUBLIC BEACH ACCESS Agreement Section 8

15 20' PUBLIC BEACH ACCESS EASEMENT EXH D/ Agreement Section 7

16 PUBLIC METERED BEACH PARKING (7 P.S.)

17 PUBLIC METERED BEACH PARKING (18+1 P.S.)

18 WATER FEATURE

19 COCOA BEACH PIER

20 COCOA BEACH PIER ENTRY SIGN

21 BEACH ACCESS

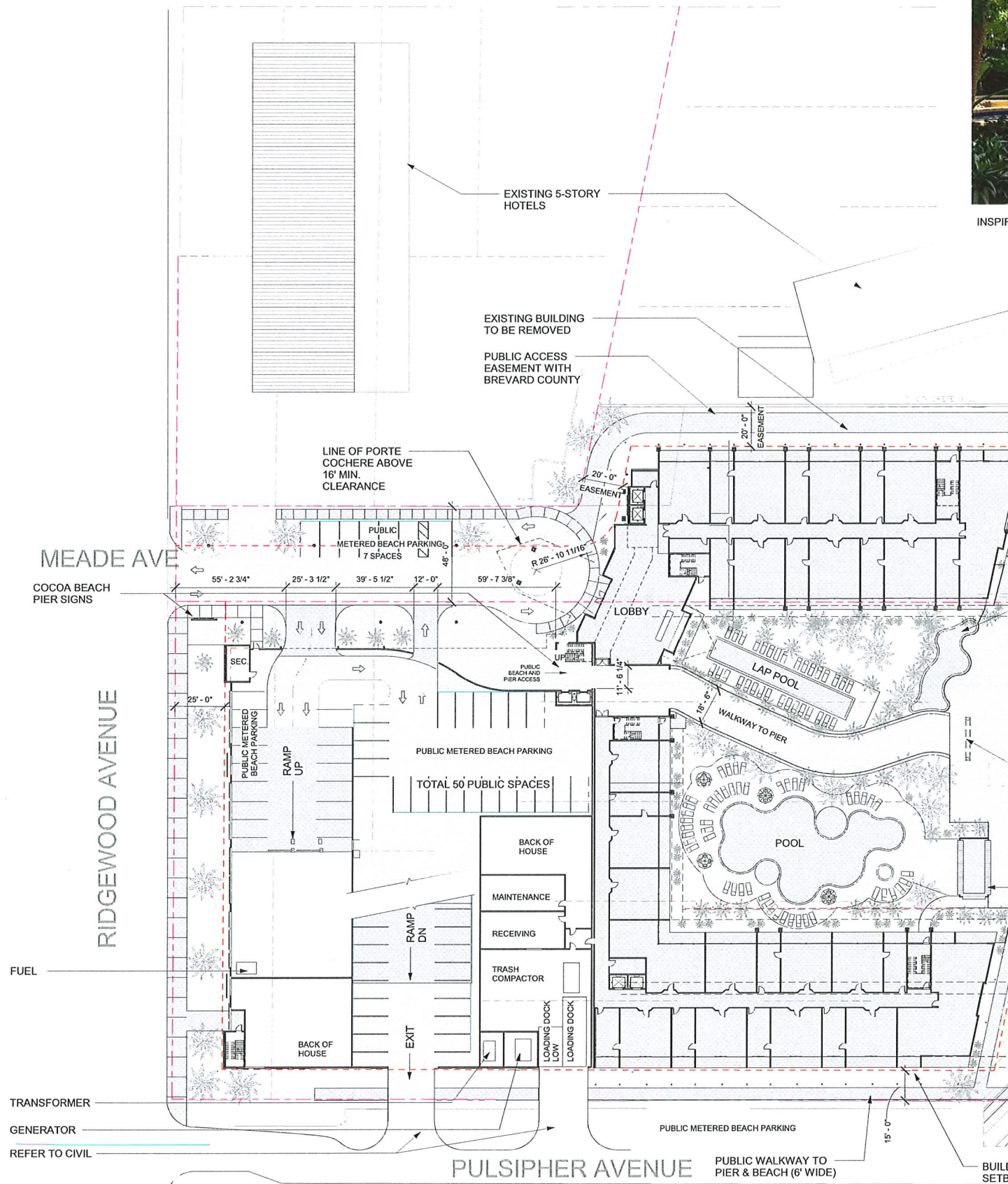
22 BEACH ACCESS PLAZA

23 EMERGENCY VEHICLE ACCESS

24 SUPPORT AREAS AND LOADING DOCK

25 COCOA BEACH PIER SIGNS





① ARCHITECTURAL SITE PLAN
1" = 30'-0"

DEVELOPMENT AGREEMENT BETWEEN**CITY OF COCOA BEACH****AND****WESTGATE COCOA BEACH, LLC**

THIS DEVELOPMENT AGREEMENT (hereinafter “DA”) is entered into as of _____, 2022 by and between WESTGATE COCOA BEACH, LLC, a Florida limited liability company (hereinafter “Developer”), whose address is 401 Meade Avenue, Cocoa Beach, Florida 32931, and THE CITY OF COCOA BEACH, a Florida municipal corporation (hereinafter “City”), whose address is 2 S. Atlantic Avenue, Cocoa Beach, Florida 32932.

RECITALS

WHEREAS, the Developer has presented to the City a plan to build a transient resort and accessory uses with a parking garage (hereinafter the “Project”) on property located at 401 Meade Avenue, Cocoa Beach, FL; and

WHEREAS, at the request of the Developer, the City has determined that the Project met the standards for a change in zoning from Oceanside Zoning District to Planned Development (PD) zoning district, as authorized under the City's Land Development Code, pursuant to Appendix B, Chapter II, Article IV, Section 2-26, Planned Development. ; and

WHEREAS, the PD zoning district requires that a Development Agreement (“DA”) be adopted by the City Commission which will bind the City and Developer to agree upon conceptual elements in support of the Project as set forth herein and on the Master Conceptual Development Plan and Master Conceptual Site Development Plan as attached hereto; and

WHEREAS, the City and Developer acknowledge that this DA is binding on the City and Developer and their respective successors and assigns; and

WHEREAS, the intent and purpose of the PD District is to accomplish within the City's Redevelopment Districts, a more desirable environment and efficient land use pattern than would be possible through the application of conventional zoning and the form-based code requirements, while assuring that the project adheres to the applicable provisions of the City's Charter, Comprehensive Plan and Land Development Code, and applicable federal and state regulations; and

WHEREAS, the PD District offers a Developer maximum flexibility to deviate from traditional rigid zoning standards and requirements, so that this Project has been designed with setbacks, building locations, site coverage, parking, landscape, signage, fencing heights and locations, buffers, sidewalks, access aisles, and other standards based upon Project feasibility, hotel brand and site constraints, and site development capabilities. These elements were proposed by the Developer on the Master Conceptual Plan (Exhibit “B”) and Master Conceptual Site Plan (Exhibit “C”) and Development Standards (Exhibit “D”) and submitted for approval by the City Commission which subsequently approved same.

WHEREAS, the City acknowledges that with projects of this size and scale, the Project may change as it goes through the permitting and construction plan approval process. To enable smooth and timely project management, the City, through its City Commission, hereby grants the City Manager the authority to approve minor changes to the development plans or signage design plan and other reductions in size, number or scale type Project changes, and make other decisions as more fully set forth in this DA; and,

WHEREAS, this Development Agreement is a non-statutory agreement and is not adopted in accordance with Florida Statutes, Section 163.3221, the Florida Local Government Development Agreement Act.

WHEREAS, all parties hereto have, without duress, voluntarily entered into this Agreement.

AGREEMENT

NOW, THEREFORE, the parties desire to be legally bound hereby agrees as follows:

1. **RECITALS.** The above recitals are true and correct and are incorporated into this Agreement by reference.

2. **CONSIDERATION.** The Parties hereby agree that the consideration and obligations recited and provided for under this Agreement constitute substantial benefits to both Parties and thus adequate consideration for this Agreement.

3. **DEFINITIONS.**

“**Agreement**” or “**DA**” shall mean this agreement between the City and the Developer.

“**City**” means the City of Cocoa Beach, a Florida municipal corporation.

“**City Manager**” means the City Manager or his/her designee.

“Code” means the City Charter, Code of Ordinances, and the Land Development Code in effect as of the Effective Date.

“County” means Brevard County, a political subdivision of the State of Florida.

“Developer” means Westgate Cocoa Beach, LP.

“Effective Date” means the date of recordation of the City Commission adopted, executed, and original signed version of this Agreement.

“Existing Land Development Code” means applicable provisions of the City Charter and City Land Development Code, including Chapter II, Article IV, Section 2-26 — Planned Development — and Chapter IV, Articles II — Subdivision Application Procedure — and III — Building Permit and Certificate of Occupancy - in effect as of the Effective Date which together regulate development and comprise the land development regulations governing the development of the Project.

“Laws” means the City Charter and all ordinances, resolutions, regulations, comprehensive plans, development regulations, and rules adopted by the City, County, State of Florida or federal government affecting the development of land.

“Minor Change” means any change in the Project floor area, lot coverage or similar numeric standard from such standards approved in either the Master Conceptual Site Development Plan and/or the Master Conceptual Development Plan that does not represent an increase of more than five percent (5%) above any such approved standard. Changes to the Project’s density or height shall not be considered a Minor change.

“Owner” has the same meaning as Developer.

“Parties” means the Developer and City, both of whom are signatories to this Agreement.

“Property” means the parcel more specifically described in Exhibit “A” to this Agreement and which is commonly referred to as the Cocoa Beach Pier.

4. **PURPOSE.** The purpose of this Agreement is to establish, as of the Effective Date, the development standards which govern the development of the Property. This Agreement satisfies the requirements of Section 2-26 of the Land Development Code.

5. **PROPERTIES SUBJECT TO THIS AGREEMENT.** The Property more specifically described as set forth in Exhibit “A”, titled “Sketch and Legal”, (hereinafter “Property”), is owned by the Developer and shall be held, transferred, sold, conveyed, occupied, and developed in the future subject to this Agreement. Prior to the recording of this Agreement,

the Developer shall supply to the City an opinion of title, from counsel admitted to the practice of the law in Florida, confirming the Developer's ownership of the Property and showing all liens, mortgages, and other encumbrances not satisfied or released of record and in a form acceptable to the City Attorney. All liens, mortgages, and other encumbrances not satisfied or released of record, must be subordinated to the terms of this Agreement or the Lienholder join in this Agreement. It shall be the responsibility of the Owner/Developer to promptly obtain such subordination or joinder, in form and substance that is acceptable to the City Attorney, prior to the City's execution of this Agreement.

6. **COVENANT RUNNING WITH THE LAND.** This Agreement shall constitute a covenant running with the land that shall be binding upon, and inure to the benefit of, the Parties, their successors, assigns, heirs, legal representatives, and personal representatives.

7. **SUSTAINABILITY STANDARDS.** The top hotel brands in the industry recognize the importance of incorporating sustainable site and building design, and more efficient operational measures into a project. Developer intends to facilitate actions where feasible that will endeavor to emulate these best practices, such as to conserve natural resources, protect indigenous wildlife, enhance indoor environmental quality, and reduce and recycle waste. In addition, the Developer and/or operator, as applicable, shall incorporate sustainability elements, where feasible and economically practicable, from the guidelines promulgated by a variety of national and international organizations recognized for their expertise in the area of building sustainability.

8. **MASTER DEVELOPMENT PLANS.** The project is located in the Planned Development District which offers a Developer and designer maximum flexibility to deviate from traditional zoning standards and requirements. Developer has submitted the following plans for formal approval by the City, and the City Commission has approved said Plans:

a. The "***Master Conceptual Development Plan***" shows the general layout for the buildings, amenities, on and off-site uses, beach access, retention of the public easement, infrastructure, landscape, drainage, parking, and mobility of the project. That Plan demonstrates the Project's compliance with the PD district and how the project has been designed with setbacks, building locations, site coverage, parking, landscape, amenities, signage, and other elements based upon project feasibility, hotel brand standards, site constraints, and site development capabilities. A copy of the Master Conceptual Development Plan is enclosed and made part hereof as Exhibit "B."

b. The “*Master Conceptual Site Plan*” represents the conceptual civil engineering approach to the Project. A copy of the Master Conceptual Site Plan is enclosed and made part hereof as Exhibit “C.”

c. The “**WESTGATE RESORTS AT THE COCOA BEACH PIER DEVELOPMENT STANDARDS**” consists of minimum or maximum standards, as applicable, intended to provide staff with objective standards to assess the consistency of future Project submittals with the Master Conceptual Development Plan and the Master Conceptual Site Plan and facilitate staff review & consideration of the same. Said standards address the design of the specified Project elements including, but not limited to: lighting and signage, landscape, architecture, site design and buffering, amenities, infrastructure and other on-site Project components. The Development Standards shall be used by City staff in reviews of Project. Project plans which meet the Development Standards, the Master Conceptual Development Plan and Master Conceptual Site Plan, and otherwise in accordance with applicable City, County, state and federal requirements shall be approved by the City Manager. A copy of the Development Standards is attached and made a part hereof as Exhibit “D”.

The Project shall, in all respects, comply with the Florida Building Code in effect as of the date of application for the relevant permit for construction. It is agreed that all other approvals regarding Project issues, including, but not limited to, its architecture, engineering, permitting, aesthetics, signage, construction, and inspections will be handled administratively by the City Manager. City and Developer agree that any Minor changes to the Project that exceed what is represented on Exhibit “B” and/or Exhibit “C” shall be submitted to the City Manager for his/her review and consideration. Any changes other than Minor changes shall be submitted to the City Manager for review prior to such changes being submitted to the City Commission for its consideration. Developer shall have the right to appeal any specific decision of the City Manager to the City Commission, and the City Commission's decisions in all instances shall be considered final agency action. In the event the Developer should challenge any decisions of the City, Developer shall waive any such challenge upon the grounds of generality and lack of standards set forth in this Agreement and/or in the City's Land Development Code relating to the PD zoning.

The Developer has provided the City with a Traffic Impact Study which was prepared by VHB and accepted by the City in support of the two Master Plans. The Developer shall construct the improvements set forth in said Traffic Study at the Developer's sole cost and expense. If there

are Project changes which result in an increase to the size and scope of the Project, the Developer shall submit a new Traffic Study and any new necessary traffic improvements to be reviewed by the City, and if approved by the City, such necessary improvements shall be constructed at the sole cost and expense of the Developer.

d. Attached hereto and incorporated herein by reference are the CHARACTER GUIDE (Exhibit “E”) and PARKING PLAN (Exhibit “F”) which are additional development and conceptual plans.

MISCELLANEOUS ITEMS/GOVERNANCE

9. PUBLIC EASEMENTS.

a. ***Utility Easements.*** The Developer will provide the City such easements and other legal documentation, in a form mutually acceptable to the City Attorney and the Developer as the City may deem reasonably necessary or appropriate for the installation and maintenance of utilities and other services, including but not limited to, sewer, potable water, and reclaimed water services, electric, cable, fire protection and communications. These easements shall be contained within the final construction plans and shall be in a form that shall be recorded in the Public Records of Brevard County, Florida.

b. ***Public Access Easement.*** Developer will provide to the City and Brevard County such easements that are necessary and reasonable for the purpose of guaranteeing public beach access, beach parking and as needed for beach re-nourishment project and sand easement operations associated with the Brevard County Shore Protection Program. These easements shall be contained within the final construction plans and shall be in a form that shall be recorded in the Public Records of Brevard County, Florida. The master plan documents and the “Westgate Agreement,” (an Agreement between Westgate Cocoa Beach Pier, LLC, The City of Cocoa Beach, and the Board of County Commissioners of Brevard County, Florida), a copy of which is attached hereto as Exhibit “G” shall be completed and recorded prior to the issuance of a Certificate of Occupancy to the Developer.

10. **ADDITIONAL RETAIL AND ALCOHOL SALES.** Subject to appropriate state licensing, City Beach Business Tax Receipts, and environmental permitting, by the adoption of this DA, the City Commission approves the issuance of a City Beach Vendor Permit(s) authorizing Developer to rent recreational equipment and sell food and beverage, including alcoholic beverages, seaward of the 1981 Coastal Construction Control Line via tiki/bar areas located on the

dune crossover structures and/or through host services on beach lands owned by the Developer and the City, pursuant to the aforementioned Beach Vendor Permit, the details of which shall be mutually agreed upon by the Developer and City and the issuance of which shall not be unreasonably withheld, conditioned or delayed.

11. **CONCURRENCY.** The Developer acknowledges and agrees that, prior to the issuance of any building permit(s) for the Subject Property, the Developer must have received and be in possession of a valid unexpired Certificate of Capacity. The Certificate of Capacity verifies the reservation of infrastructure capacity sufficient to permit development pursuant to the approved site plan for the Subject Property. The Certificate of Capacity shall be valid for a term as defined and stated in the Certificate. Neither this DA nor the site/master plan approval shall create or result in a vested right or rights to develop the Subject Property without a current and valid Certificate of Capacity.

12. **NON-CONFORMITIES.** The City acknowledges that the Property, as of the Effective Date, is improved as a resort hotel complex. The parties hereby find and agree that both the Property's current use and existing buildings forming part of the hotel complex conform with the provisions of the City's land development regulations. Notwithstanding the provisions of the Existing Land Development Code, the Developer may make substantial improvements to the buildings located on the Property as it is presently configured in excess of the threshold(s) set forth in s. 4-26 of the City's Existing Land Development Code. Notwithstanding this finding, the City shall not be precluded from requiring Developer to bring the Property into compliance with the Florida Building Code, Fire Code, stormwater regulations, and such other applicable regulations necessary to ensure that the Property does not pose a hazard to the health or safety of the public.

13. **VESTING.** Adoption of the Master Development Plan and Master Conceptual Site Plan and recording of the DA will vest the Developer and its successors and assigns with the rights set forth herein during the term of this DA, so long as this DA is in force. No action of the City, including, but not limited to, changes in the City's Charter, Comprehensive Plan, or Land Development Code or other City regulation will have the specific or unintended effect of changing the rights and uses vested and applicable to the Subject Property. Provided, however, if either current state or federal law is applicable to this DA and precludes the parties' compliance with any of the terms of this Agreement or is enacted after the effective date of this Agreement and is

applicable to and precludes the parties' compliance with any of the terms of this DA, this DA shall be modified or revoked as is necessary to comply with the relevant state or federal law.

14. **COMPLIANCE WITH THE LAW.** Subject to the vesting provisions herein, the failure of this DA to address a particular permit, condition, term, or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

15. **NOTICES.**

a. All notices, demands, and requests which may or are required to be given hereunder shall, except as otherwise expressly provided, be in writing and delivered by personal service or sent by United States Registered or Certified Mail, return receipt requested, postage prepaid, or by overnight express delivery, such as Federal Express, to the Parties at the addresses listed below. Any notice to be given pursuant to this Agreement shall be deemed given when received. Any actions required to be taken hereunder which fall on Saturday, Sunday or United States legal holidays shall be deemed to be performed timely when taken on the succeeding day thereafter which shall not be a Saturday, Sunday, or legal holiday.

To the City: City Manager
 City of Cocoa Beach
 2 S. Orlando Avenue
 Cocoa Beach, FL 32931

With a copy to: City Attorney
 Attn: Gretchen R. H. Vose, Esq.
 Vose Law Firm LLP
 234 West Morse Blvd.
 Winter Park, FL 32789

To Developer: Bryon Smith
 Westgate Resorts
 5601 Windhover Drive
 Orlando, FL 32819

With a copy to: Jack A. Kirschenbaum, Esq.
 GrayRobinson, P.A.
 1795 West NASA Blvd.
 Melbourne, FL 32901

b. Any party to this Agreement may change its notification address(es) by providing written notification to the remaining Parties to the terms and conditions of this section.

16. **CAPTIONS.** The captions used herein are for convenience only and shall not be relied upon in construing this DA.

17. **BINDING EFFECT.** This DA shall run with the land, shall be binding upon and inure to the benefit of the Developer and its assigns and successors in interest, and the City and its assigns and successors in interest. The Developer agrees to pay the cost of recording this document in the Public Records of Brevard County, Florida. This Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative authority as the same may affect the Subject Property, except as to rights vested in the Developer as to the Subject Property as provided herein.

18. **SEVERABILITY.** If any part of this DA is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this DA, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this DA is declared severable.

19. **APPLICABLE LAW/COURTS.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Any litigation of any kind relating in any way to this DA shall be in the Circuit Court in and for Brevard County, and the parties hereto explicitly waive any right to litigate in Federal Court. This waiver shall apply to any successors or assigns of the Parties. In addition to other legal rights, the Parties shall each have the right to specific performance of this Agreement in court. Each party shall bear its own attorney's fees. Each party waives any defenses, whether asserted by motion or pleading, that the aforementioned courts are an improper or inconvenient venue. Moreover, the Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objection to said jurisdiction. The Parties irrevocably waive any rights to a jury trial.

20. **ENTIRE AGREEMENT/AMENDMENT.** This DA constitutes the entire agreement between the parties, and supersedes all previous discussions, understandings and agreements, with respect to the subject matter hereof. Amendments to and waivers of the provisions of this DA shall be made by the parties only in writing by formal amendment.

21. **CONSTRUCTION.** The Developer will be allowed to conduct construction in accordance with approved permits in accordance with the provisions of the Cocoa Beach City

Code as of the Effective Date unless specifically exempted from such provisions upon good cause shown.

22. **COOPERATION; EXPEDITED PERMITTING; TIME OF THE ESSENCE.**

a. The Parties agree to cooperate with each other to the full extent practicable pursuant to the terms and conditions of this Agreement. The Parties agree that time is of the essence in all aspects of their respective and mutual responsibilities pursuant to this Agreement. The City shall use its best efforts to expedite the permitting and approval to assist the Developer in achieving its development and construction milestones.

b. Notwithstanding the foregoing, the City shall not be obligated to issue development permits to the extent that the Developer does not comply with the applicable requirements of the Existing Land Development Code, this Agreement, the applicable building codes, or any other applicable local, state or federal laws, regulations, statutes, or ordinances.

23. **FEES FOR CITY COSTS.** Developer shall be responsible for all of the City's consultant fees, reproduction costs or delivery fees, and other similar expenses relating to the Project, including, but not limited to expenses incurred for review of the Project, preparation or revisions to documents, both before and after the execution of this DA, in amounts as reasonably determined by the City, shall be paid to the City by the Developer.

24. **RIGHTS OF CITY IN EVENT OF DEFAULT BY DEVELOPER.** In addition to any rights the City may have under Florida law, the City shall also have the right to suspend processing application reviews, issue stop work orders, stop the issuance of a certificate of occupancy, or otherwise suspend Project processing activity if Developer is found by the City to be in default or violation of any of the terms of this DA, or has violated any term of any permit issued by the City or any other governmental entity relating to the Project or the Subject Property.

25. **THIRD PARTY DEFENSE.** The City and the Developer shall each, at their own cost and expense, vigorously defend any claims, suits, or demands brought against them by third parties, challenging the Agreement or the Project, or objecting to any aspect thereof, including without limitation: (a) a consistency challenge pursuant to s. 163.3215, Fla. Statutes (2020); (b) a petition for writ of certiorari; (c) an action for declaratory judgment; or (d) any claims for loss, damage, liability, or expense (including reasonable attorneys' fees). The City and Developer shall promptly give the other written notice of any such action, including those that are pending or threatened and all responses, filings, and pleading with respect thereto. To the extent possible, the

Developer shall reimburse the City such reasonable out-of-pocket costs incurred by the City in any such litigation.

26. **NO THIRD-PARTY BENEFICIARY.** No persons or entities other than the Parties, their heirs, successors, and assigns, shall have any rights whatsoever under this Agreement.

27. **COUNTERPARTS.** This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this DA to be signed by their duly authorized officers and their seals to be hereto affixed as of the day and year first above written.

(SIGNATURE AND EXHIBIT PAGES TO FOLLOW)

ATTEST:

CITY:

CITY OF COCOA BEACH, FLORIDA

Date: _____

By: _____

Print Name: _____

As Its: _____

Print Name: _____
City Clerk

FOR THE USE AND RELIANCE
OF CITY OF COCOA BEACH ONLY.
APPROVED AS TO FORM.

Print Name: _____
City Attorney

[SIGNATURE PAGE TO FOLLOW]

Witnesses:

DEVELOPER:
WESTGATE COCOA BEACH, LLC

Date: _____

By: _____

Print Name: _____

Print Name: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or
☐ online notarization, this _____ day of _____, 2022, by _____,
as Manager of **WESTGATE COCOA BEACH, LLC**. He ☐ is personally known to me or
☐ has produced _____ as identification.

(NOTARY SEAL)

Notary Public Signature

(Name typed, printed or stamped)

DESCRIPTION

A parcel of land located in Section 26, Township 24 South, Range 37 East, Brevard County, Florida. Said parcel being more particularly described as follows:

BEGIN at the northwest corner of Lot 1, Block 113, AVON-BY-THE-SEA, Plat Book 3, Page 7 of the Public Records of Brevard County, Florida; thence South 89° 51' 56" East along the southerly right of way of Mead Avenue per said plat, 192.82 feet to a point on the southerly extension of the westerly boundary line of Lot 12, Block 112 per said plat; thence leaving said southerly right of way line, run North 11° 27' 59" East along said southerly extension of the westerly boundary line of Lot 12 a distance of 100.16 feet to a point on the northerly boundary line of said Lot 12, Block 112 per said plat; thence leaving the southerly extension of the westerly boundary line of said Lot 12, run South 89° 55' 42" East along the northerly boundary line of said Lot 12 a distance of 456.81 feet to a point on the Erosion Control Line, per Florida Department of Environmental Protection Mean High Water Survey File No. 2249; thence leaving the northerly boundary line of said Lot 12, run the following courses along said Erosion Control Line, South 09° 34' 48" West, 65.22 feet; thence South 09° 49' 51" West, 176.05 feet; thence South 07° 31' 45" West, 111.82 feet to a point on the northerly right of way line of Pulsipher Avenue per said plat; thence leaving said Erosion Control Line, run North 89° 51' 16" West along said northerly right of way line 615.40 feet to a point on the easterly right of way line of Ridgewood Avenue per said plat; thence leaving the northerly right of way line of said Pulsipher Avenue, run North 00° 19' 32" East along said easterly right of way line 249.94 feet to the POINT OF BEGINNING.

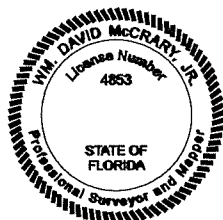
Said parcel contains 4.667 acres, more or less.

NOTES

1. THIS SKETCH OF DESCRIPTION IS NOT A SURVEY.
2. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ELECTRONIC SIGNATURE AND SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER LISTED BELOW.
3. THE LAND DESCRIPTION HEREON WAS WRITTEN BY THIS SURVEYOR AT THE DIRECTION OF THE CLIENT.
4. BEARING SHOWN HERE ARE BASED ON THE SOUTHERLY RIGHT OF WAY LINE OF MEADE AVENUE AND BEING SOUTH 89° 51' 56" EAST. (ASSUMED)
5. THE EXISTING RIGHT OF WAY AREA OF OCEAN BLVD APPEARS TO BE VACATED. HOWEVER, THE UNDERSIGNED SURVEYOR WAS NOT PROVIDED ANY VACATION DOCUMENTATION, AND DOES NOT CERTIFY TO THE LEGAL STATUS OF OCEAN BOULEVARD.

CERTIFICATION

I HEREBY STATE THAT THIS SKETCH AND DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; AND THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE FOR FLORIDA SURVEYORS AND MAPPERS, AS SET FORTH IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.



McCrary, David

Digitally signed by McCrary, David
DN: CN=McCrary, David
Reason: I have reviewed this document
Contact Info: DMcCrary@VHB.com
Date: 2021.11.16 17:17:50-0500

WM. DAVID McCRARY, JR., P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 4853

DATE

SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA



Vanasse Hangen Brustlin, Inc.

Landmark Center Two
225 E. Robinson St., Suite 300
Orlando, FL 32801
407.839.4006 / FAX 407.839.4008
Licensed Business # 7153

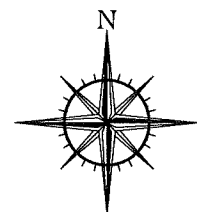
DRAWN BY: CAP	CHECKED: WDM
PROJECT # 61920.01	
DRAWING: Sk & Desc Overall.dwg	
DRAWING DATE: 11/08/2021	
	SHEET 1 OF 2

SKETCH & DESCRIPTION Overall Parcel

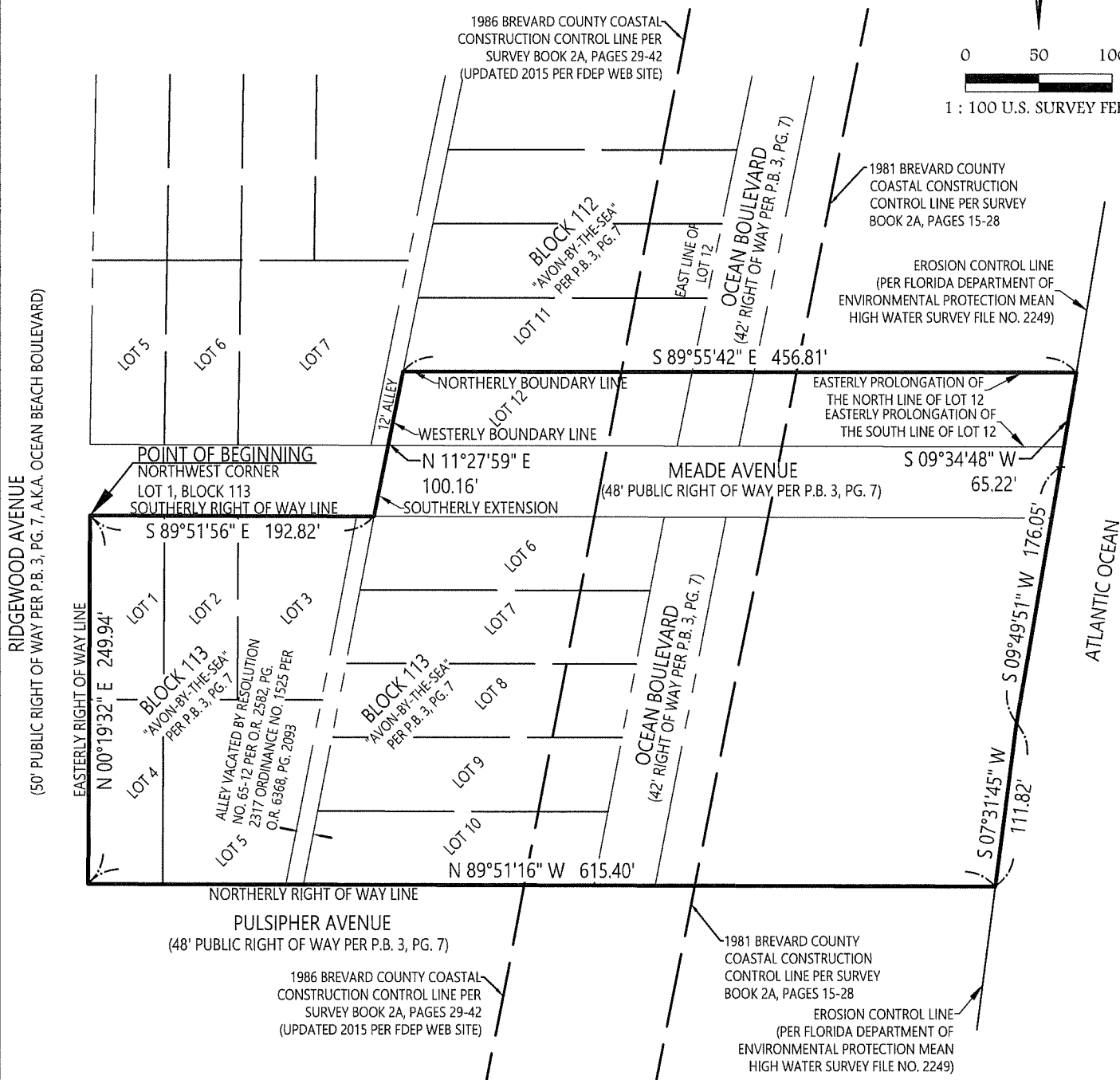
ISSUED FOR:
WESTGATE COCOA BEACH PIER LLC

LEGEND

A.K.A. = ALSO KNOWN AS
O.R. = OFFICIAL RECORDS BOOK
P.B. = PLAT BOOK
P.G. = PAGE



0 50 100
1 : 100 U.S. SURVEY FEET



SEE SHEET 1 OF 2 FOR DESCRIPTION, CERTIFICATION AND NOTES

SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA



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DRAWN BY: CAP	CHECKED: WDM
PROJECT # 61920.01	
DRAWING: Sk & Desc Overall.dwg	
DRAWING DATE: 11/08/2021	
SCALE: 1" = 100'	SHEET 2 OF 2

SKETCH & DESCRIPTION Overall Parcel

ISSUED FOR:
WESTGATE COCOA BEACH PIER LLC

MASTER CONCEPTUAL DEVELOPMENT PLAN REVISED DOCUMENT

- 1 LOBBY

2 GARAGE WITH 50 PUBLIC PARKING SPACES - Agreement Section 4

3 PUBLIC BEACH RENOURISHMENT ACCESS (NORTH-SOUTH BEACH ACCESS) *Easement Boundaries per Brevard County Shore Protection Beach Renourishment Easement EXH C/Agreement Section 6
- 4 POOL

5 LAP POOL

6 15' PUBLIC BEACH AND PIER WALKWAY EASEMENT EXH B/ Agreement Section 3

7 POOL DECK FOR GUEST ACCESS

8 BIKE PARKING

9 BEACH BAR
- 10 MULTI-LEVEL PARKING STRUCTURE (555 P.S.)

11 6-STORY GUESTROOM BUILDING

12 BEACH RESTROOMS

13 DROP OFF

14 PULSIPHER PUBLIC BEACH ACCESS Agreement Section 8
- 15 20' PUBLIC BEACH ACCESS EASEMENT EXH D/ Agreement Section 7

16 PUBLIC METERED BEACH PARKING (7 P.S.)

17 PUBLIC METERED BEACH PARKING (18+1 P.S.)

18 WATER FEATURE

19 COCOA BEACH PIER
- 20 COCOA BEACH PIER ENTRY SIGN

21 BEACH ACCESS

22 BEACH ACCESS PLAZA

23 EMERGENCY VEHICLE ACCESS

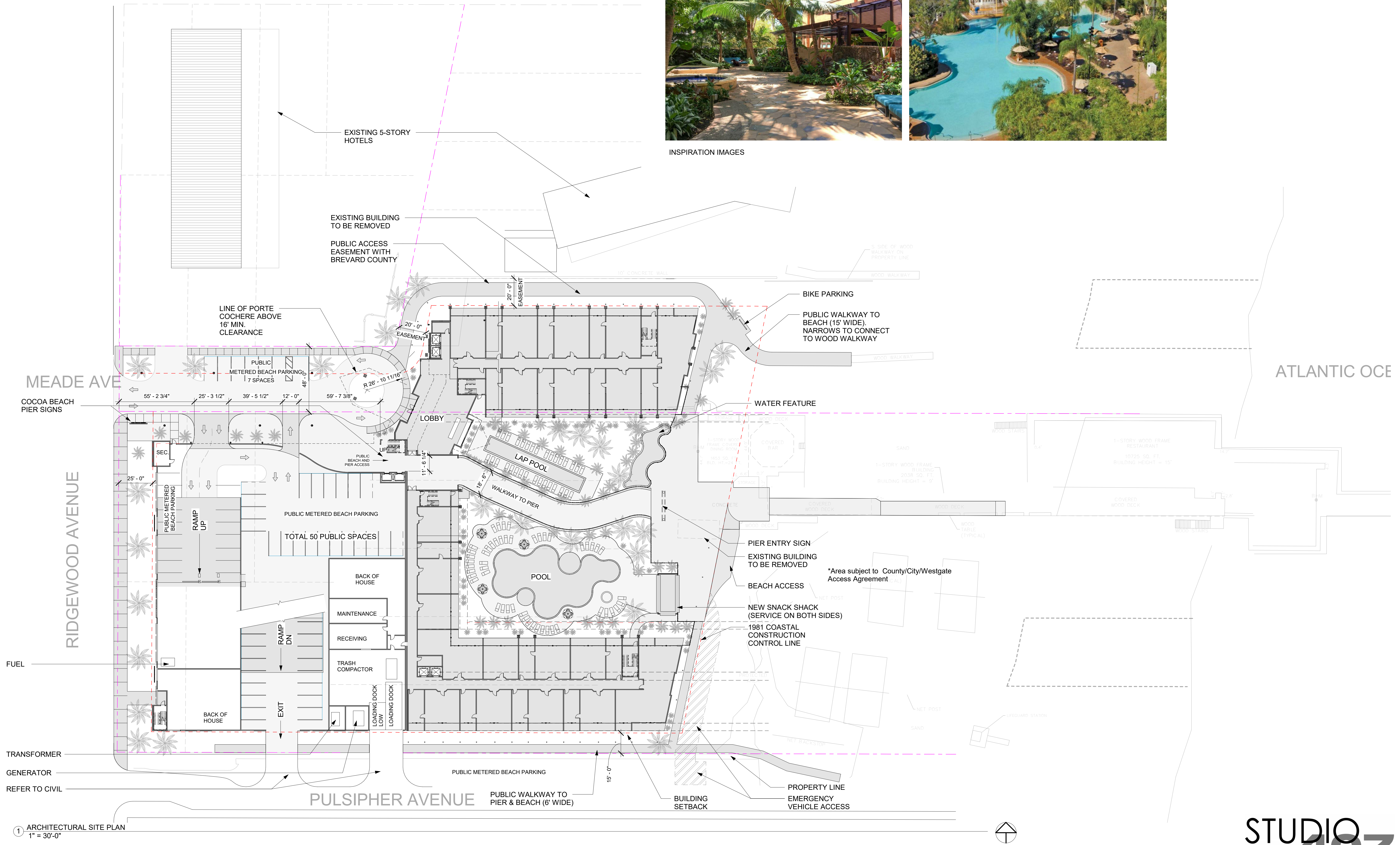
24 SUPPORT AREAS AND LOADING DOCK

25 COCOA BEACH PIER SIGNS





INSPIRATION IMAGES



1 ARCHITECTURAL SITE PLAN
1" = 30'-0"

Westgate Resorts at Cocoa Beach Pier

CFI/Westgate Resorts

04-04-2024

Scale: 1" = 30'-0"

THIS MATERIAL REPRESENTS DEVELOPMENT CONCEPTS AND ARCHITECTURAL AND OTHER DESIGN CONCEPTS BEING CONSIDERED AT THE TIME IT WAS PRODUCED. THIS INFORMATION IS SUBJECT TO REVISIONS AND MODIFICATIONS WITHOUT NOTICE. ALL ORAL AND WRITTEN INFORMATION, DESCRIPTIONS, PLANS, COPY, GRAPHS, PHOTOGRAPHY, CHARTS, GRAPHS AND RENDERINGS MAY BE MODIFIED AT ANY TIME AND SHOULD NOT BE RELIED UPON AS FINAL.

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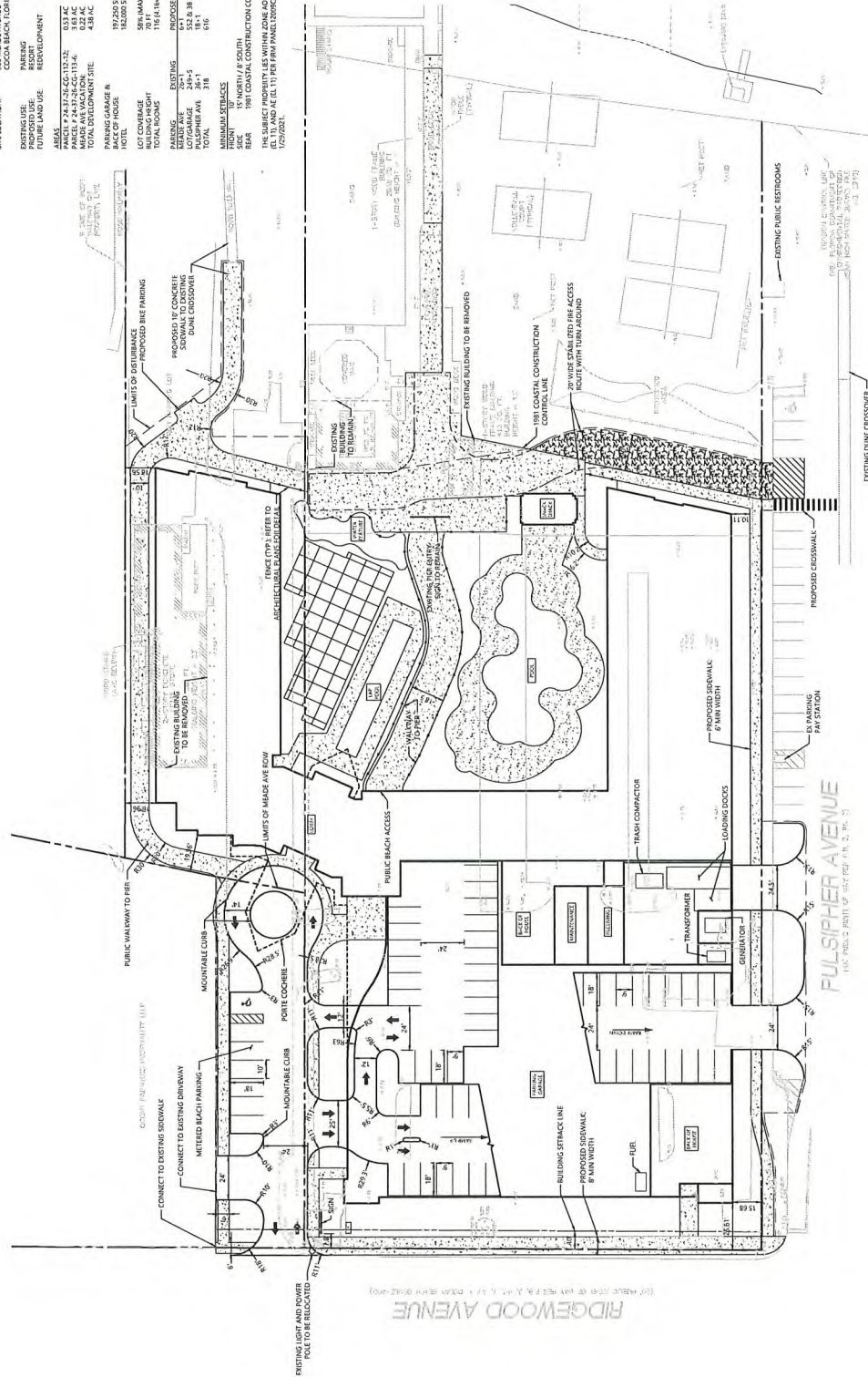
SITE PLAN



501 E Kennedy Blvd
Suite 1010
Tampa, FL 33602
813.327.5450
Certificate of Authorization
Number FL #3932

Site Data Table

SITE LOCATION:	3RD MADE AVE. & COCOA BEACH, FLORIDA 32931
EXISTING USE:	PARKING
PROPOSED USE:	REDEVELOPMENT
FUTURE LAND USE:	PARKING
AREAS	
PARCEL 1 24.37-26.02-112-32	0.53 AC
PARCEL 1 24.37-26.02-113-32	0.53 AC
TOTAL DEVELOPMENT SITE	4.38 AC
PARKING GARAGE IN BACK OF HOUSE:	197,250 SF
HOTEL	182,000 SF
LOT COVERAGE	58% (MAX. 80%)
BUILDING HEIGHT	70 FT.
TOTAL ROOMS	116 (14 IN-W/25 DUPA)
PARKING	PROPOSED
EXISTING	58
PROPOSED	582
LANDSCAPE	152.3 IN PUBLIC
PALMSHAPER	18.1
TOTAL	616
MINIMUM SETBACKS	



**Westgate Resorts
at the Cocoa Beach Pier**
380 Meade Avenue
Cocoa Beach, Florida 32931

[illegible]

Master Development Plan

C1.0

NOT FOR CONSTRUCTION

EXHIBIT C

**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

PROJECT: WESTGATE RESORT AT THE PIER COCOA

BEACH

PROPERTY LOCATION: 401 Meade Avenue (See Map 1)

OWNER: Westgate Resorts, 5601 Windhover Drive,

Orlando, Fl. 32819

FUTURE LAND USE DESIGNATION: REDEVELOPMENT

(North Cocoa Beach)



ZONING DESIGNATION: OCEANSIDE

ZONING REQUEST: PLANNED DEVELOPMENT DISTRICT, WITH APPROVED MASTER DEVELOPMENT PLAN AND DEVELOPMENT AGREEMENT

PROJECT DESCRIPTION

REQUEST

The applicant, Westgate Cocoa Beach Pier LLC, hereinafter referred to as 'Westgate', is requesting a change of zoning to allow a Planned Development (PD) on lands that include the Cocoa Beach Pier plus 2 surrounding properties on the north and south side of Meade Avenue totaling 4.55 acres more or less found in Map 1:

1. Account:2435959Parcel ID:24-37-26-CG-113-6
2. Account:2435957Parcel ID:24-37-26-CG-112-12

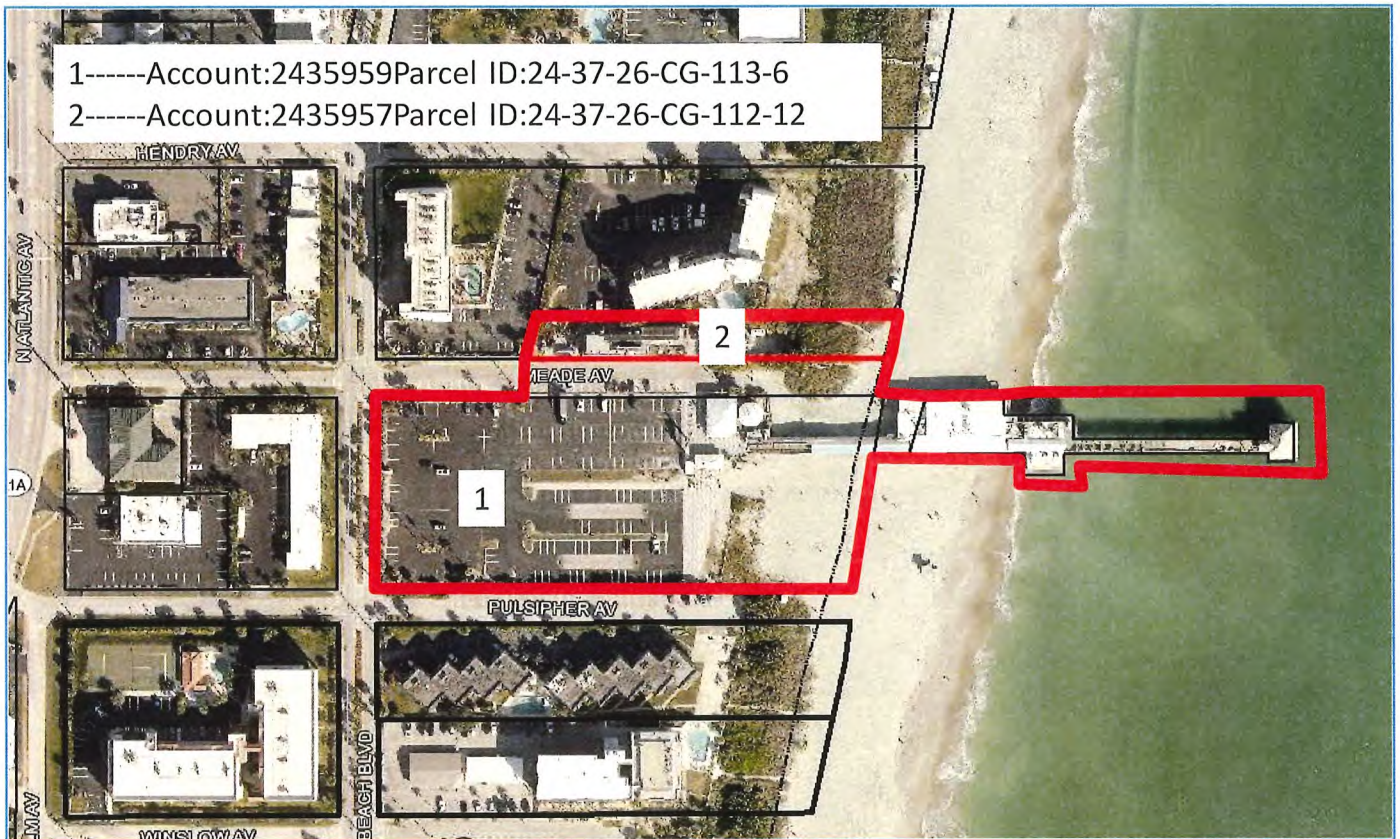
The property #1 on the south side of Meade is predominately surface parking that serves the Pier, on site restaurants and shops. The property #2 on the north side holds a retail shop providing beach ware and supplies. According to the Brevard County Property Appraiser's website, the shop was built in 1955. The Pier, to the east on the beach, is a locally known landmark, dating back to the early 1960's. A portion of Meade Avenue has been conditionally vacated by the City, giving an additional .51 acres to site. This additional portion will not be used in the density calculation. A height variance to allow a height of 70' has been granted by the City Commission. A new complete boundary survey will be updated and provided.

**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

Map 1, Location Map, shows the property as currently used. Map 2 shows the a sketch and legal of the new boundaries with the vacated portion of Meade Avenue included.

This document will set forth the standards and conditions for project development.

**Map 1
General Location Map(Not to scale)**



MAP 2
SKETCH AND LEGAL DESCRIPTION

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT SITE DEVELOPMENT STANDARDS

PROPOSED PROJECT

The properties are in an area designated for Redevelopment Land Use in the Comprehensive Plan and Zoned as the Oceanside Redevelopment District. The infrastructure is aging, and stormwater/landscape/beach areas need to be upgraded or enhanced for environmental sustainability. To eliminate an aging facility and bring renewed vitality to the area, the applicant is proposing to redevelop the 2 properties that abut Meade Avenue into a multi-million dollar resort hotel, complete with resort style pool, parking garage, beach frontage, new public beach access, replacement public parking spaces, landscaping, upgraded utilities, improved stormwater, restored dunes, and other amenities. The Parking Garage and "Back of House" areas are estimated to be 197,250 sf and the Hotel will be 182,000 sf with 116 +/- rooms. Density is based upon the 4.16 site acreage, not including the Meade Avenue vacation, at 28 units per acre per the Comprehensive Plan. This project will implement a vital need in Cocoa Beach's economic development and redevelopment plans.



Figure 1 Westgate Resort Rendering

The Master Conceptual Development Plan is shown in Map 3.

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT SITE DEVELOPMENT STANDARDS

DEVELOPMENT STANDARDS



The City of Cocoa Beach's Appendix B, Land Development Code, Chapter II, Article IV, Section 2-26 requires that a Development Agreement be formulated which in effect will bind the City and Developer to either: perform certain actions in support of the project by either party; require installation of certain infrastructure or physical enhancements by either party; provide for financial incentives or obligations by either party; and/or, set forth a list of agreed upon

development standards to govern the project's site design and utilization. The PD establishes several categories where standards would apply. This document sets forth general development standards that will be an exhibit to the Development Agreement, to influence the design and implementation of the proposed development, and give guidance to the developer and owner during the administrative review and permitting process.

MASTER PLANNING

Article IV, Section 2-26, requires a project proposed under Planned Development district to provide a variety of information. To that end, the **WESTGATE RESORTS AT THE COCOA BEACH PIER** created the " Master Conceptual Development Plan" (Map 3) and a Master Conceptual Site Plan (Map 4), both of which will serve as the Master Development Plans required for the PD. These two plans provide a '30,000' foot overview of the site and buildings for use in understanding the project as a whole and will become part of the Development Agreement.

The project is using the Planned Development District which offers an owner and designer maximum flexibility to deviate from traditional zoning standards and requirements. This project has been designed with its own setbacks, building locations, site coverage, parking, landscape, signage, and other site development or architectural standards based upon project feasibility, brand and site constraints, and development capabilities as shown on the composite set of conceptual plans provided with the PD application.

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT SITE DEVELOPMENT STANDARDS

Once approved by the City Commission, the staff and developer will work through detailed construction, architectural building, and development permitting through administrative processes in conformance with the standards set forth herein and the adopted plans.

To satisfy other information requirements for the PD, several other informational Master Conceptual Plans were included in the application package. These show how the project proposes to address required elements such as site plans, infrastructure plans, building plans and elevations, lighting and landscape plans. These particular project elements are narrated herein and documented on the conceptual plans and Character Guide. The Planned Development zoning category allows for the developer to use the existing site to inform the buildings, placement, signage, and landscape and set forth its own development standards to govern the development. These standards become part of the development agreement. The plans included herein are graphic representations of the way in which the site is proposed to be developed, subject to final City and Agency permitting and plan approvals.

- **MAP 3 MASTER CONCEPTUAL DEVELOPMENT PLAN**
- **MAP 4 MASTER CONCEPTUAL SITE PLAN**
- **MAPS 5 A AND B MASTER CONCEPTUAL BUILDING PLANS**
- **MAPS 6 A AND B MASTER CONCEPTUAL AERIAL SITE PLAN AND MASTER INFRASTRUCTURE (UTILITY AND DRAINAGE) PLANS**
- **MAP 7 MASTER CONCEPTUAL LANDSCAPE PLAN**
- **CHARACTER GUIDE**

CHARACTER GUIDE

There is a project vision, style, aesthetic, and design character elements that are contemplated in this almost 200,000 +/- square feet, multi-million-dollar construction project. In order to present these ideas to address the components of Architectural Concepts, Landscape Plan, Lighting and Signage required by the City, the team created and proposed the '**Character Guide**'. This book symbolizes and gives the City and public the true essence of the visual attributes, flavor, and personality of this vibrant redevelopment project.

In the case of the "Architectural Aesthetic Concepts, Landscaping, Lighting and Signage" strategies, the Character Guide offers a sense of the project's preferred personality and style as intended by the owners, but is not proffered as a final design handbook for adoption. Specific final details regarding architectural materials and elements, plants, light fixtures, bulbs, signage design and position, and building external finishes cannot be identified at this time until further detailed design, construction plans, and value engineering efforts are undertaken by the developer. Final design will be undertaken during the construction, building, and

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT SITE DEVELOPMENT STANDARDS

environmental permitting phases of the project through appropriate plans submitted for administrative review by the staff.

The project is introducing the best of urban design philosophy and practice into the architectural quilt of the Cocoa Beach community. Inspired by the unique aspects of the City's history and locational elements, other projects owned by Westgate Resorts, the conceptual design creates an increased sense of security, sense of place, visual enjoyment, offers various mobility options, provides new employment, and contains attractions that will foster new meaningful interactions between residents and with the environment. The location, shapes and materials envisioned for the structures show a thoughtful balance of economic, social, and environmental needs for a sustainable outcome. These inspired designs result in a stronger sense of place and good urban design with the goal of 'place-making'.

CHARACTER GUIDE STANDARDS

1. The Character Guide will be used to inform decisions on Architectural Aesthetic Concepts, Landscaping, Lighting and Signage by the City Manager and Developer during the administrative review process.
2. If the City Manager deems a project component consistent with the Character Guide, that component shall be approved by the staff. If there is a dispute, the Developer may appeal that decision to the City Commission.

USES AND SQUARE FOOTAGES

The project will contain a maximum 500,000+/- square feet of total space distributed by the Developer among the uses identified hereinbelow, subject to the maximum total square footage allowed.

1. **USES AND SQUARE FOOTAGES STANDARDS** The project is intended to contain the following elements:
 - a. Hotel guest rooms dependent upon the final surveyed acreage, currently under 120 units;
 - b. Public Food Service Establishments and Alcoholic Beverage Establishments;
 - c. Parking structure(552 spaces plus 38 public metered spaces) plus public parking on Meade and Pulsipher totaling 616 spaces;
 - d. Small meeting or banquet rooms internal to the hotel;
 - e. Retail and Commercial uses consisting of gift shops, other small boutiques, and spas;
 - f. Operational & services areas, such as the lobby, loading dock, on-site laundry, and maintenance facilities and central chiller plant'.

BUILDING AND SITE DEVELOPMENT STANDARDS

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT SITE DEVELOPMENT STANDARDS

A detailed Development Standards document has been prepared under separate cover for attachment to the Development Agreement. For descriptive purposes, Map 3 is the Master Conceptual Development Plan which sets the maximum development parameters for the project. The following development standards, as taken from the Development Standards document, shall govern the development of the project.

1. Minimum building setbacks from property lines:
 - a. Front: 10'
 - b. Sides: 10'
 - c. Rear: 1981 Coastal Construction Control Line
2. Lot Coverage: 80%
3. Parking: Minimum required by code. Proposed: 552 in the Garage, plus 38 public metered; 7 on Meade; 19 on Pulsipher Ave.
4. Height: Maximum 70', plus 10% or 7' per the Land Development Code for non-habitable appurtenances
5. Maximum Building sizes: All new buildings combined shall not exceed 500,000 square feet

BUILDING HEIGHT

The project owners were granted a height variance by the City in July, 2022, to allow a maximum building height of 70' based upon numerous findings of fact made by the City Commission during the hearing process.

The Project shall incorporate multi-level roof lines to ensure architectural diversity across the site consistent with the Master Conceptual Development Plan. Map 5-a and Map 5-b depict the desired external elevations, varied roof lines, and currently planned building heights.

An Administrative Waiver will be applied for to enable parapets, mechanical, and other allowable appurtenances consistent with the requirements in Section 4-42 of the City's Land Development Regulations.

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS

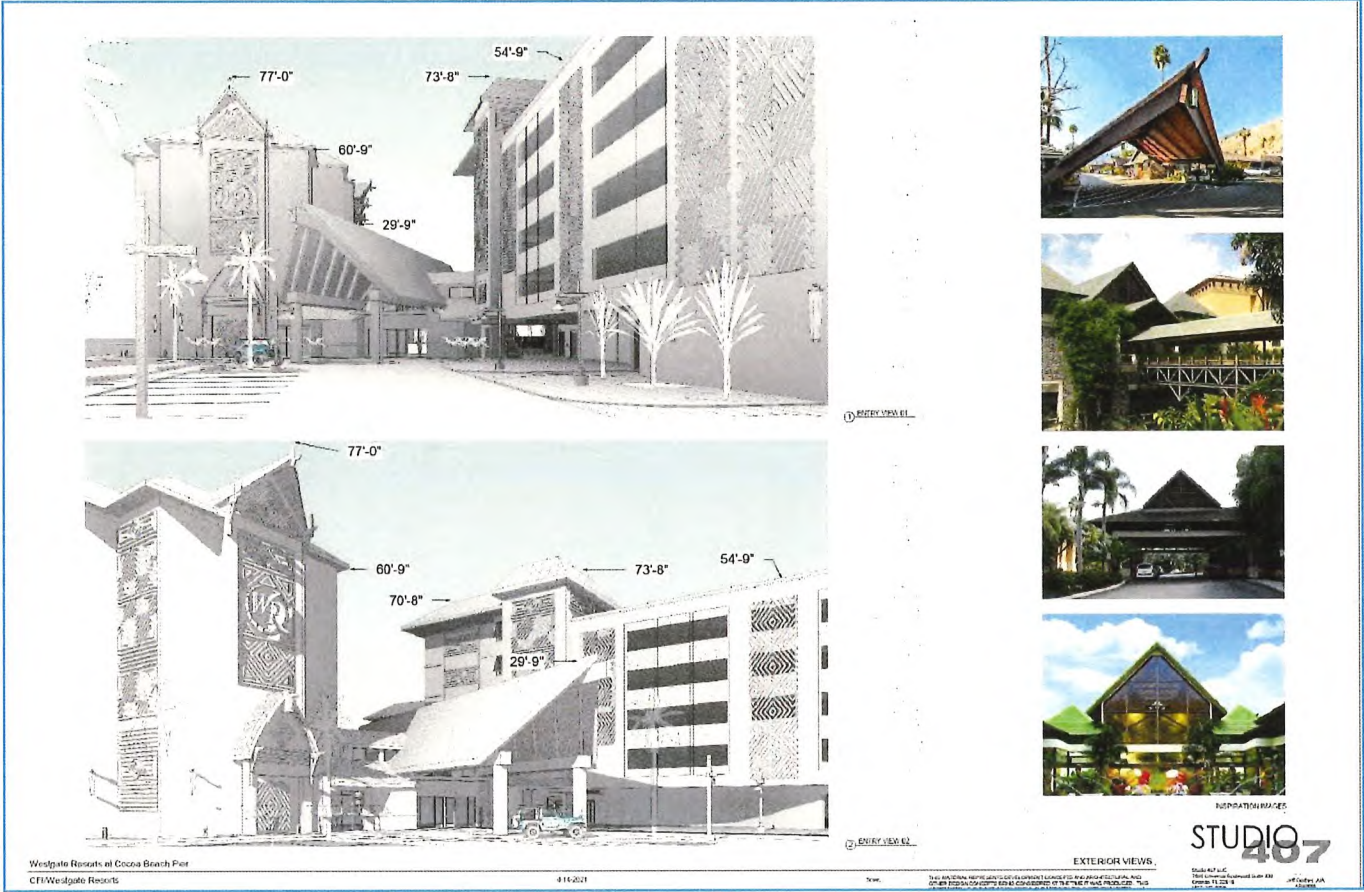
MAP 3

MASTER CONCEPTUAL DEVELOPMENT PLAN(Large sizes under separate cover)



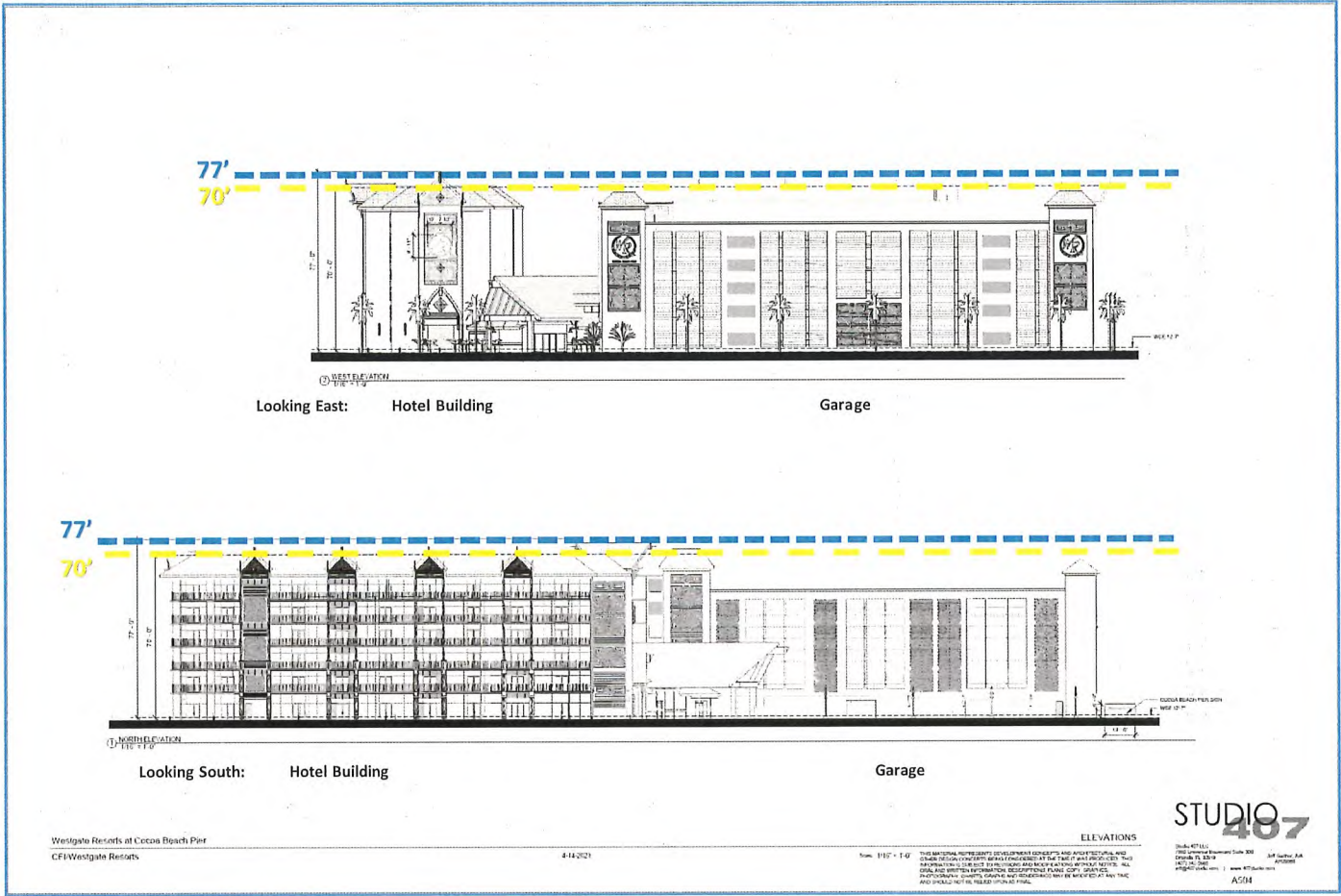
PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS

MAP 5-a
MASTER CONCEPTUAL BUILDING PLAN



PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS

MAP 5-b
BUILDING ELEVATION VIEW



**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

UTILITIES

ON-SITE UTILITIES OR OTHER OFF-SITE PUBLIC/PEDESTRIAN INFRASTRUCTURE STANDARDS

On-site utilities and off-site public/pedestrian infrastructure shall be subject to the approval of the City Manager.

The utilities plans shall, at a minimum, meet the following standards:

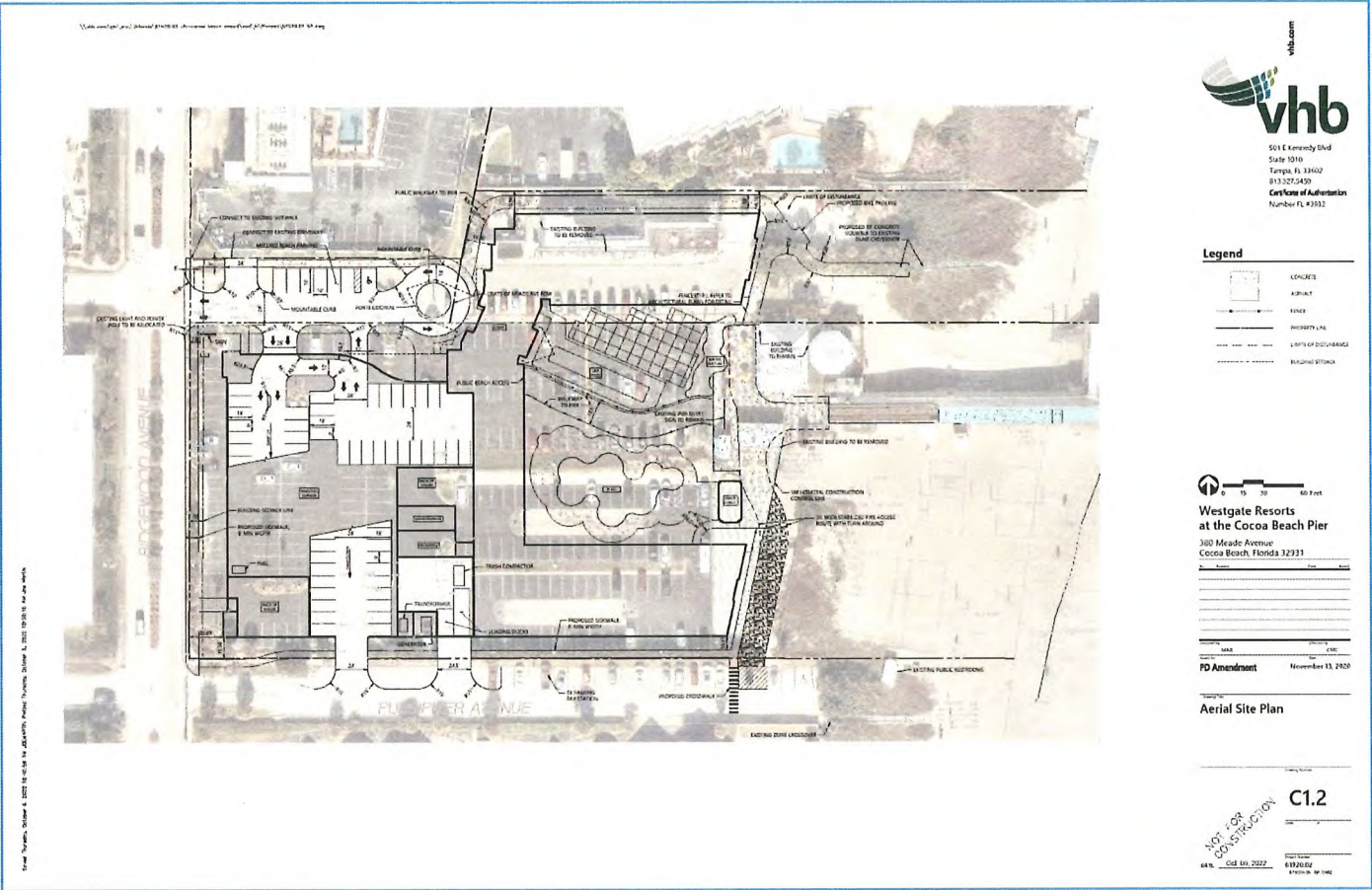
1. Locate all new or relocated on-site utility lines underground at the Developer's expense.
2. Shield to extent feasible unshielded ground level utility features from private or public rights-of-way or other public places.
3. Connect to City potable water and sanitary sewer services at the Developer's expense and extend or upgrade the utility distribution lines to accommodate the PD.
4. Where the City requires utilities, roadways, or public access features of greater capacity or size than required for the Project, the City shall be responsible for cost sharing the difference and shall reimburse the Developer for that amount if the Developer constructs the improvement under such written terms as determined prior to the construction of such improvements.
5. Connect to reclaimed effluent for irrigation purposes if available and feasible.

STORMWATER/DRAINAGE

As seen in Map 6-a Aerial Site Plan and Map 6 -b Utility and Drainage Plan, the existing facilities were built prior to today's stringent standards for environmental protection. Currently, the site is almost completely paved with a few grass areas containing planters and/or plant beds with palms and some oaks. The redevelopment of the site as a planned development will improve site and environmental conditions and will reduce overall discharge from the site by and increase the pervious area. A stormwater management plan and master utility and drainage plan is provided under separate cover and will go through both city and external agency permitting processes for construction approval. Final plans may be changes pursuant to City and external Agency requirements.

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS

MAP 6a
Aerial site plan



MAP 6 b

Utility and Drainage Plan



1. Main access for both vehicle and pedestrian movements will occur at the Ridgewood (Ocean Beach Blvd) and Meade. Pulsipher will serve as a secondary access for emergency vehicles and for exiting from the garage.
2. To the maximum extent feasible:

**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

- a. Vehicular circulation on-site shall be designed in a one-way pattern circling in front of the hotel lobby on the south side of Meade and/or continue around to the north side of Meade
 - b. Motorists shall be allowed to enter and exit the parking garage from the main entry. An additional parking garage exit may also be designed onto Pulsipher Avenue for motorists.
 - c. Vehicular access for deliveries shall be provided on the South side of the site.
3. Principal pedestrian access shall be from the sidewalks on SR A1A, Ridgewood, Meade, Pulsipher and from the beach, all subject to FDOT and City approvals and standards, except where constrained by ROW, utility, or other physical features.

TRAFFIC CONCURRENCY STANDARDS

Prior to the issuance of any building permit(s) for the project, the Developer shall have received and be in possession of a valid unexpired Certificate of Capacity. The Certificate of Capacity will serve to verify the reservation of infrastructure capacity sufficient to permit development pursuant to the approved site plan for the project. Neither an executed Development Agreement nor the site/master plan approval shall create a vested right to develop the Subject Property without a current and valid Certificate of Capacity.

PARKING

The minimum parking requirements set forth hereinabove were the product of a parking study to determine the adequacy of the Developer's parking plan as shown in Figure 3. The location of the needed parking will be sited in accordance with the location shown on the Master Conceptual Development Plan, Master Conceptual Building Plan, and Conceptual Site Plan. The Developer proposes to meet the following standards with respect to parking for the project: To use innovative design alternatives as encouraged by the City, including use of valet, self, and other parking mechanisms to the meet the needs of the Project.

PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT SITE DEVELOPMENT STANDARDS

PARKING PLAN

Parking and open space areas on the site will be ADA accessible by means of well lit sidewalks. A beautifully appointed, open reception plaza will invite guests and visitors to the lobby and resort amenities, the Beach and the Pier.

616 spaces of parking for the general public, visitors, and resort guests will be provided on site. Meade and Pulsipher Avenues, as well as a portion of the Garage ground floor will have metered parking. This project will add 298 spaces to the parking inventory.



Figure 3 Proposed Parking Plan

PUBLIC BEACH ACCESS EASEMENT STANDARDS

The Developer will assure the preservation and maintenance of public access from Meade, Pulsipher, and the main entry as will be determined via a 3 party agreement between Brevard County, the City and the owner.

PUBLIC SAFETY ACCESS

Westgate has worked with the City's fire department and public safety to provide a suitable access plan in the event of an emergency. That plan is shown below as Map 7.

**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

3. Provides some form of visual, physical, landscape, or artistic illusion, articulation or ornamentation on street side facing facades to preclude flat blank walls.
4. Has met the terms of the approved Height Variance granted by the City Commission to allow up to 70' in height for buildings on the property.
5. Has met the terms for approval of an administrative waiver for allowable appurtenances for up to 10% of the approved 70' height.

LANDSCAPE AND HARDSCAPE STANDARDS

Final landscape construction plans for the Project shall be subject to the approval of the City Manager. The Developer has provided a Master Conceptual Landscape Plan which shows the number, types and location of all plant material. The Character Guide shows the current planned locations and layout of landscape islands, buffers, three (3) intended plant palettes, hardscape/streetscape, and any required or optional fencing. The Developer agrees to meet the following minimum standards:

1. All planted material shall be Florida Friendly Landscaping and approved by the City Manager.
2. All plant materials shall be certified as Florida number one grades and standards, most recent iteration, before installation and shall be installed pursuant to plan specifications or as approved by the City Manager during construction plan review.
3. Landscaping installation specifications shall be consistent with the Institute for Agricultural Sciences (IFAS) standards and best practices.
4. After installation, the applicant's landscape architect shall certify that the landscape materials have been appropriately installed pursuant to the specifications set forth on the landscape plans approved by the City Manager relative to species, quality, height, location, spacing, quantity, site preparation, planting, and mulching.
5. Provide a signed letter from the landscape architect confirming that plantings are at the prescribed and appropriate depth, in relation to adjacent grade, to ensure survivability.
6. Use landscape in critical locations to define public and private spaces, setbacks, buffering between public and private spaces or other buildings, and as a connectivity element bringing together various activity spaces.
7. The project intends to include the plants shown in the plant palette on the landscape plan and approved by the City.

**MAP 8
MASTER CONCEPTUAL LANDSCAPE PLAN**

1. Provide adequate lighting within pedestrian walkways, trails, and parking areas to ensure

**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

- c. Assuring that any fixture placed in and around the property line will be full cut off as defined by the IESNA ("zero intensity at or above horizontal (90° above nadir) and limited to a value not exceeding 10% of lamp lumens at or above 80°.

SIGNAGE PLAN STANDARDS

The on-site signage will governed by these standards and become part of the negotiated Development Agreement between the Developer and the City. The sign plan is largely driven by the Westgate Resort brand and signage to support other uses within the project. The existing Cocoa Beach Pier sign was allowed by Variance Case No. 14-2000708-01, to allow a sign to have a height of 27'10" and an area of approximately 280 square feet to replace an old sign that was approximately similar in height under several conditions that have been met as the sign is constructed on site. This sign shall be allowed to remain in perpetuity and be allowed to be repaired or replaced in the event of damage or destruction.

Two additional types of signs are identified for the project, however, their placement will be determined during the design phase of the project. These signs are: (i) Ground Signs and (ii) Wall Signs (which may include signs mounted to the building parapet). The term "Ground Signs" include signage commonly described as Monument Signs and Destination/Arrival Signage. The term "Wall Signs" include Primary Building Signs and Secondary Building Signs. Wayfinding, informational, internal and directional signage standards are not regulated by these standards as such signage shall not be visible from public rights-of-way abutting the project. Notwithstanding the foregoing, directional signage for loading or deliveries shall be permitted to be visible from the public right-of-way along adjacent roadways.

New Project signage shall be limited to the following sign types, quantities, and sign-type sizes:

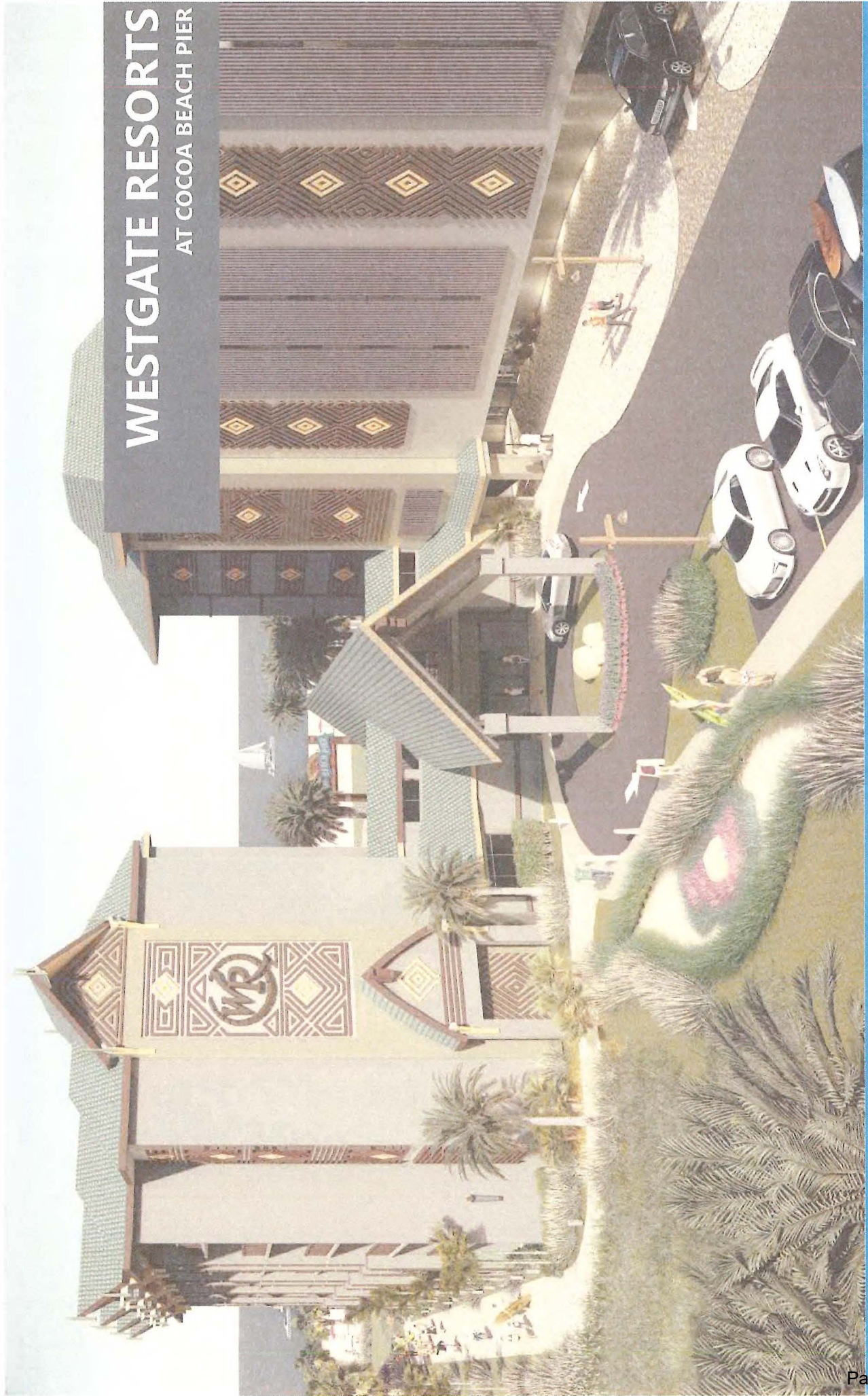
- Ground Signs. Such signs shall consist of approximately four (4) signs in the following maximum sizes: (i) not more than two (2) signs of up to 420 sq. feet; (ii) not more than one (1) sign of up to 60 sq. feet; and (iii) not more than one (1) sign of up to 23 sq. feet.
- Wall Signs. Such signs shall consist of approximately eight (8) signs whose aggregate square footage shall not exceed 1,000 sq. feet.

The Project shall also adhere to the following signage standards:

1. Ground and Wall Signs may be sited in the locations to be submitted on a signage plan at such locations for approval by the City Manager.
2. The City will have review, approval and permitting authority over only such ground or wall signs that are visible from adjoining public rights-of-way or City owned property.

**PROPOSED WESTGATE COCOA BEACH REDEVELOPMENT PROJECT
SITE DEVELOPMENT STANDARDS**

3. Ground signs shall be set back 3 feet from front property line and placed so as not to cause traffic or pedestrian mobility or visibility challenges.
4. Signs shall be styled according to the examples in the Character Guide and per the Westgate Resort brand.
5. All Signs shall be appropriately lit as follows:
 - a. Lighting Intensity - the lighting shall be low enough in intensity to be inconsequential
 - b. Lighting Direction - illuminates only the face of the sign and shielded to prevent lighting from causing glare or otherwise impair vision of any operator of a motor vehicle.
 - c. Signs may be internally illuminated.
6. No signs shall be permitted above the parapet or eave edge of roof on the guest room bridge structure.
7. The developer will be allowed to provide as much wayfinding and security or informational signage as needed to secure the safety and comfort of their guests. Such wayfinding and security signage shall not require approval from the City.
8. Signage, other than the Ground and Wall Signs described hereinabove, shall be allowed to be placed by the developer at sizes, in styles/themes, and in locations of their choosing.
9. The Developer shall adhere to the signage design features depicted in the Character Guide to the maximum extent practical and feasible.



WESTGATE RESORTS

AT COCOA BEACH PIER

ROCHELLE W. LAWANDALES, FAICP
PLANNING FOR COMMUNITY



GRAYROBINSON
ATTORNEYS | ADVISORS | CONSULTANTS



WESTGATE RESORTS AT COCOA BEACH PIER - CHARACTER GUIDE

APPENDIX A

EXHIBIT E

PROPOSED WESTGATE RESORTS AT COCOA BEACH PIER

Located in the City's North Redevelopment District and as a gateway to the City, the proposed project will eliminate an aging facility and bring renewed vitality to the area, implementing several goals of the City's Comprehensive and Redevelopment Plans. Westgate Resorts is proposing to demolish the existing landward site (parking and buildings) in order to redevelop these properties into a multi-million-dollar Resort Hotel, complete with resort style pool, lap pool, parking garage, beach frontage, new public beach accesses, replacement public parking spaces, landscaping, upgraded utilities, improved stormwater, restored dunes, and other on-site amenities. The 6-story parking garage with 552, plus 38 public metered, spaces and "back of house" areas are estimated to be a collective 197,250 sf. The Hotel will be 182,000 sf with up to 116 rooms. Additional public parking will be located on Meade and Pulsipher Avenues. Guest will be able to enjoy the Adult Relaxation Zone at the private and cozy lap pool as their kids splash their way through the family pool, ideally located in the heart of the resort and steps away from our awesome beach.

Looking south towards Lobby



VISION URBAN CONTEXT

Waterfront location and on-site amenities:

- Direct Atlantic Ocean Beachfront access
- Landmark Pier, built in 1962
- On-Pier Restaurants, Bars, Shops, and Fishing access

Proximity to nearby gathering and tourist spots:

- Downtown Cocoa Beach
- Downtown Cocoa Village
- Port Canaveral - 2nd busiest Port in the World
- Kennedy Space Center

Local Events:

- Surf Contests
- Boat Races
- Rocket Launches



LOCAL INSPIRATION



MASTER CONCEPTUAL DEVELOPMENT PLAN REVISED DOCUMENT

- 1 LOBBY

2 GARAGE WITH 50 PUBLIC PARKING SPACES - Agreement Section 4

3 PUBLIC BEACH RENOURISHMENT ACCESS (NORTH-SOUTH BEACH ACCESS) *Easement Boundaries per Brevard County Shore Protection Beach Renourishment Easement EXH C/Agreement Section 6
- 4 POOL

5 LAP POOL

6 15' PUBLIC BEACH AND PIER WALKWAY EASEMENT EXH B/ Agreement Section 3

7 POOL DECK FOR GUEST ACCESS

8 BIKE PARKING

9 BEACH BAR
- 10 MULTI-LEVEL PARKING STRUCTURE (555 P.S.)

11 6-STORY GUESTROOM BUILDING

12 BEACH RESTROOMS

13 DROP OFF

14 PULSIPHER PUBLIC BEACH ACCESS Agreement Section 8
- 15 20' PUBLIC BEACH ACCESS EASEMENT EXH D/ Agreement Section 7

16 PUBLIC METERED BEACH PARKING (7 P.S.)

17 PUBLIC METERED BEACH PARKING (18+1 P.S.)

18 WATER FEATURE

19 COCOA BEACH PIER
- 20 COCOA BEACH PIER ENTRY SIGN

21 BEACH ACCESS

22 BEACH ACCESS PLAZA

23 EMERGENCY VEHICLE ACCESS

24 SUPPORT AREAS AND LOADING DOCK

25 COCOA BEACH PIER SIGNS



PARKING PLAN

Parking and open space areas on the site will be ADA accessible by means of well lit sidewalks. A beautifully appointed, open reception plaza will invite guests and visitors to the lobby and resort amenities, the Beach and the Pier.

616 spaces of parking for the general public, visitors, and resort guests will be provided on site. Meade and Pulsipher Avenues, as well as a portion of the Garage ground floor will have metered parking. This project will add 298 spaces to the parking inventory.



Existing Parking - 254+62+2= 318



Proposed Parking - 552+38+7+ 19=616

ACCESSIBILITY



Looking East towards the lobby entrance



Looking SouthWest towards the central pool

The resort is the new gateway to the world-famous Westgate Cocoa Beach Pier, where you can enjoy amazing vistas over the Atlantic. The complimentary trolley transports guests to and from the pier, making this area a vibrant hub of Cocoa Beach.

The resort improves accessibility to the beach area, facilities, and amenities throughout, with three access points (North, center, and South), making the resort part of the Cocoa Beach urban fabric. The applicant recognizes the public necessity and value that the current beach access provide to the community. To that end, the applicant proposes to replace the current open, undefined beach access with a new 15' wide (10' paved), environmentally sound access way to the north side of the building. It will be safely designed with appropriately sized landscape materials, use pervious surface products, and have Turtle friendly lighting. There are 2 additional access points to the beach, through the center and south of the building.

Meade Ave provides 2 direct paths to the beach, one North of the resort, the other one through the pedestrian plaza that connects from the public area of the parking garage, through the resort amenities area, to the open space that leads to the beach and Pier. Pulsipher Ave on the south is a direct public link to the beautiful Atlantic beach and waters.

ARCHITECTURE



Looking East towards the Lobby



Looking West towards the Lobby

Westgate's signature style in Cocoa Beach is forged in the Wakulla Resort on the south end of the City, on SR A1A near downtown. The Pier project repeats the Wakulla's design form with similar colors, shapes, ornamentation, and materials. The sensitive master plan, ample open space, and tropical landscaping coupled with a contemporary Tiki architecture style presents a warm and inviting Polynesian beauty and life-style. Joining with the existing Tiki Tavern at the end of the pier, the architectural theme creates an interwoven fabric seen throughout the project.

The new resort will have differentiated roof lines of varying heights, resulting in diverse views of the beach and shoreline. The proposed design revolves around a central A-framed Porte-cochere focal point located between the hotel side and garage that calls the visitor to walk through to the beach, lobby, or pier. It culminates in the A-frame wooden adorned gabled dormers, with their artistic cornish and gable enhancements. The new resort will be a tremendous asset to the area, enhancing the current beach environment.

MATERIAL PALETTE

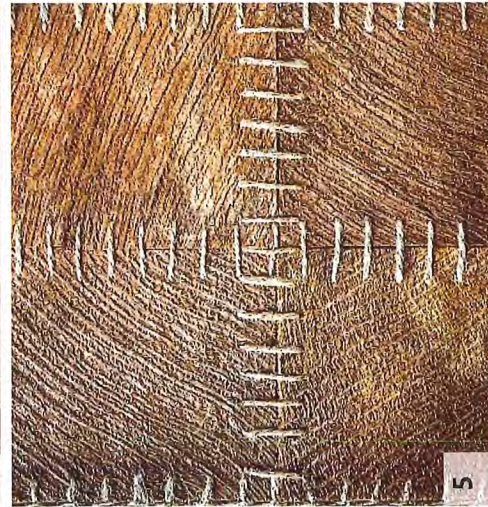


The resort's materiality of wood and earthy tones combined with themed stucco will blend seamlessly into the natural environment. The wooden railings and bamboo-like ornamentation, in combination with the A-framed vertical elements, both at street level and roof top, articulate the building facades. This materiality extends into the parking garage through the vertical louvers, ornaments, and feature roofs and parapets that exemplify the architectural theme.

MATERIAL PALETTE



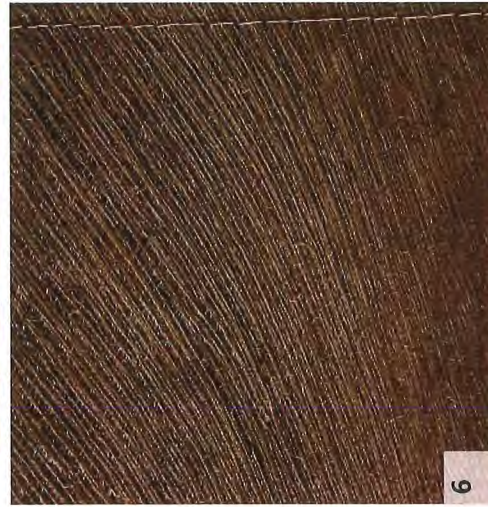
1



5



2



6



3



7



4



8

1 - Potential bamboo texture on column
5 - Potential texture on featured wall

2 - Potential design for a wall covering
6 - Potential texture on featured ceiling

3 - Potential material to be used as an exterior wall facade
7 - Potential material to be used as an exterior wall facade

4 - Potential texture for a roof
8 - Potential design for a wall covering

RESORT AMENITIES

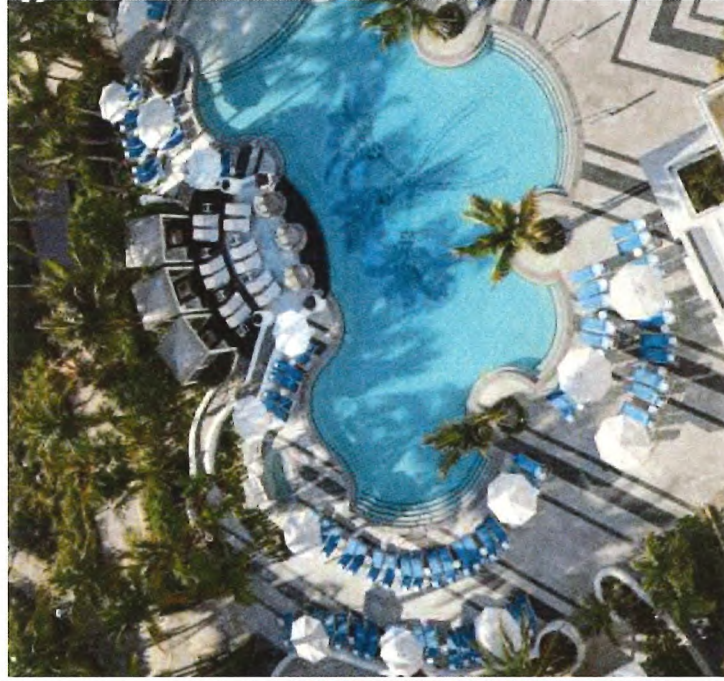


Looking Northwest towards the lobby entrance



Looking west to the open accessway that connects the resort guest rooms and garage, as well as provides the public entry to the Pier and Beach.

POOL INSPIRATION



LANDSCAPE INSPIRATION



LANDSCAPE INSPIRATION



The site will be decorated with native, maritime, and appropriate ornamentals in key locations to express a variety of color tones and textures, creating interest and contrast. Site landscape improvements include proper dune preservation and restoration techniques in the redevelopment. The resulting project will contain palettes creating a compatible, integrated landscape between the Pier, parking, the beach, and the Resort. The outcome will be a revitalized lush site which promotes Cocoa Beach's sustainability and environmental enhancement initiatives. A Rain Garden will be located near Ridgewood as a means of sustainably irrigating the site and presenting a positive example to the community.

LIGHTING INSPIRATION



The site will be appropriately lit to meet all environmental, turtle-friendly, and local guidelines. Lights will be focused westward. There will be no offending lights on balconies, depending on the season. All lighting will be "AMBER DURING TURTLE SEASON - WHITE DURING OFF-SEASON".

SIGNAGE



Looking East towards Garage entrance



Looking East from within breezeway



Looking East from near pool

Complete with monument, wall, wayfinding and directional signage, the visitor will have ample cues of not only "ARRIVAL", but also to differentiate public versus private areas for hotel guests and public beach goers. The main Cocoa Beach Pier (historic) sign, located on the property's east side, remains as the first featured arrival demarcation. All of the resort signage will be integrated into the facades using similar building materials for the sign, and the same landscape palette for under the signage where appropriate.



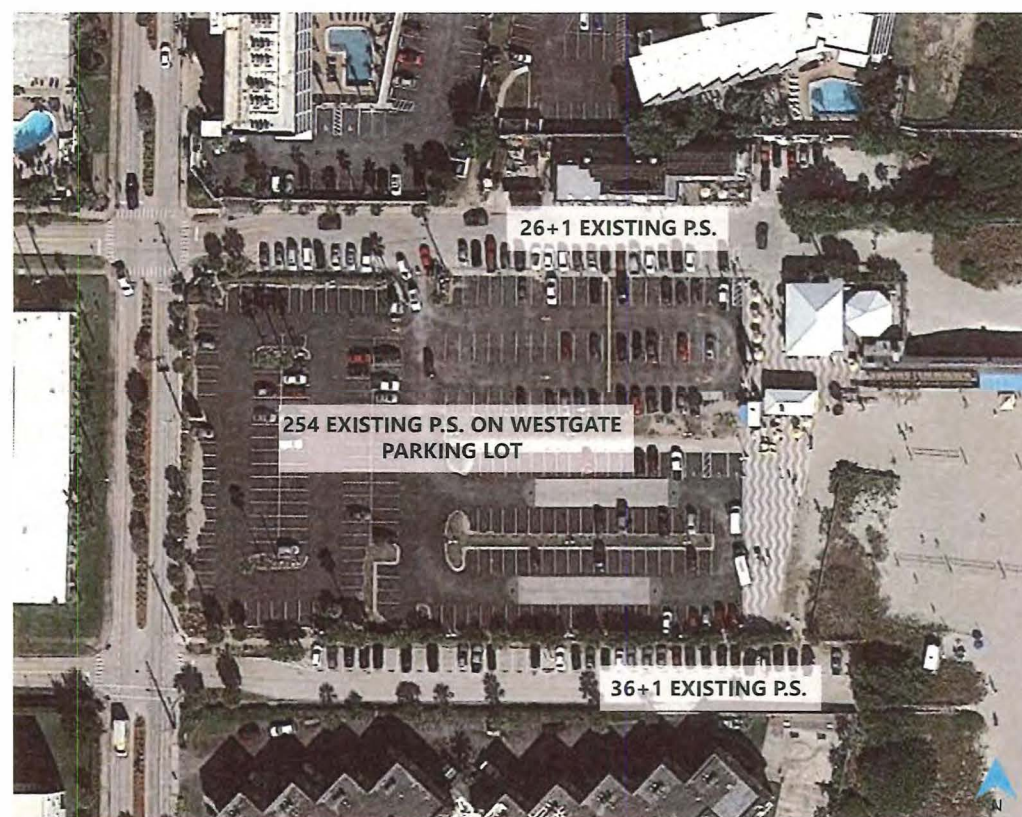
SIGNAGE INSPIRATION



PARKING PLAN

Parking and open space areas on the site will be ADA accessible by means of well lit sidewalks. A beautifully appointed, open reception plaza will invite guests and visitors to the lobby and resort amenities, the Beach and the Pier.

616 spaces of parking for the general public, visitors, and resort guests will be provided on site. Meade and Pulsipher Avenues, as well as a portion of the Garage ground floor will have metered parking. This project will add 298 spaces to the parking inventory.



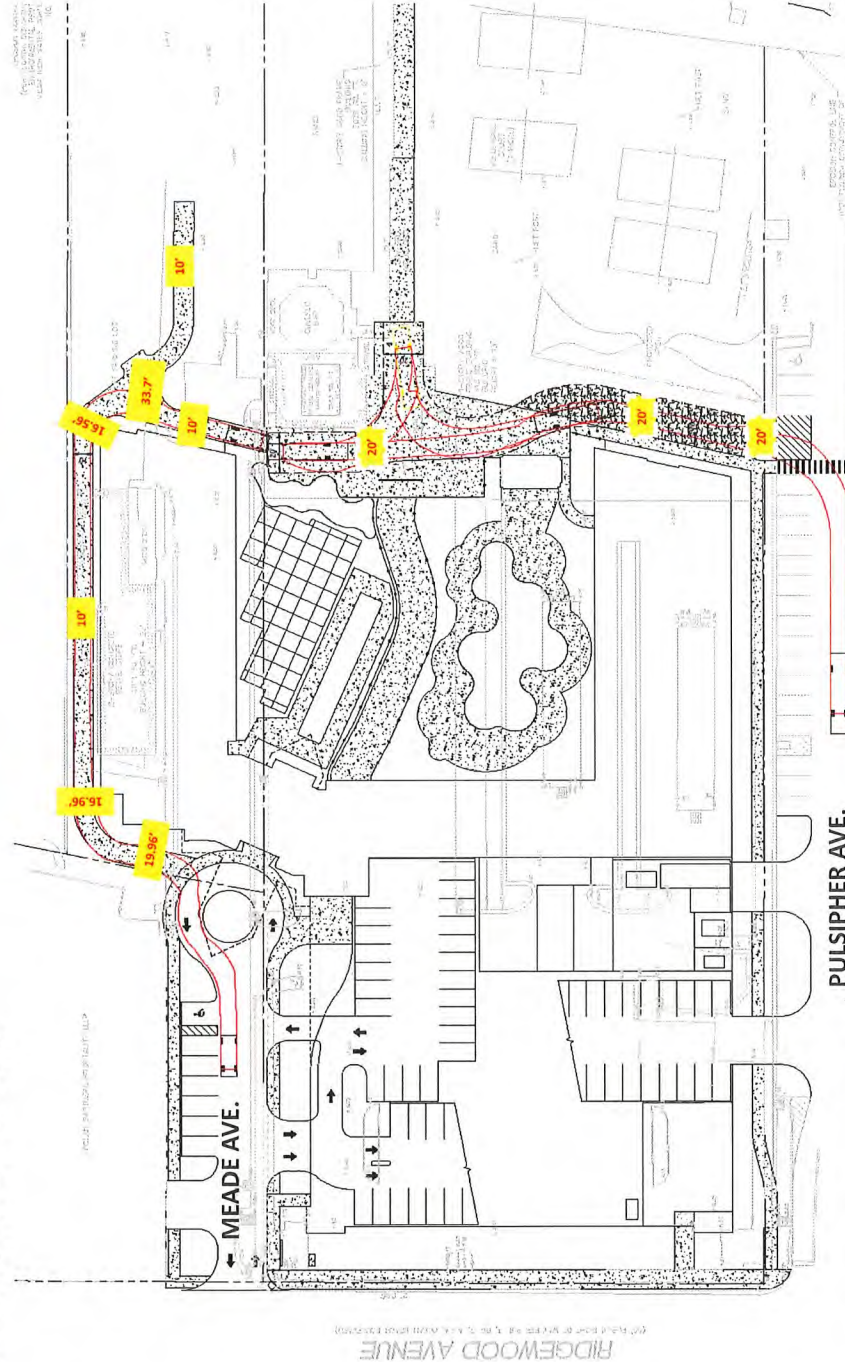
Existing Parking - $254+62+2= 318$



Proposed Parking - $552+38+7+ 19=616$

**COUNTY MAINTENANCE/NOURISHMENT; PEDESTRIAN BEACH;
FIRST RESPONDER/EMERGENCY ACCESS PLAN**

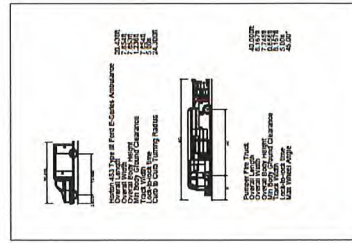
Not to scale. Graphic exhibit only.



PULSIPHER AVE.

WESTGATE RESORTS HAS SET ASIDE LANDS WITHIN THE PROJECT BOUNDARY TO PROVIDE ACCESS FOR BREVARD COUNTY CREWS TO CONDUCT PERIODIC NECESSARY BEACH MAINTENANCE AND NOURISHMENT ACTIVITIES; FOR FIRST RESPONDERS/EMERGENCY NEEDS; AND FOR PEDESTRIANS TO ACCESS THE BEACH. THE DELINEATED AREAS ARE DESCRIBED AS FOLLOWS:

1. FROM THE CUL-DE-SAC AT THE EAST END OF MEADE AVENUE: 19.96' TOTAL AREA/ CONCRETE PATH: 10'
2. NORTHERN AREA ON THE PROJECT SITE BETWEEN THE NORTH BUILDING AND NORTH PROPERTY LINE: 16.96' TOTAL AREA/ CONCRETE PATH: 10'
3. EAST SIDE OF THE CONCRETE PARKING AREA: 16.56'
4. TURN AROUND OPENING AREA: 33'7 1/4"
5. CONTINUING EASTERN ACCESS FROM THE NORTHERN PATHWAY TO THE BEACH VIA CONCRETE PATH: 10'
6. ADDITIONAL STABILIZED ACCESS OFF PULSIPHER HEADING NORTH: 20' TOTAL AREA



**Westgate Resorts
at the Cocoa Beach Pier**
380 Meade Avenue
Cocoa Beach, Florida 32931

[illegible]

PD Amendment

Access Plan

C1.1

NOT FOR CONSTRUCTION

DATE: Oct. 06, 2022

Prepared by:
 Brevard County Attorney's Office
 2725 Judge Fran Jamieson Way, C-3018
 Melbourne, Florida 32940
 Justin Caron, Esquire Parcel ID Numbers: 24-37-26-CG-112-12; 24-37-26-CG-113-6

WESTGATE AGREEMENT
BETWEEN WESTGATE COCOA BEACH PIER, LLC,
THE CITY OF COCOA BEACH, AND
BREVARD COUNTY, FLORIDA

THIS AGREEMENT is hereby entered into on the ____ day of _____ 2024 by and between the following Parties: the WESTGATE COCOA BEACH PIER, LLC, a Florida limited liability company located at 9259 Point Cypress Drive, Orlando, Florida 32836 (hereinafter WESTGATE), the CITY OF COCOA BEACH, FLORIDA, a municipal corporation, 2 South Orlando Avenue, Cocoa Beach, Florida (hereinafter CITY), and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter the COUNTY).

RECITALS

WHEREAS, WESTGATE is the current owner of several parcels of real property fronting on the Atlantic Ocean and located in Brevard County, Florida, further described in Exhibit "A-1," (hereinafter collectively the PARCELS) and said parcels flank the north and south sides of the east end of Meade Avenue in Cocoa Beach, Florida; and

WHEREAS, WESTGATE is currently desirous of having a portion of Meade Avenue, Cocoa Beach, Florida vacated by the City of Cocoa Beach in order to consolidate their properties in order to construct a hotel resort complex (hereinafter the WESTGATE PROPOSAL); and

WHEREAS, COUNTY currently depends on access to the Atlantic Ocean beach from the east end of Meade Avenue (or across the WESTGATE's land, as permitted by Westgate) for its heavy equipment vehicles in order to conduct certain shore protection operations on a periodic basis on the North Side of the Cocoa Beach Pier; and

WHEREAS, COUNTY currently depends on access to the Atlantic Ocean from the east end of Pulsipher Avenue (or across the WESTGATE's land, as permitted by Westgate) for its heavy equipment vehicles in order to conduct certain beach renourishment operations on a periodic basis on the South Side of the Cocoa Beach Pier; and

WHEREAS, the CITY Charter section 6.03 provides that public access to the Atlantic Ocean shall not be reduced by vacating beach-access streets and this agreement is consistent therewith and insures such access; and

WHEREAS, the CITY has city-owned and regulated parking spaces adjacent to the Pier Property available to residents of County, the City and the public; and

WHEREAS, the COUNTY benefits from either maintaining or expanding the current number of public parking spaces and public restrooms adjacent to the Atlantic Ocean beaches, in that these are a factor in the amount of beach renourishment cost-share grants the COUNTY may receive from the State and Federal Government; and

WHEREAS, as a condition of the vacating a portion of Meade Avenue by the City of Cocoa Beach, the CITY has required the recording of an agreement between WESTGATE, the CITY and the COUNTY that addresses the vacating of Meade Avenue in terms of beach access, vehicle parking, public restroom access, as well as construction access, sand placement and other operations associated with the Brevard County Shore Protection Program including Army Corps of Engineers beach renourishment easements; and

WHEREAS, this agreement contemplates the City of Cocoa Beach granting all approvals for the WESTGATE project to be developed; and

WHEREAS, this agreement contemplates the effectiveness of Ordinance 1668, adopted March 17, 2022, (Exhibit C) which will vacate a portion of Meade Avenue in favor of WESTGATE; and,

WHEREAS, this agreement shall become effective simultaneously upon the City recording of Ordinance 1668 which contains certain stipulated conditions be met by the City, County, and Westgate; and

WHEREAS, all Parties are amenable to this Agreement to meet the CITY and COUNTY's concerns.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Parties agree and declare as follows:

1. Recitals. The recitals are true and correct and incorporated herein verbatim and made an integral part of this Agreement.
2. General Purpose. This Agreement is for the purpose of protecting the public access, public facilities, public use of the Atlantic Ocean and its beaches, and the access of governmental entities to the beach in order to conduct shore protection operations including, but not limited to, public safety beach restoration, renourishment, maintenance and monitoring, to the extent those entities are funded to do so. Upon execution of this Agreement, the COUNTY shall record this Agreement in the Official Public Records of Brevard County, Florida. The Agreement, its easements and covenants, shall be binding upon, and inure to the benefit of the Parties and their respective successors and assigns, in perpetuity. The Parties agree that this agreement is a covenant that touches and involves the land, and that the Parties intend for these covenants to run with the land. All references to each Party shall include the successors and assigns.

Exhibit A-2, current Composite Conceptual Site Plan, illustrates the approximate general locations of the beach renourishment construction access easement to be 20' running generally westerly to easterly on the north side of the building, the Resort parking garage, the public pedestrian walkway to the pier and beach which traverses the site generally from Meade Avenue under the new resort building directly to the Pier, and the Brevard County Shore Protection easement which is the north-south easement. Exhibit A-2 is not to scale. Prior to the Certificate of Occupancy referenced in Section 3, WESTGATE shall grant continuous and uninterrupted construction access to COUNTY which meets the minimum height and width requirements of the contemplated easement. The Parties acknowledge that during construction the exact location of this access may vary but at all times shall ensure said access meet the minimum requirements.

3. General Public Pedestrian Sidewalk Access Easement to the Beach. As a condition of COUNTY's agreement to WESTGATE's proposal, which includes vacating a portion of Meade Avenue, WESTGATE, its successors and assigns, does hereby provide the same amount of public beach access to the Atlantic Ocean's beach as was enjoyed by the public prior to the vacating of Meade Avenue, pursuant to the following easement:

WESTGATE, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is acknowledged, commencing upon receipt of its certificate of occupancy for the hotel and resort so constructed from CITY, hereby grants unto the COUNTY, its successors and assigns, a perpetual public pedestrian sidewalk access easement, at a minimum of 15 feet wide, for the purposes of general public pedestrian access to the beach and other allied uses pertaining thereto, over, under, upon, above and through the lands shown on Exhibit A-2. Said lands shall be shown in an actual easement agreement which will be prepared and recorded simultaneously with the recordation of City Ordinance 1668 vacating Meade Avenue.

WESTGATE additionally hereby agrees to install signage indicating the easement area is open to the public. Any and all maintenance of the general public pedestrian easement area shall be the responsibility of the owner of the land over which the easement is located. Easement includes the right of ingress and egress onto the easement area as may be necessary for the full use and enjoyment of the easement area but WESTGATE shall not make any improvements within the easement area which will conflict or interfere with the easement granted herein. COUNTY, a political subdivision of the State of Florida, and its successors and assigns shall have and hold said easement. WESTGATE does covenant with COUNTY that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof. Prior to the Certificate of Occupancy, WESTGATE shall grant continuous and uninterrupted construction access to COUNTY which meets the minimum height and width requirements of the contemplated easement. The Parties acknowledge that during construction the exact location of this access may vary but at all times shall ensure said access meet the minimum requirements.

4. Vehicle Parking Covenant. As a condition COUNTY's agreement to WESTGATE's proposal, which includes vacating a portion of Meade Avenue, WESTGATE, its successors and assigns, hereby covenant to provide at least a minimum of 50 parking spaces dedicated for use by the general public on its property, with signage clearly indicating there is public parking available. The purpose of said parking is to permit general public parking for access to the beach. See Exhibit A-2, current Composite Conceptual Site Plan, for approximate location.

5. Publicly Accessible Restrooms. The Parties acknowledge that the provision of publicly available restrooms assists the COUNTY in qualifying the COUNTY to receive state and federal funds for shore protection projects. As a condition of COUNTY's agreement to WESTGATE's proposal, which includes vacating a portion of Meade Avenue, WESTGATE, its successors and assigns hereby covenant that it will provide and maintain publicly accessible restrooms. Said public restrooms will include a minimum of at least one set of male, female, and family public restrooms for the purposes of providing restrooms for pedestrians accessing the beach and other allied uses.

6. Brevard County Shore Protection Project Beach Renourishment Easement. The Parties acknowledge that the public's ability to use the beach is a condition for the COUNTY to receive federal grant funds to assist COUNTY in the beach renourishment process. Concurrent with signing this agreement, WESTGATE shall execute, without further compensation, the PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT, shown on Exhibit A-2 (current Composite Conceptual Site Plan) and attached as Exhibit " B."

7. Beach Renourishment Construction Access Easement in vicinity of vacated Meade Avenue.

The Parties acknowledge that the COUNTY's ability to renourish and maintain the beach depends upon practical access to the beach for heavy construction equipment to the north and south of the Cocoa Beach Pier.

WESTGATE, its successors and assigns, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is acknowledged, commencing upon receipt of its certificate of occupancy from the CITY for the hotel and resort so constructed, hereby grants unto the COUNTY, its successors and assigns, a beach renourishment construction access easement for the purposes of providing the COUNTY access to the beach north of the pier in order to move heavy equipment on and off the beach adjacent to the Atlantic Beach north of the Cocoa Beach Pier to conduct shore protection operations and other allied uses pertaining thereto, over, under, upon, above on lands shown on Exhibit A-2 (current Composite Conceptual Site Plan). Said lands shall be shown in an actual easement agreement which will be prepared and recorded simultaneously with the recordation of City Ordinance 1668 vacating Meade Avenue.

WESTGATE, its successor and assigns, agrees to provide COUNTY with a minimum of 20-foot-wide flat beach renourishment construction access easement from Ridgewood Avenue, onto

the remaining stub of Meade Avenue, east to the Atlantic Ocean Beach, where the County's beach renourishment easement begins. Said easement area must have an obstruction free vertical clearance of a minimum of sixteen feet, and no permanent impediments or obstructions in the access route area. The route must be designed and maintained by WESTGATE in a manner that enables the COUNTY's heavy equipment to drive over and through the route to access the Atlantic Ocean Beach unimpeded. The width of this access route from Meade Avenue to the Atlantic Ocean Beach shall be covered in cement, asphalt or a crushed coquina stone or other similar material to provide a surface that can sustain the weight of heavy equipment passing over the route. Additionally, due to the narrow width of the access, the route shall not include any air conditioning units, utility poles or utility equipment obstructing the route, or any swales or other drainage structures that would impede heavy equipment from easily traversing the route. Additionally, the easement shall include the circle turnaround at the front of the hotel, and any portion of the drive aisle extending from the end of the public right-of-way of Meade Avenue that is privately owned. The easement must be a minimum of 20 feet wide, with a 16 foot vertical clearance, and permit heavy equipment to transverse from Meade Avenue with no obstructions.

The Parties agree that the current plan is that the County will back a tractor trailer onto Meade Avenue as close to the WESTGATE Hotel as is feasible, and unload its heavy equipment, which may include 15 foot wide tracked vehicles. The Hotel's overhang and circle must be high and wide enough for the 15 foot wide tracked vehicles to transverse successfully past the entrance and to the north of the building enroute to the ocean, as described above.

WESTGATE shall perform any and all maintenance of the beach renourishment construction access easement and shall be solely responsible for repairing, and all associated costs, any damage to the easement that occurs due to its use by COUNTY. WESTGATE shall promptly remove any and all obstructions or encroachment in the access easement that violate the restrictions above.

The Easement includes the right of ingress and egress onto the easement area as may be necessary for the full use and enjoyment of the easement area but WESTGATE shall not make any improvements within the easement area which will conflict or interfere with the easement granted herein. COUNTY, a political subdivision of the State of Florida, and its successors and assigns shall have and hold said easement. WESTGATE does covenant with COUNTY that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.

WESTGATE agrees and understands that the beach renourishment construction access easement may be used on a periodic basis by other public departments of the COUNTY and CITY as necessary to perform public functions such as emergency response, public safety, and conservation activities (for example: turtle monitoring).

If at any point, the WESTGATE authorizes, permits or installs a permanent impediment or obstruction in the access routes, upon written notice by COUNTY, WESTGATE shall promptly remove or have removed, the impediment or obstruction at WESTGATE's cost, to the satisfaction of COUNTY.

Upon final construction of the WESTGATE facility and recordation of Ordinance 1668 by the City of Cocoa Beach, WESTGATE will provide COUNTY with a surveyed legal description and sketch of the beach renourishment construction access easement and this agreement shall be rerecorded with the updated legal description. Said surveyed legal description must extend from the end of the remaining Meade Avenue to the Atlantic Ocean beach.

8. Pulsipher Avenue. The Parties agree and understand that COUNTY utilizes Pulsipher Avenue for access to the Atlantic Ocean beach. Neither the CITY nor WESTGATE shall obstruct or prevent the COUNTY'S use of this street in any manner.

9. Default Triggers and Remedies.

9.1 A Party is in default of this Agreement *if* the Party materially breaches any covenant contained in this Agreement and such breach has not been corrected or cured within thirty (30) days after written notice thereof.

9.2 Any party of this Agreement may at any time or from time to time proceed to protect and enforce all rights available to it under this Agreement by suit in equity, action at law, or by any other appropriate proceeding, whether for specific performance of any covenant or agreement contained in this Agreement, or damages, or other relief, or proceed to take any action authorized or permitted under applicable laws or regulations.

10. Term of Easement. This agreement shall run with the land and shall be binding upon, and shall inure to the benefit of the Parties, here, and their respective successors and assigns from the date last signed by the Parties, and shall continue in perpetuity. However, this agreement may be terminated (a) by mutual agreement of the COUNTY and the WESTGATE, or their successor(s) in interest.

11. Miscellaneous Provisions.

(a) This Agreement, including exhibits, riders, and/or addenda, if any, sets forth the entire agreement and understanding between the Parties. This Agreement shall not be modified except in writing and executed by all parties. This Agreement supersedes all prior agreements and negotiations respecting such matter. The Parties acknowledge that they fully reviewed this Agreement and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of the Agreement.

(b) In the event of any litigation between the Parties arising out of this Agreement, each Party will bear its own attorney's fees and costs. **BOTH PARTIES AGREE TO WAIVER OF ANY RIGHT**

TO TRIAL BY JURY AND HEREBY WAIVE A TRIAL BY JURY. The Parties agree that this Contract is governed by the laws of the State of Florida and venue for legal action brought under this Contract shall be in a court of competent jurisdiction in Brevard County, Florida.

(c) If any provision of this Agreement, or any portion thereof, or the application thereof to any person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(d) The Parties acknowledge that Florida has broad public disclosure laws, and that any written communications between the Parties, to include emails, email addresses, a copy of this Agreement, and any supporting documentation related to this Agreement are subject to public disclosure upon request pursuant to Chapter 119, Florida Statutes, unless otherwise exempt or confidential under Florida Statutes.

(e) Each Party, without further consideration, shall take such action, execute and deliver such documents as the other may reasonably request to correct or effectuate the purpose of this Contract.

(f) Each Party represents that it is possessed with all requisite lawful authority to enter into this Contract, and the individual executing this Contract is possessed with the authority to so sign and bind its respective Party.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement, by its duly authorized representatives, fully authorized by all required action to sign on behalf of and to bind each Party to the obligations here, on the day and year first above written.

_____	WESTGATE COCOA BEACH PIER, LLC
1 Witness Signature	

Printed Name of Witness	
_____	James L. Gissy, Manager
2 Witness Signature	
_____	(seal)
Printed Name of Witness	

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ (date) by James L. Gissy, Manager, of WESTGATE COCOA BEACH PIER, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced (type of identification) as identification.

[Notary Seal]	_____ Notary Public
	_____ Name typed, printed or stamped My Commission Expires: _____

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed, the day and year first above written,

Signed, Sealed and delivered in the presence of:

1 Witness Signature

Printed Name of Witness

2 Witness Signature

Printed Name of Witness

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____

Rita Pritchett, Chair

As approved by the Board: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ (date) by Rita Pritchett, of the Brevard County Board of County Commissioners on behalf of the Board, who is personally known to me or has produced (type of identification) as identification.

[Notary Seal]

Notary Public

Name typed, printed or stamped
My Commission Expires: _____

[Signature Page Follows]

Signed, Sealed and delivered in the presence of:

1 Witness Signature

Printed Name of Witness

2 Witness Signature

Printed Name of Witness

CITY OF COCOA BEACH

BY: _____

Keith Capizzi, Mayor

(seal)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ (date) by Ben Malik, Mayor, of the City of Cocoa Beach, on behalf of the company, who is personally known to me or has produced (type of identification) as identification.

[Notary Seal]

Notary Public

Name typed, printed or stamped
My Commission Expires: _____

[EXHIBITS FOLLOW]

EXHIBIT "A-1" WESTGATE PARCELS

Owner: WestGate Cocoa Beach Pier LLC

Brevard County Property Appraiser Identification # 24-37-26-CG-112-12

DESCRIPTION

A parcel of land located in Section 26, Township 24 South, Range 37 East, Brevard County, Florida. Said parcel being more particularly described as follows:

BEGIN at the northwest corner of Lot 1, Block 113, AVON-BY-THE-SEA, Plat Book 3, Page 7 of the Public Records of Brevard County, Florida; thence South 89° 51' 56" East along the southerly right of way of Mead Avenue per said plat, 192.82 feet to a point on the southerly extension of the westerly boundary line of Lot 12, Block 112 per said plat; thence leaving said southerly right of way line, run North 11° 27' 59" East along said southerly extension of the westerly boundary line of Lot 12 a distance of 100.16 feet to a point on the northerly boundary line of said Lot 12, Block 112 per said plat; thence leaving the southerly extension of the westerly boundary line of said Lot 12, run South 89° 55' 42" East along the northerly boundary line of said Lot 12 a distance of 456.81 feet to a point on the Erosion Control Line, per Florida Department of Environmental Protection Mean High Water Survey File No. 2249; thence leaving the northerly boundary line of said Lot 12, run the following courses along said Erosion Control Line, South 09° 34' 48" West, 65.22 feet; thence South 09° 49' 51" West, 176.05 feet; thence South 07° 31' 45" West, 111.82 feet to a point on the northerly right of way line of Pulsipher Avenue per said plat; thence leaving said Erosion Control Line, run North 89° 51' 16" West along said northerly right of way line 615.40 feet to a point on the easterly right of way line of Ridgewood Avenue per said plat; thence leaving the northerly right of way line of said Pulsipher Avenue, run North 00° 19' 32" East along said easterly right of way line 249.94 feet to the POINT OF BEGINNING.

Said parcel contains 4.667 acres, more or less.

NOTES

1. THIS SKETCH OF DESCRIPTION IS NOT A SURVEY.
2. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ELECTRONIC SIGNATURE AND SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER LISTED BELOW.
3. THE LAND DESCRIPTION HEREON WAS WRITTEN BY THIS SURVEYOR AT THE DIRECTION OF THE CLIENT.
4. BEARING SHOWN HERE ARE BASED ON THE SOUTHERLY RIGHT OF WAY LINE OF MEADE AVENUE AND BEING SOUTH 89° 51' 56" EAST. (ASSUMED)
5. THE EXISTING RIGHT OF WAY AREA OF OCEAN BLVD APPEARS TO BE VACATED. HOWEVER, THE UNDERSIGNED SURVEYOR WAS NOT PROVIDED ANY VACATION DOCUMENTATION, AND DOES NOT CERTIFY TO THE LEGAL STATUS OF OCEAN BOULEVARD.

CERTIFICATION

I HEREBY STATE THAT THIS SKETCH AND DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; AND THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE FOR FLORIDA SURVEYORS AND MAPPERS, AS SET FORTH IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.



WM. DAVID McCRARY, JR, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 4853

DATE

SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA



Landmark Center Two
225 E. Robinson St., Suite 300
Orlando, FL 32801
407.839.4006 / FAX 407.839.4008
Licensed Business # 7153

DRAWN BY: CAP	CHECKED: WDM
PROJECT # 61920.01	
DRAWING: Sk & Desc Overall.dwg	
DRAWING DATE: 11/08/2021	
SHEET 1 OF 2	

SKETCH & DESCRIPTION
Overall Parcel

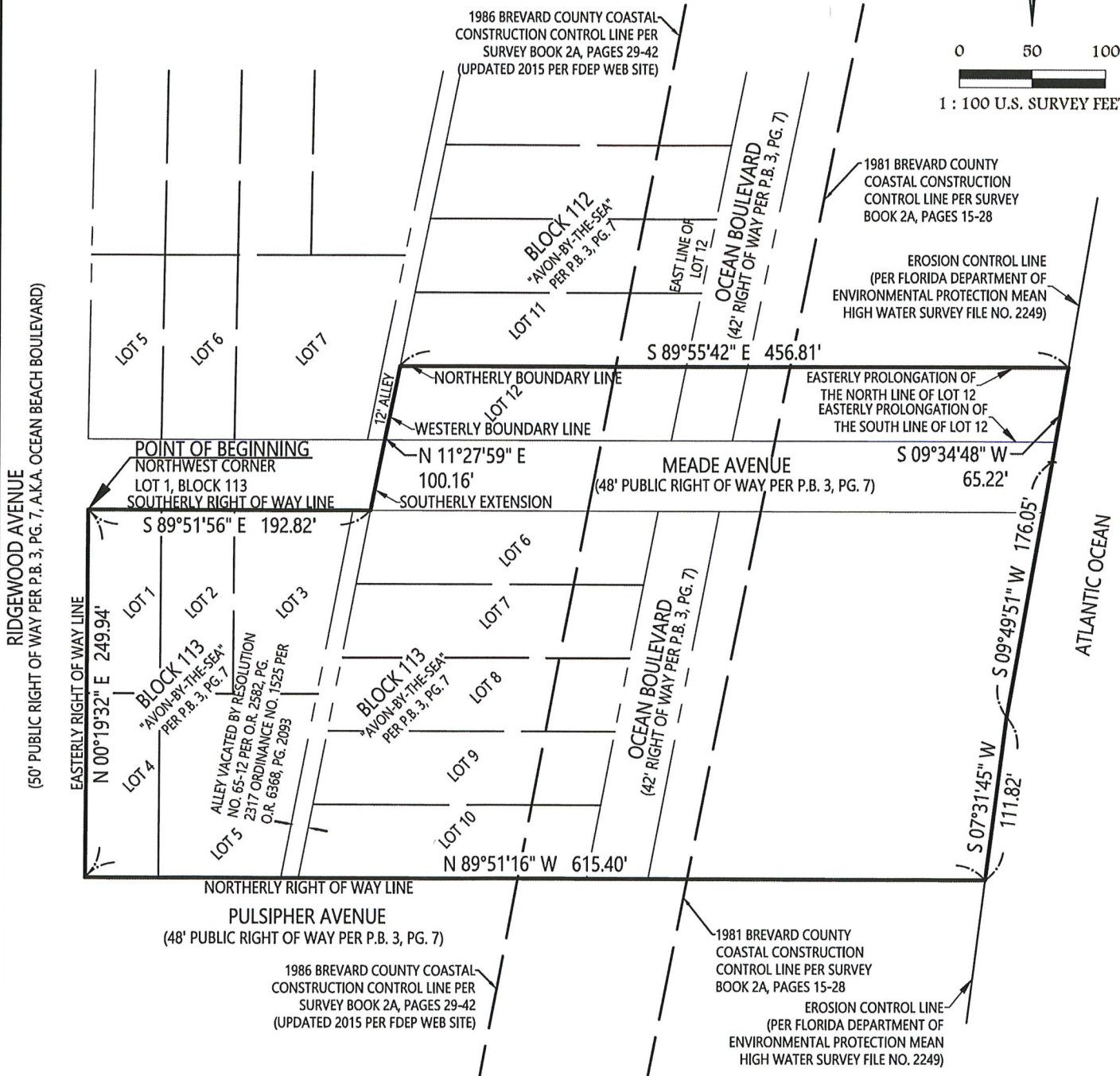
ISSUED FOR:
WESTGATE COCOA BEACH PIER LLC

LEGEND

A.K.A. = ALSO KNOWN AS
O.R. = OFFICIAL RECORDS BOOK
P.B. = PLAT BOOK
P.G. = PAGE



0 50 100
1 : 100 U.S. SURVEY FEET



SEE SHEET 1 OF 2 FOR DESCRIPTION, CERTIFICATION AND NOTES

SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA



Vanasse Hangen Brustlin, Inc.

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DRAWN BY: CAP	CHECKED: WDM
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DRAWING DATE: 11/08/2021	
SCALE: 1" = 100'	SHEET 2 OF 2

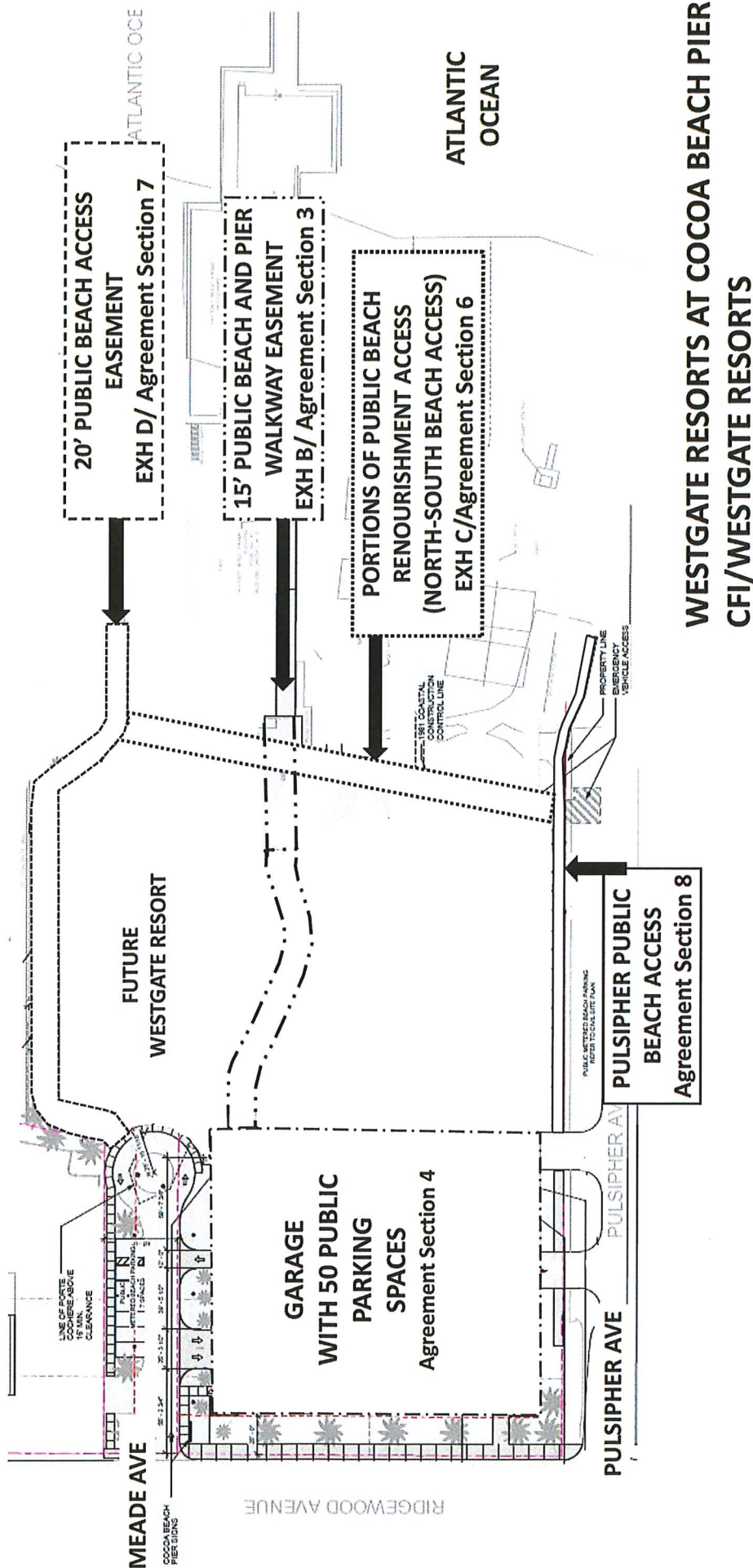
SKETCH & DESCRIPTION Overall Parcel

ISSUED FOR:
WESTGATE COCOA BEACH PIER LLC

EXHIBIT "A-2" WESTGATE COMPOSITE CONCEPTUAL EASEMENT SITE PLAN EXH A-2



**COMPOSITE CONCEPTUAL
EASEMENT SITE PLAN
EXH A-2**



**WESTGATE RESORTS AT COCOA BEACH PIER
CFI/WESTGATE RESORTS**

EXHIBIT "B"

Prepared by and return to:
Office of the County Attorney
2725 Judge Fran Jamieson Way
Bldg. C-308, Viera, Florida 32940
Parcel ID No.: 26-37-26-00-760

BREVARD COUNTY SHORE PROTECTION PROJECT
PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT

GRANTOR: WESTGATE COCOA BEACH PIER, LLC, 401 MEADE AVENUE, COCOA BEACH
FLORIDA 32931

GRANTEE: BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a
political subdivision of the State of Florida
2725 Judge Fran Jamieson Way
Viera, Florida 32940

DATE: _____, 2023

In consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is acknowledged, Grantor grants to Grantee, its agents, successors and assigns, a perpetual and assignable easement and right-of-way in, on, over and across the land described in Exhibit E-1 for use by the Board of County Commissioners of Brevard County, Florida (hereinafter referred to as "Board"), its representatives, agents, contractors and assigns, to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the North-Reach Segment of the Brevard County, Florida, Shore Protection Project or beach renourishment project sponsored by the Board, together with the right of public use of, and access to, such shores by all on equal terms in a manner compatible with the authorized purpose of the project; to plant vegetation on said dunes and berms; to facilitate preservation of dunes and vegetation; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement, reserving, however, to the Defendant(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune overwalk structures in

accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the Board and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the project; and further reserving to the Defendant(s), (his) (her) (its) (their) (heirs), successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

In WITNESS WHEREOF, Grantor has caused these presents to be executed on the date first above written.

Signed, sealed and delivered

In the presence of:

GRANTOR:

WESTGATE COCOA BEACH PIER, LLC

Witness:

James L. Gissy

Witness:

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization on this ____ day of _____, (year), by (name of person) as (type of authority, e.g. officer, trustee, attorney in fact) for (name of party on behalf of whom instrument was executed). Is ☐ personally known or ☐ produced (type of identification produced) as identification.

Notary Signature

SEAL

EXHIBIT C ORDINANCE 1668 VACATING MEADE AVENUE CITY OF COCOA BEACH, FLORIDA

EXHIBIT C TO WESTGATE/COUTY/CITY AGREEMENT

ORDINANCE NO. 1668

AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, RELATED TO THE VACATION OF A PORTION OF MEADE AVENUE COMPRISING APPROXIMATELY .51 ACRES AS MORE PARTICULARLY DESCRIBED HEREIN; MAKING FINDINGS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, NON-CODIFICATION, AND EFFECTIVE DATE.

WHEREAS, the City of Cocoa Beach (the "City") is a municipality with municipal home rule powers established pursuant to Chapter 166 Florida Statutes; and

WHEREAS, the City has determined that it is necessary to vacate a portion of an existing right of way known as Meade Avenue in order to facilitate the development of a resort hotel in the Oceanside Redevelopment District with new public beach access, replacement of public parking spaces, upgraded utilities, improved stormwater, and restored dunes; and

WHEREAS, the City has determined that the project that will be facilitated by this vacation will implement a vital need in Cocoa Beach's economic development and redevelopment plans; and

WHEREAS, this Ordinance meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to abutting property owners and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of the public hearing to be held; and

WHEREAS, the City staff has provided for participation by the public in the process by providing information as requested and has also rendered its recommendations to the City Commission (the "City Commission") of the City of Cocoa Beach; and

WHEREAS, the City Commission has reviewed the proposed Ordinance and held an advertised public hearing at which the City Commission has provided for public participation in the process in accordance with the requirements of State Law.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCOA BEACH, FLORIDA:

SECTION 1. The foregoing "Whereas" clauses are hereby declared findings of fact, are true and correct, and are ratified and confirmed by the City Commission.

SECTION 2. The City Commission hereby vacates and abandons an approximate .51 acre portion of Meade Avenue as more particularly described in **Exhibit "A"**.

SECTION 3. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 4. In the event that any portion of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 5. The provisions of this Ordinance shall not be codified.

SECTION 6. This Ordinance shall not become effective until each of the following has occurred and the City of Cocoa Beach has recorded in the public records of Brevard County, Florida, merely as a ministerial act, a document acknowledging that the following has occurred:

ORDINANCE NO. 1668

- Recording of this Ordinance
- Recording of an agreement by and among the owner of the property abutting the portion of Meade Avenue being vacated (hereinafter "Owner"), the City of Cocoa Beach and Brevard County that addresses the vacation of Meade Avenue in terms of beach access, vehicle parking, public restroom access, construction access, sand placement and other operations associated with the Brevard County Shore Protection Program, that acknowledges an Army Corps of Engineers' approval as to revisions to the perpetual storm damage reduction project easement (beach renourishment easement); that acknowledges a perpetual construction access easement over Owner's property that will allow heavy construction vehicles practical access to the beach from both Meade Avenue (or on Owner's property and north of the pier) and on Pulsipher; and acknowledges the existence of a perpetual agreement to maintain publicly accessible restrooms and a minimum of 50 parking spaces dedicated to the public.
- Recording of a Development Agreement between the City of Cocoa Beach and the Owner which shall include at a minimum the following conditions:
 1. All applicable easements will be established for the continued function and maintenance of any public utility that continues to operate within the vacated area, whether in its current location or in a relocated location.
 2. Public Beach access to be provided in a relocated area adjacent to the Pier property and that acknowledges that such Public Beach access relocation meets the intent of Section 6.03 of the City Charter.
 3. All city-owned and regulated parking spaces will be relocated in such a manner as to maintain their participation in the City's parking program, and they will remain available to the general public in a manner similar to the existing spaces within the general area of the vacation of a portion of Meade Avenue.
 4. The property being vacated shall not be used in the density calculations for the proposed development on the adjacent properties.

Upon Motion by Commissioner Xoulas, seconded by Commissioner Miller, this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 17 day of March, 2022.

Ayes: 5
Nays: 0
Absent or Abstaining: 0

[Signature]
Ben Malik,
Mayor-Commissioner

ATTEST:

[Signature]
Loredana Kalaghchy, MMC, City Clerk

First Reading: 03-03-22
Date Posted: 03-04-22
Date Published: 03-03-22

Composite Exhibit A

DESCRIPTION

A portion of AVON-BY-THE SEA, according to the plat thereof as recorded in Plat Book 3, Page 67 of the Public Records of Brevard County, Florida. Said parcel being more particularly described as follows:

BEGIN at the northwest corner of Lot 6, Block 113 per said plat; thence North 11° 27' 59" East, 48.95 feet to a point on the northerly right of way line of Meade Avenue per said plat; thence along said northerly right of way line, South 89° 51' 56" East, 458.44 feet to a point on the Erosion Control Line, per Florida Department of Environmental Protection Mean High Water Survey File No. 2249; thence leaving said northerly right of way line, run the following courses along said Erosion Control Line, South 09° 34' 48" West, 13.82 feet; thence South 09° 49' 51" West, 34.87 feet to a point on the southerly right of way line of Meade Avenue per said plat; thence leaving said Erosion Control Line, run along said southerly right of way line, North 89° 51' 56" West, 459.04 feet to the POINT OF BEGINNING.

Said parcel contains 0.51 acres, more or less.

NOTES

1. THIS SKETCH OF DESCRIPTION IS NOT A SURVEY.
2. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER LISTED BELOW.
3. THE LAND DESCRIPTION HEREON WAS WRITTEN BY THIS SURVEYOR AT THE DIRECTION OF THE CLIENT.
4. BEARING SHOWN HERE ARE BASED ON THE NORTHERLY RIGHT OF WAY LINE OF MEADE AVENUE AND BEING NORTH 10° 27' 09" EAST.

CERTIFICATION

I HEREBY STATE THAT THIS SKETCH AND DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; AND THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE FOR FLORIDA SURVEYORS AND MAPPERS, AS SET FORTH IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.



McCrary, David

Digitally signed by McCrary, David
DN: cn=McCrary, David
Reason: I have reviewed this document
Contact Info: DMcCrary@VHB.com
Date: 2021.11.16 17:19:06-05'00'

WM. DAVID McCRARY, JR., P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 4853

DATE

SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA



Vanasse Hangen Brustlin, Inc.

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Orlando, FL 32801
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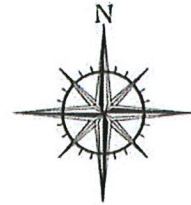
DRAWN BY: CAP
PROJECT # 61920.01
DRAWING: ROW Vac NHW Sk & Desc.dwg
DRAWING DATE: 05/19/2021

SHEET 1 OF 2

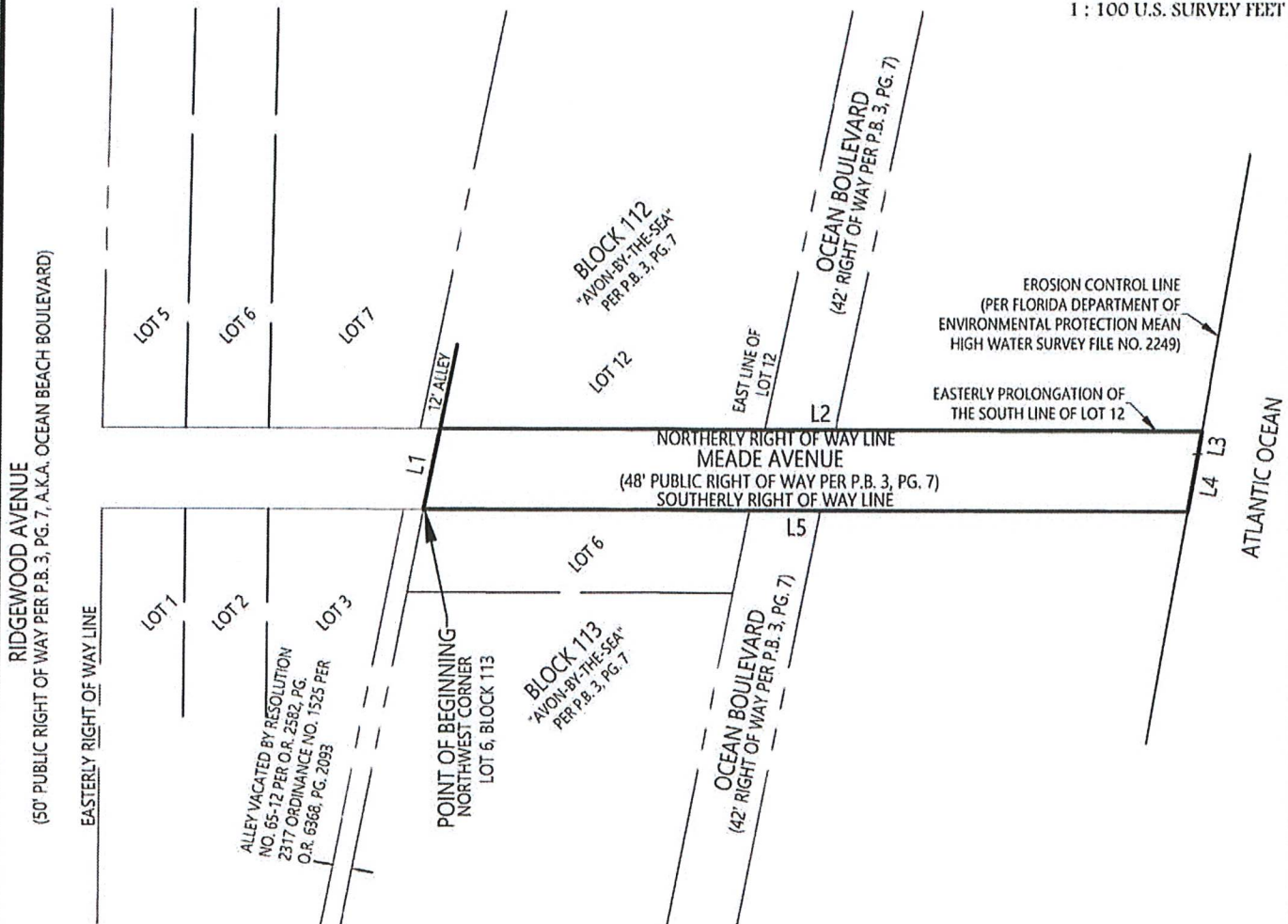
SKETCH & DESCRIPTION
Right of Way Vacation

ISSUED FOR:
WESTGATE COCOA BEACH PIER LLC

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N 11°27'59" E	48.95'
L2	S 89°51'56" E	458.44'
L3	S 9°34'48" W	13.82'
L4	S 9°49'51" W	34.87'
L5	N 89°51'56" W	459.92'



0 50 100
1 : 100 U.S. SURVEY FEET



LEGEND

A.K.A. = ALSO KNOWN AS
O.R. = OFFICIAL RECORDS BOOK
P.B. = PLAT BOOK
P.G. = PAGE

SEE SHEET 1 OF 2 FOR DESCRIPTION, CERTIFICATION AND NOTES

SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA



Vanasse Hangen Brustlin, Inc.

Landmark Center Two
225 E. Robinson St., Suite 300
Orlando, FL 32801
407.839.4006 / FAX 407.839.4008
Licensed Business # 7153

DRAWN BY: CAP CHECKED: JLD
PROJECT # 61920.01
DRAWING: ROW Vac NHW Sk & Desc.dwg
DRAWING DATE: 05/19/2021
SCALE: 1" = 100' SHEET 2 OF 2

SKETCH & DESCRIPTION Right of Way Vacation

ISSUED FOR:
WESTGATE COCOA BEACH PIER LLC

ORDINANCE NO. 1690

AN ORDINANCE OF THE CITY OF COCOA BEACH, BREVARD COUNTY, FLORIDA; TO APPROVE A PLANNED DEVELOPMENT WITH AN ACCOMPANYING MASTER CONCEPTUAL DEVELOPMENT PLAN, DEVELOPMENT AGREEMENT, AND TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF COCOA BEACH, BY CHANGING THE ZONING DESIGNATION FROM OCEANSIDE (OC) TO PLANNED DEVELOPMENT (PD) FOR TWO PARCELS OF LAND TOTALING 4.667 ACRES, MORE OR LESS, LOCATED EAST OF OCEAN BEACH BLVD ON THE NORTH, SOUTH SIDES OF MEADE AVENUE AND NORTH OF PULSIPHER AVENUE ON PARCELS IDENTIFIED WITH PARCEL'S NO.24-37-26-CG-113-6 and 24-37-26-CG-112-12 WITHIN THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; PROVIDING FOR AUTHORIZATION, PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Cocoa Beach, has adopted a Comprehensive Plan in accordance with the State of Florida Community Planning Act; and

WHEREAS, for the purposes of implementing the Comprehensive Plan, and pursuant to the City Land Development Code Section 2-03, the city has adopted an Official Zoning Map; and

WHEREAS, in accordance with the Comprehensive Plan, the City Land Development Code Section 2-26, provides procedures and guidelines for the creation and approval of a Planned Development with accompanying Development Agreement: and

WHEREAS, a written request for the creation of a Planned Development, including approval of a Development Agreement and an amendment to the Official Zoning Map designation from OC Oceanside to PD Planned Development, for property identified with Parcel ID's NO. 24-37-26-CG-113-6 and 24-37-26-CG-112-12 (401 Meade Avenue), per the requirements of the City Land Development Code Section 2-26, was received by the city and assigned case number PZ-22-22; and

WHEREAS, the City Comprehensive Plan Future Land Use Map 2025, through adoption of Ordinance 1629 on October 1, 2020, identifies the subject parcels as having a future land use designation of Redevelopment, which is consistent with and supports the proposed zoning map designation of PD Planned Development; and

WHEREAS, the Cocoa Beach Planning Board, as the Local Planning Agency, held a duly noticed public hearing on June 3, 2024, regarding the approval of the Planned Development, with the accompanying Development Agreement, and adoption of amendments to the city's Official Zoning Map, whereby the Board recommended approval and adoption; and

WHEREAS, The City of Cocoa Beach City Commission, provided an opportunity for individuals to participate in the rezoning ordinance public hearing process and held a duly noticed public hearing, as set forth in Florida Statutes, on TBD, 2024, to consider the adoption of this rezoning request.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Cocoa Beach, Florida as follows:

SECTION 1. This Ordinance is adopted in conformity with the Community Planning Act of Florida Statutes Chapter 163.

SECTION 2. The Planned Development, with the accompanying Development Agreement provided as Exhibit B, detailed and codified in Land Development Code Section 2-26, is hereby approved, and the Official Zoning Map, established and codified in Land Development Code Section 2-03, is hereby amended by changing the zoning designation from Oceanside (OC) to Planned Development (PD), for two parcels with Parcel ID No. NO.24-37-26-CG-113-6 and ID No.24-37-26-CG-112-12, located on the west side of Ocean Beach Boulevard, on the north and east end of Meade Avenue and between Meade Avenue and Pulsipher Avenue and the Atlantic Ocean, and further described and illustrated in Exhibit A.

SECTION 3. The city manager is authorized and directed to revise the Official Zoning Map accordingly.

SECTION 4. CONFLICTS. Any and all Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 5. SEVERABILITY. If any provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are declared severable.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective upon adoption.

Upon Motion by Commissioner _____, seconded by Commissioner _____, this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the ____ day of _____, 2024.

Ayes: _____
Nays: _____
Absent or, Abstaining _____

Keith Capizzi

Mayor-Commissioner

ATTEST:

Karen Groom
City Clerk

First Reading: _____
Date Posted: _____
Date Published: _____

Exhibit A

Legal Description and Illustration of Subject Parcels

Parcel ID No. 24-37-26-CG-112-12

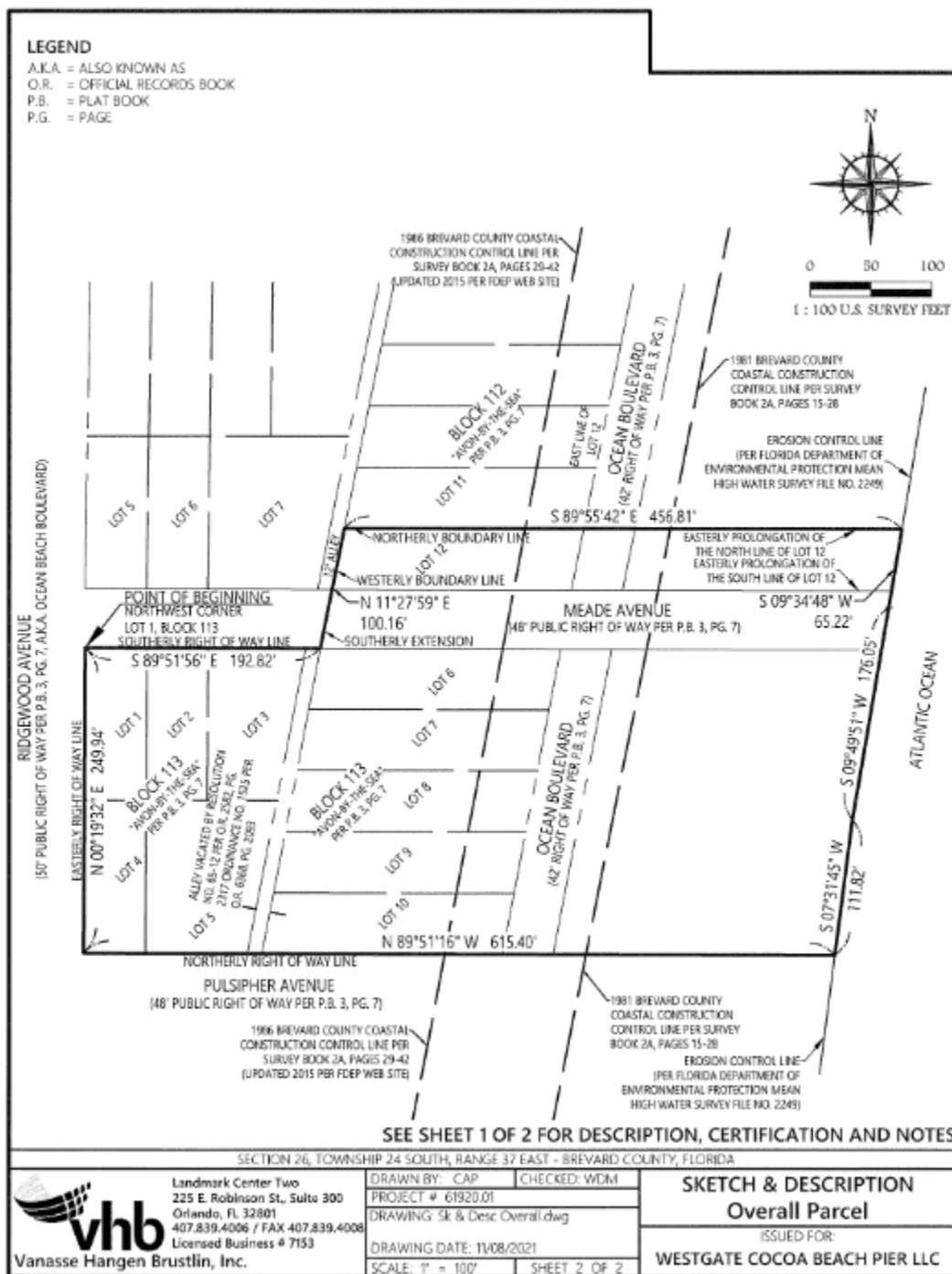
AVON BY THE SEA LOT 12 & LAND LYING E TO OCEAN AS DES IN ORB 165 PG 193 BLK 112 PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

Parcel ID No. 24-37-26-CG-113-6

AVON BY THE SEA ALL BLK 113 & OTHER LANDS LYING E AS DESC IN DB 351 PG 249, ORB 103 PG 588, ORB 444 PG 574, ORB 468 PG 185, ORB 1597 PG 84 TOGETHER WITH ALL CLOSED ST & VAC ALLEY LYING WITHIN..., OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

DESCRIPTION A parcel of land located in Section 26, Township 24 South, Range 37 East, Brevard County, Florida. Said parcel being more particularly described as follows: BEGIN at the northwest corner of Lot 1, Block 113, AVON-BY-THE-SEA, Plat Book 3, Page 7 of the Public Records of Brevard County, Florida; thence South 89° 51' 56" East along the southerly right of way of Mead Avenue per said plat, 192.82 feet to a point on the southerly extension of the westerly boundary line of Lot 12, Block 112 per said plat; thence leaving said southerly right of way line, run North 11° 27' 59" East along said southerly extension of the westerly boundary line of Lot 12 a distance of 100.16 feet to a point on the northerly boundary line of said Lot 12, Block 112 per said plat; thence leaving the southerly extension of the westerly boundary line of said Lot 12, run South 89° 55' 42" East along the northerly boundary line of said Lot 12 a distance of 456.81 feet to a point on the Erosion Control Line, per Florida Department of Environmental Protection Mean High Water Survey File No. 2249; thence leaving the northerly boundary line of said Lot 12, run the following courses along said Erosion Control Line, South 09° 34' 48" West, 65.22 feet; thence South 09° 49' 51" West, 176.05 feet; thence South 07° 31' 45" West, 111.82 feet to a point on the northerly right of way line of Pulsipher Avenue per said plat; thence leaving said Erosion Control Line, run North 89° 51' 16" West along said northerly right of way line 615.40 feet to a point on the easterly right of way line of Ridgewood Avenue per said plat; thence leaving the northerly right of way line of said Pulsipher Avenue, run North 00° 19' 32" East along said easterly right of way line 249.94 feet to the POINT OF BEGINNING. Said parcel contains 4.667 acres, more or less.												
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CERTIFICATION I HEREBY STATE THAT THIS SKETCH AND DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; AND THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE FOR FLORIDA SURVEYORS AND MAPPERS, AS SET FORTH IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.  McCrary, David WM. DAVID MCCRARY, JR., P.S.M. PROFESSIONAL SURVEYOR AND MAPPER FLORIDA LICENSE NO. 4853 Digitally signed by David McCrary, Jr. DN: cn=David McCrary, Jr., o=David McCrary, Jr., ou=David McCrary, Jr., email=dmccrary@westgatecoconutbeach.com, c=US Date: 2022.11.18 10:00:00 -0500 DATE _____												
SECTION 26, TOWNSHIP 24 SOUTH, RANGE 37 EAST - BREVARD COUNTY, FLORIDA												
 Landmark Center Two 225 E. Robinson St., Suite 300 Orlando, FL 32801 407.839.4006 / FAX 407.839.4000 Licensed Business # 7153 Vanasse Hangen Brustlin, Inc.	<table border="1"><tr><td>DRAWN BY: CAP</td><td>CHECKED: WDM</td></tr><tr><td>PROJECT # 61920.01</td><td></td></tr><tr><td>DRAWING: Sk & Desc Overall.dwg</td><td></td></tr><tr><td>DRAWING DATE: 11/08/2021</td><td></td></tr><tr><td colspan="2">SHEET 1 OF 2</td></tr></table> <table border="1"><tr><td>SKETCH & DESCRIPTION Overall Parcel ISSUED FOR: WESTGATE COCOA BEACH PIER LLC</td></tr></table>	DRAWN BY: CAP	CHECKED: WDM	PROJECT # 61920.01		DRAWING: Sk & Desc Overall.dwg		DRAWING DATE: 11/08/2021		SHEET 1 OF 2		SKETCH & DESCRIPTION Overall Parcel ISSUED FOR: WESTGATE COCOA BEACH PIER LLC
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SHEET 1 OF 2												
SKETCH & DESCRIPTION Overall Parcel ISSUED FOR: WESTGATE COCOA BEACH PIER LLC												

EXHIBIT A



(See Attached)

- Planned Development Master Conceptual Plan. (PD- Attachments A and B)
- Development Agreement. (PD Attachment (C)).