



**L E T T E R   O F   I N T E N T**  
**F I N A L   S U B M I T**

**DATE:**     March 10, 2025

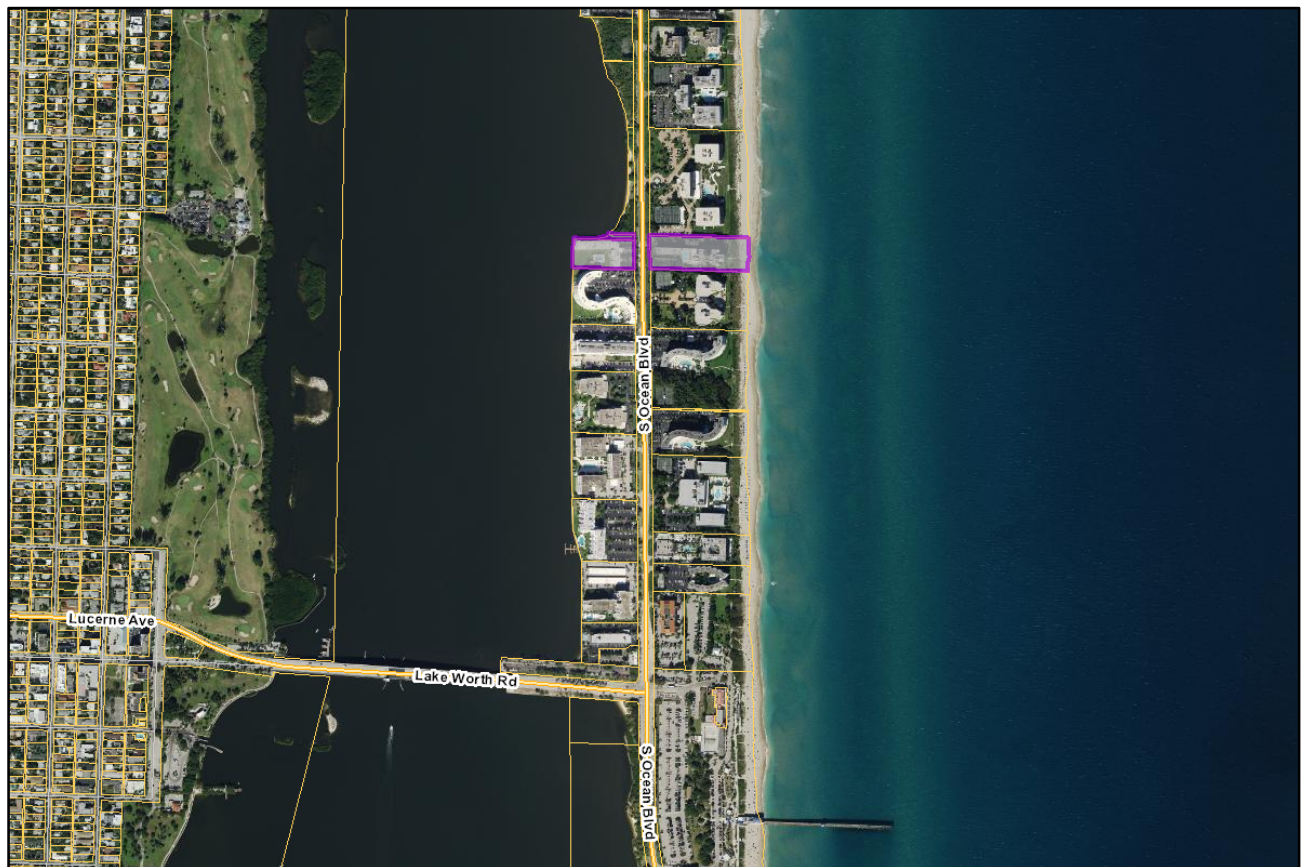
**TO:**        Town of Palm Beach Planning, Zoning & Building Dept.

**RE:**        2720-2730 S. OCEAN BLVD.

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**REQUEST**

On behalf of Palm Beach Edgewater Fee Borrower LLC, the owner of the property located at 2720 S. Ocean Blvd., and Palm Beach Ambassador Fee Borrower LLC, the owner of the property located at 2730 S. Ocean Blvd. (collectively the “**Applicant**”), Shutts & Bowen LLP submits this request for Town Council (“**TC**”) approval of a Special Exception (“**SE**”) with Site Plan Review (“**SPR**”) and Variances, and Architectural Commission (“**ARCOM**”) review and approval of a Major Project for three multifamily buildings located on the abovementioned properties (“**Site**”).



**FIGURE 1 – Location map**

<b>Future Land Use (“FLU”):</b>	Multi-Family High Density (“ <b>MF</b> ”)
<b>Zoning District:</b>	R-D(2) High Density Residential District (“ <b>R-D(2)</b> ”)
<b>Municipality:</b>	Town of Palm Beach (“ <b>Town</b> ”)

The Applicant proposes to redevelop the Site with three multifamily buildings. Specifically, there will be one 5-story building located at 2720 S. Ocean Blvd. with a total of 17 residential units (“**Edgewater**”), two 5-story buildings located at 2730 S. Ocean Blvd. with a total of 24 residential units (“**Ambassador**”), and a total of 126 parking spaces in individual subgrade parking levels, collectively the project (“**Project**”).

In order to create a more desirable and attractive development that utilizes innovative land planning, respects surrounding land uses, and enhances the public realm, the Applicant is requesting TC approval of the SE, SPR, and Variances, and ARCOM approval of a Major Project, as follows:

- SPR required for multifamily dwelling (Sec. 134-1871).
- SE to allow five stories (Sec. 134-1406(8)).
- SE to construct a pedestrian access tunnel under S. Ocean Boulevard (Sec. 134-1055(15)).
- Major Project (Sec. 18-205).
- Variances from the Town’s Zoning Code of Ordinances (“**Code**”) related to building height, building setbacks, building length, lot coverage, max fill, rooftop generators, and rooftop mechanical equipment. See the **Exhibit “C”** of this Letter of Intent for details and analyses.

**PROJECT** (collectively, the “**Buildings**”)

Edgewater is approximately 2.11-Palm Beach acres and is proposed to be developed with 17 residential units in one 5-story building with a total of 115,363 square feet (“**sq. ft.**”) (“**Building 3**”):

- 75,082 sq. ft. of residential
- 4,628 sq. ft. of amenity space
- 9,015 sq. ft. of core areas
- 23,586 sq. ft. in terraces.
- 38 parking spaces in a subgrade parking level.

Ambassador is approximately 3.29-Palm Beach acres and located on the east side of S. Ocean Boulevard. It is proposed to be developed with 24 residential units in two 5-story buildings with a total of 162,470 sq. ft.:

Building 1 is located along the oceanfront and will be developed with 10 residential units (“**Building 1**”):

- 59,706 sq. ft. of residential
- 2,089 sq. ft. of amenity space
- 4,612 sq. ft. of core areas
- 13,800 sq. ft. in terraces.

Building 2 is located along S. Ocean Boulevard and will be developed with 14 residential units (“**Building 2**”):

- 50,073 sq. ft. of residential
- 2,801 sq. ft. of amenity space
- 6,827 sq. ft. of core areas
- 16,960 sq. ft. in terraces.

Buildings 1 and 2

- 88 parking spaces in a subgrade parking level.

The Project proposes a decrease in density from the existing 135 hotel units to 41 dwelling units, a theoretic 94 unit or 69.5% reduction, which by the way also resulted in a decrease in the traffic trip generation for

the Site. Furthermore, the R-D(2) district allows for a maximum density of 13 units per acre for multifamily uses, which equates to 70 multifamily units. It's also worth mentioning that the Code also allows for 26 dwelling units per acre for a hotel use and 20 dwelling units per acre for a condo-hotel use and both of these uses provides accommodations for transient guests. This ultimately equates to 140 hotel dwelling units and/or 108 condo-hotel dwelling units. That said, the Applicant has opted to not only provide residential dwelling units for permanent residents, but is also proposing 41 unit or 29 units less than can be developed on the Site.

The existing buildings on the Site are antiquated in design and functionality, lack efficiency, are architecturally insignificant, not built to today's building code, not built to withstand today's windstorm, and not built for global climate change or 21<sup>st</sup> century forces. This is directly related to the age of the Buildings; specifically, the existing Edgewater is 57 years old and the Ambassador is 77 years old.

The Applicant devoted significant time and cost to designing and redesigning the Site layout to minimize any impacts to the surrounding properties. Multiple designs were considered prior to the final design selection for the Project and the final design was selected because it maintains the most efficient and innovative use of the land, respectful of the view corridors and sight lines of the surrounding properties, creatively utilizes four-sided, human-scaled architecture while maintaining architecture true to the coastal destination. The Project minimizes any interruptions to viewsheds of the adjacent properties, avoids a large single massing, and allows light and air between the Buildings. It also binds a strong local tradition of façade design defined by a variety of compositions including large glass windows, balconies, and deep terraces. The result displays an innovative, creative use of land that provides benefits to the neighboring properties and the public at-large.



The Project proposes an overwhelming abundance of lush landscaping throughout. Wherever possible, the architectural design creates opportunities for landscape planters, planted green facades, lush green buffers, open air gardens, an abundance of shade trees, and a significant improvement of the greenspace within the front yard area to accommodate a lushly planted roadside buffer. As a result, the landscaping provides both a visual amenity and privacy for the residents. The centralized motor court between Buildings 1 and 2 is adorned with lush landscaping and a specimen banyan tree that will give a significant amount of shade in this area creating a welcoming tranquil experience for the residents and guests upon arrival. The landscaping enhances the feel and look of the Project by significantly improving the greenspace throughout the entire Site. When compared to the plain sod ground cover that dominates the Site and the sea of asphalt that exists today, it's a complete change.



## OVERALL VIEW OF EXISTING DEVELOPMENT



## OVERALL VIEW OF PROPOSED PROJECT



## EXISTING TODAY



Ambassador (existing)





Edgewater (existing)

## PROPOSED PROJECT



The Project proposes subgrade vehicular parking. Care has been taken to locate parking entries, garage ventilation, and service areas away from the view of the public. Lush live green walls are proposed to cover any exposed visible subgrade parking facades in an effort to mask it and integrate it into the Project. Furthermore, the loading zones have been placed away from the centralized entry points while maintaining easy accessibility for servicing. Specifically, the Ambassador has the loading zone located at the southwest corner of Building 2 and the Edgewater has the loading zone internal to Building 3.

## **BACKGROUND**

The Applicant has a track record of developing projects that are rich in natural beauty with architecture that is always true to the destination. The Applicant's projects provide discreet sanctuaries and spaces that are sensitive and authentic to geography. Each project gently unfolds with simplicity and elegance providing an immediate sense of belonging. As such, the Applicant proposes to redevelop the Site to provide ultra-luxury residential dwellings and amenities to the residents of the proposed Project.

The Site is currently developed with two dated buildings. There is a 3-story building which was constructed in 1967 with 36 hotel units on the Edgewater site, and a 7-story building which was constructed in 1947 with 91 hotel units on the Ambassador site. Both sites are developed with a sea of asphalt parking lots and minimal landscaping. In fact, the Edgewater site is overwhelmingly dominated by plain sod groundcover.

The Applicant has a viable proposal to redevelop the Site with newer buildings, updated architecture, new technology, and modern-day amenities in keeping with Applicant's track record. Furthermore, it is located south of Sloan's Curve and north of Lake Worth Road, an area dominated with dated condo buildings known as 'South End', an area ripe for redevelopment.

A spark in redevelopment in the South End is inevitably forthcoming. So much so, that it's even recognized by the Town's very own zoning consultant Sean S. Suder, ESQ, the lead principal and founder of Cincinnati-based ZoneCo., and the leading consultant in the Town's review and reform of its zoning code, which the Town Council has named as a top priority. It was at a Palm Beach Civic Association Welcome Back Community Forum meeting held on November 7, 2023 (web link to video: [Welcome Back Community Forum - Palm Beach Civic Association](#)), where Sean publicly addresses key issues related to the South End and the inevitable redevelopment of this area. Some of the key things he indicated are:

- There's a lot to talk about in the South End, and it won't look the same in the near future. In fact, Sean further states that this area will see the most drastic change.
- Town needs to look at this inevitable forthcoming redevelopment and have a Code for what's coming and for what's there, in other words, there needs to be a balance in the Code that allows for the redevelopment.

Considering the current Code and being that the Project is the first to move forward, seeking variances from the Code is the only option available until at which time the Code is amended. As Sean indicated, there needs to be a balance between what's there today and what's coming – and that is exactly what the Project proposes – a balance between redevelopment efforts and being in harmony with what exists today.

That said, there are additional factors playing a fairly significant role in sparking redevelopment of dated condo structures.



## CONDO ACT

### Condo Act (Prior to Surfside Tragedy)

For years, the Condo Act required condos to maintain reserves for painting, paving, roof, and other items, the cost of which would exceed \$10,000. However, condo boards were allowed to waive reserves each year rather than budget for them. Specifically, oceanfront condos experience accelerated deterioration due to exposure to elements (wind, salt water, etc.) and over time, these condos have become saddled with millions of dollars in deferred maintenance with minimal reserves.

In 2021, the Surfside South Condominium building collapsed in less than 1 hour killing 98 people (Surfside Tragedy). It is one of the deadliest collapses in U.S. history, unfortunately caused by a severe lack of maintenance and structural deterioration. It was this tragic event that triggered changes to the Condo Act in an effort to prevent another tragedy, some of the changes are as follows:

- Threshold inspection required applies to condos over 30 years old and 3 stories or more in height.
- Condo associations must conduct a threshold inspection to assess structural deterioration to buildings which must be performed by a licensed engineer. This threshold inspection must be repeated every ten years.
- In addition, the condo association must:
  - 1. Institute a plan to fix any problems identified
  - 2. Provide local building official with a copy of threshold inspection report
  - 3. Disclose results of threshold inspection report to all unit owners
- Requirement to provide a structural integrity reserve study
- Condo association must disclose current reserves and determine the amount of the reserve funds required to pay for future major repairs and replacements of common area improvements that may be necessary
- Starting in 2025, condo associations will no longer be able to waive or reduce funding for reserves and the reserves must be fully funded.
- Condo associations will need to play catch up in terms of funding the reserve accounts to fund future capital expenditures and deferred maintenance

In response to the changes to the Condo Act, the Town has required Mandatory Milestone Inspections whereby every condominium or cooperative building that is three stories or more in height is required to undergo milestone inspections once the building is 30 years old, then every 10 years. These inspections would be due to the Town by 12/31/2024.

There are 24 condo buildings located south of Sloan's Curve and north of Lake Worth Road.

- All 24 buildings are three stories or greater
- Not one building < 30 years old

In fact:

- 92% of the buildings are > 40 years old (22 out of 24)
- And 2 buildings are 34 years old – which already exceeds the 30-year milestone inspection limit.



There were also unintended consequences of the new Condo Act:

- Assessments will be required to comply with the threshold inspection and structural integrity reserve study requirements and then complete upgrades, restoration and repairs required as a result of the inspections and studies. A failure to comply with the new Condo Act requirements leads to the condos becoming uninsurable.
- Condo unit owners on fixed incomes cannot afford the increased assessments.
- Capital expenditures for aging and outdated condominium buildings may not make financial sense.
- Condo values will plummet.



### **INSURANCE CRISIS**

Florida has been hit with an insurance crisis. Due to the increased number of claims filed, there are fewer insurance providers in the market, and those that are continue to issue insurance policies, do so whereby the cost of insurance has doubled and have higher deductibles, and this cost is even more for properties in the coastal areas. This increased insurance costs are being felt by condo owners throughout the state – both for their individual insurance policies and the condominium insurance policies. The ultimate result is that it costs more to own a condo, especially if along the coastal areas.

### **CONDO REDEVELOPMENT INEVITABLE**

All of the above has served as catalysts for what can be perceived as the ‘perfect storm’ to target these condominiums for redevelopment. Florida’s 1<sup>st</sup> generation of condominiums (buildings 50-60 years old) are ripe for termination and redevelopment. As noted above, 92% of the condos in the South End are > 40 years old and are in prime locations along the coastal area in the Town. It’s only a matter of time before it gets to a point where it’s more feasible to redevelop the condos than invest to restore and update these aging and outdated buildings.

### **PARKING STATEMENT**

The Project complies with the Code requirement for number of parking spaces. Multifamily uses are required to provide two parking spaces per dwelling unit plus one per five units (Sec. 134-2176(2)(d)). A total of 91 spaces are required and 126 are provided.

- 88 spaces – subgrade parking under Buildings 1 and 2.
- 38 parking spaces – subgrade parking under Building 3.

All parking is proposed to be subgrade. This was intentional to allow for increased landscaping and greenery on the ground level, completely conceal the parking from public view and eliminate the sea of asphalt that exists today.

### **SUPPLEMENTAL APPLICATION REQUIREMENTS**

- As required, attached are the responses to the review standards/guidelines for the SE, SPR, Variances and ARCOM requests:
  - **Exhibit A:** Special Exception in accordance with Section 134-229.
  - **Exhibit B:** Site Plan Review in accordance with Section 134-329.
  - **Exhibit C:** Findings prior to authorization of a Variance Section 134-201.
  - **Exhibit D:** Criteria for building permit in accordance with Section 18-205.
- **Exhibit E:** A detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 specific to the Site.
- **Exhibit F:** Property Info sheet with the Location Map.
- **Exhibit G:** Legal Description.

## **EXHIBIT A**

### **Sec. 134-229. Requirements for granting a Special Exception.**

The requirements for granting a special exception use under this chapter are as follows:

(1) The use is a permitted special exception use as set forth in article VI of this chapter.

**RESPONSE:** *The request is to allow a 5-story building allow a pedestrian access tunnel under S. Ocean Boulevard are allowed as Special Exceptions in the Code. The South End is dominated by existing 5-story structures, and even has non-conforming structures greater than 5-stories. As such, the request to allow 5-stories on the Site is not only a permitted SE, but also consistent with all the surrounding properties. The Site is being developed as one development and thus will be tied together via a Unity of Title and obtain all required governmental agency approvals.*

(2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.

**RESPONSE:** *The requests will have no adverse effect on the public health, safety, welfare or morals.*

(3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

**RESPONSE:** *The proposed Project will not cause substantial injury to the value of other properties in the neighborhood where it is to be located.*

(4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.

**RESPONSE:** *The Project is and continues to be compatible with the adjoining development and the intended purpose of the district in which it is located. As stated several times within this Letter of Intent, the South End is dominated by multifamily type uses.*

(5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.

**RESPONSE:** *The proposed Project complies with all landscape and open space requirements. In fact, the Project proposes an overwhelming abundance of lush landscaping throughout. Wherever possible, the architectural design creates opportunities for landscape planters, planted green facades, lush green buffers, open air gardens, an abundance of shade trees, and a significant improvement of the greenspace within the front yard area to accommodate a lush vegetative buffer along S. Ocean Boulevard.*

(6) The use will comply with all elements of the comprehensive plan.

**RESPONSE:** *The Project complies with all the elements of the comprehensive plan.*

(7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.

**RESPONSE:** *The Project has been designed and situated in such a manner to have minimal impact on adjoining properties and will not result in substantial economic, noise, glare, or odor impacts on adjoining properties or properties generally in the district. As noted above, the Applicant has gone to extraordinary efforts and expense to minimize view impairment from the adjacent properties. The Applicant's motivation is to make all of the properties in the South End as valuable and viable as possible. The Project is respectful of the view corridors and sight lines of the surrounding properties, creatively utilizes four-sided, human-scaled architecture while maintaining architecture true to the coastal destination. The Project minimizes any interruptions to viewsheds of the adjacent properties, avoids a large single massing, and allows light*



and air between the Buildings. The Buildings are also designed with balconies which is in keeping with the adjacent properties.

- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

**RESPONSE:** Adequate ingress and egress to the Project is being provided. In fact, the ingress and egress points on the Site are being significantly improved. On the Ambassador site, the existing southern ingress/egress drive aisle is being shifted to be solely on the Ambassador site whereby currently it is partially on the adjacent property. Therefore, shifting it to be solely on the Site not only serves the Project better, but is also a benefit to the neighbor since the existing asphalt will be removed and the area landscaped. On the Edgewater site, there are three points of ingress/egress today which is being reduced to two; thus, reducing conflict point and providing a better traffic flow in/out of the site. Pedestrian safety is also being improved throughout the Site. In addition to several tranquil areas that will contain lush vegetation, the Applicant is also proposing a pedestrian access tunnel connecting the two sites. This removes the requirement for pedestrians to cross S. Ocean Boulevard to get to the beach.

- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.

**RESPONSE:** All proposed signs and exterior lighting will be compatible and in harmony with properties in the district.

- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.

**RESPONSE:** The current request does not affect the location, availability or compatibility of utility services.

- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

**RESPONSE:** The refuse and service areas for the Project does not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe. The Project has been designed to have the refuse and service areas away from the primary pedestrian areas and are conveniently located to not inhibit vehicular flow. On the Edgewater site, these areas are contained within Building 3 with easy access that does not inhibit normal vehicular flow. On the Ambassador site, these areas are located at the southwest corner of Building 2 which is completely separate from the main pedestrian access and vehicular flow.

- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

**RESPONSE:** *The Project is a multifamily product that serves townpersons. The units will be sold as fee simple ownership.*

- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.

**RESPONSE:** *There are no historic specimen trees located on the Site. In fact, the Project proposes a specimen banyan tree as a centerpiece to the motor court on the Ambassador site.*

- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

**RESPONSE:** *The Project does not propose any additional burden on Town Police or Fire Rescue Services. In fact, the current use on the Site is for a total of 135 hotel units and this is being reduced to 41 multifamily units.*

## **EXHIBIT B**

### **Sec. 134-329. Review by town council for Special Review.**

Within 30 days of receipt of the application for site plan review, the town council shall review and consider the application. Before any site plan shall be approved, approved with changes, or denied, the town council shall make a finding that the approval of the site plan will or will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have or have not been met and that, further, satisfactory provision and an arrangement has or has not been made concerning the following matters, where applicable:

- (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.

**RESPONSE:** *Applicant is the fee simple owner and in control and possession of the entire parcel which is subject of this application. The Applicant is responsible for the care and upkeep of the entire site. No maintenance responsibility will become the obligation of the Town.*

- (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.

**RESPONSE:** *The Project proposes a decrease in density from the existing 135 hotel units to 41 dwelling units, a theoretic 86 unit or 63% reduction, which by the way also resulted in a decrease in the traffic trip generation for the Site. Furthermore, the R-D(2) district allows for a maximum density of 13 units per acre for multifamily uses, which equates to 70 multifamily units. It's also worth mentioning that the Code allows for 26 dwelling units per acre for a hotel use and 20 dwelling units per acre for a condo-hotel use and both of these uses provides accommodations for transient guests. This ultimately equates to 140 hotel dwelling units and/or 108 condo-hotel dwelling units. That said, the Applicant has opted to not only provide residential dwelling units for permanent residents, but is also proposing 41 units...or 29 units less than can be developed on the Site.*

- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.

**RESPONSE:** *Adequate ingress and egress to the Project is being provided. In fact, the ingress and egress points on the Site are being significantly improved. On the Ambassador site, the existing southern ingress/egress drive aisle is being shifted to be solely on the Ambassador site whereby currently it is partially on the adjacent property. Therefore, shifting it to be solely on the Site not only serves the Project better, but is also a benefit to the neighbor since the existing asphalt will be removed and the area landscaped. On the Edgewater site, there are three points of ingress/egress today which is being reduced to two; thus, reducing conflict point and providing a better traffic flow in/out of the site. Pedestrian safety is also being improved throughout the Site. In addition to several tranquil areas that will contain lush vegetation, the Applicant is also proposing a pedestrian access tunnel connecting the two sites. This removes the requirement for pedestrians to cross S. Ocean Boulevard to get to the beach.*

*The refuse and service areas for the Project does not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe. The Project has been*



*designed to have the refuse and service areas away from the primary pedestrian areas and are conveniently located to not inhibit vehicular flow. On the Edgewater site, these areas are contained within Building 3 with easy access that does not inhibit normal vehicular flow. On the Ambassador site, these areas are located at the southwest corner of Building 2 which is completely separate from the main pedestrian access and vehicular flow.*

- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

**RESPONSE:** *The Project proposes a subgrade level parking completely concealed from view. Furthermore, the Project proposes to have all “back of house” operations be creatively hidden from public view. No pedestrian will ever see or walk pass noisy or unsightly parking garages, ventilation systems, utility rooms, or HVAC components.*

- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.

**RESPONSE:** *The Project proposes an overwhelming abundance of lush landscaping throughout (see graphics included in this Letter of Intent showcasing the landscaping). Wherever possible, the architectural design creates opportunities for landscape planters, planted green facades, lush green buffers, open air gardens, an abundance of shade trees, and a significant improvement of the greenspace within the front yard area to accommodate a lush vegetative buffer along S. Ocean Boulevard. The Project proposes to immensely improve the landscaping throughout the entire Site as opposed to the predominant plain sod ground cover and the sea of asphalt that exists today. The Project even proposes the use of living green walls covered in plant material, generously applied to soften the Buildings and enhance the visual appearance of an otherwise blank wall.*

- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.

**RESPONSE:** *The Project will comply with all drainage requirements of the Town. Conceptual approval has already been obtained from the Town, and the civil plans have been submitted as part of this application for further review by Town staff.*

- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.

**RESPONSE:** *Conceptual approval has been obtained from the Town for the hook-in locations and that there is sufficient capacity for the Project; however, the civil plans have been submitted as part of this application for further review by Town staff. All hook-in locations for utilities will obtain final Town approval as part of the building permit process.*

- (8) Recreation facilities and open spaces, with attention to the size, location and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.

**RESPONSE:** *There are no changes proposed that impact recreation facilities. As it relates to open space, the proposed Project complies with all landscape and open space requirements. In fact, the Project proposes an overwhelming abundance of lush landscaping throughout. Wherever possible, the architectural design creates opportunities for landscape planters, planted green facades, lush green buffers, open air gardens, an abundance of shade trees, and a significant improvement of the greenspace within the front yard area to accommodate a lush vegetative buffer along S. Ocean Boulevard.*

- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.

**RESPONSE:** *There are no other standards that may be imposed by the Code for the Project.*

- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.

**RESPONSE:** *The Project is a multifamily use and not a commercial structure. That said, the South End is dominated by existing 5-story structures, and even has non-conforming structures greater than 5-stories. As such, the Project's proposal to allow 5-stories on the Site is consistent and compatible with all the surrounding properties.*

- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

**RESPONSE:** *The massing of the Project compliments the existing buildings adjacent to the Site in composition, design, and bulk (see below graphic). The Applicant devoted significant time and cost to designing and redesigning the Site layout to minimize any impacts to the surrounding properties. Multiple designs were considered prior to the final design selection for the Project and the final design was selected because it maintains the most efficient and innovative use of the land, respectful of the view corridors and sight lines of the surrounding properties, creatively utilizes four-sided, human-scaled architecture while maintaining architecture true to the coastal destination. The Project minimizes any interruptions to viewsheds of the adjacent properties, avoids a large single massing, and allows light and air between the Buildings. It also binds a strong local tradition of façade design defined by a variety of compositions including large glass windows, balconies, and deep terraces. The result displays an innovative, creative use of land that provides benefits to the neighboring properties and the public at-large.*



## EXHIBIT C

### VARIANCES

Code Section	Variance
<b>Edgewater</b>	
<b>Sec. 134-1060(9) Lot Coverage</b>	(V1) To allow an increase in the maximum lot coverage of 22% for 5-story buildings to 30% - inclusive of the subgrade garage and terraces.
<b>Sec. 134-1060(10) Dimensions Sec. 134-1874 Maximum Dimension</b>	(V2) Allow an increase in the maximum building length from 175 ft. to 209'-9" ft. - inclusive of the subgrade garage and terraces.
<b>Sec. 134-1600 Maximum Fill</b>	(V3) To permit 9.0 feet of max fill in lieu of 2.60 feet permitted.  COR = 4.8 NAVD FFE = 10.00 NAVD (per Point of Measure Definitions) $10.00 - 4.8 = 5.2 / 2 = 2.60$ FEET MAX FILL
<b>Sec. 134-1060(6)(d) Side Yard Setback</b>	(V4) To allow: A North Side Yard Setback of 22'-5-1/2" in lieu of 62'-6" required and 10'-0" Existing.
<b>Sec. 134-1060(6)(d) Side Yard Setback</b>	(V5) To allow:  A South Side Yard Setback of 57'-6" in lieu of 62'-6" required and 17'-0" existing.
<b>Sec. 134-1607(1) Rooftop mechanical equipment</b>	(V6) Allow an increase in height of the rooftop mechanical equipment from 60 inches to 140 inches.
<b>Sec. 134-1729 Generators</b>	(V7) To allow an increase in the height of generators greater than 100 kw from 84 inches to 155 inches and mounted on the roof of the building.
<b>Sec. 134-1064(b)(3) Overall Building Height</b>	(V8) To allow an increase in the overall building height for the mechanical level by 13' to 75.5 ft. in lieu of the permitted 67.5ft. NOTE: Building height is for mechanical equipment screening only.
<b>Sec. 134-1667 Sec. 134-1669 Site wall height</b>	(V9) To permit a perimeter site/retaining wall along the side property line with a maximum height of 6'-10" where 6'-0" is permitted in the front yard setback and a maximum height of 7'-5" where 7'-0" is permitted within 10 feet of the side property line.
<b>Sec. 134-845 Mechanical Equipment Area</b>	(V10) A variance to exceed by 14% the rooftop area greater than 10%, to permit 24% for Building 3.
<b>Ambassador</b>	
<b>Sec. 134-1060(9) Lot Coverage</b>	(V11) To allow an increase in the maximum lot coverage of 22% for 5-story buildings to 44% - inclusive of the subgrade garage and terraces.



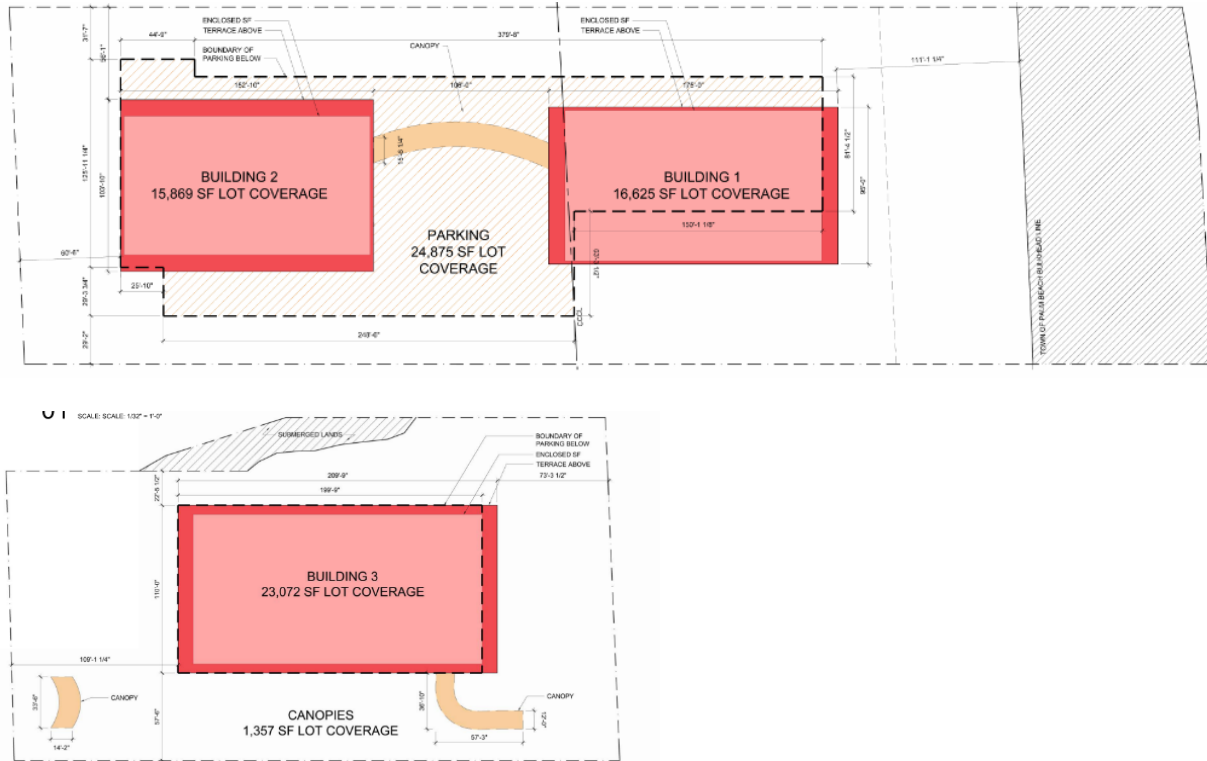
	NOTE: Existing Lot Coverage is nonconforming at 24% NOTE: Portion of structure above grade is 24.6% lot coverage.
<b>Sec. 134-1060(10) Dimensions</b> <b>Sec. 134-1874 Maximum Dimension</b>	(V12) A variance to exceed the maximum building length from 175 ft. to 433'-10" ft. inclusive of the subgrade garage and terraces.  NOTE: Portion of structure above grade does not exceed 175'-0" ft.
<b>Sec. 134-1600 Maximum Fill</b>	(V13) To permit 12.5 feet of max fill in lieu of 6.10 feet permitted.  COR = 4.8 NAVD FFE = 17.00 NAVD 17.00-4.8 = 12.2 / 2 = 6.1 FEET MAX FILL
<b>Sec. 134-1060(6)(d) Side Yard Setback</b>	(V14) To allow: A North Side Yard Setback of 31'-7" in lieu of 60'-6" required.
<b>Sec. 134-1060(6)(d) Side Yard Setback</b>	(V15) To allow: A South Side Yard Setback of 29'-2" in lieu of 62'-6" required and 29'-9" existing.
<b>Sec. 134-1607(1) Rooftop mechanical equipment</b>	(V16) Allow an increase in height of the rooftop mechanical equipment from 60 inches to 140 inches.
<b>Sec. 134-1729 Generators</b>	(V17) To allow an increase in the height of generators greater than 100 kw from 84 inches to 155 inches and mounted on the roof of the building.
<b>Sec. 134-1064(b)(3) Overall Building Height</b>	(V18) A variance to increase the overall building height for the mechanical level by 22.25' to 89.75 in lieu of the permitted from 67.5'.
<b>Sec. 134-1064(b)(3) Overall Building Height</b>	(V19) To allow an increase the overall building height building 2 by 6'-10 3/4" in lieu of the permitted from 60'-6" from 9' NAVD for the portion of the building located east of the CCCL. NOTE Building height is for mechanical equipment screening only and is also a decrease in an existing non-conforming building height of 93'-0". Difference East and West of the CCCL is due to varying point of measure.
<b>Sec. 134-1667 Sec. 134-1669 Site wall height</b>	(V20) To permit a perimeter site/retaining wall along the side property line with a maximum height of 7'-2" where 6'-0" is permitted in the front yard setback and a maximum height of 15'-4" where 7'-0" is permitted within 10 feet of the side property line.
<b>Sec. 134-1060 (8) Height and Overall Height</b>	(V21) To permit a building height of 67'-4" in lieu of 60'-6" permitted for the portion of the building West of the CCCL.  NOTE: There is no change to the elevation of the top of the building. The point of measure for this portion of the building is 9.00 NAVD in lieu of 15.90 NAVD for the portion east of the CCCL.
<b>Sec. 134-845 Mechanical Equipment Area</b>	(V22) A variance to exceed by 21% the rooftop area a greater than 10%, to permit 31% for Building 2 and to exceed by 17% to permit 27% for Building 1.

The Project includes a wealth of innovative design elements and mitigation features as follows:

1. The Project is respectful of the view corridors and sight lines of the surrounding properties, creatively utilizes four-sided, human-scaled architecture while maintaining architecture true to the coastal destination.
2. The Project minimizes any interruptions to viewsheds of the adjacent properties, avoids a large single massing, and allows light and air between the Buildings;
3. The Buildings are designed with balconies which is in keeping with the adjacent properties;
4. The Applicant has gone to extraordinary efforts and expense to minimize view impairment from the adjacent properties. The Applicant's motivation is to make all of the properties in the South End as valuable and viable as possible;
5. The Project proposes to have all "back of house" operations be creatively hidden from public view. No pedestrian will ever see or walk pass noisy or unsightly parking garages, ventilation systems, utility rooms, or HVAC components;
6. The Project proposes a subgrade level parking completely concealed from view;
7. The Ambassador's main drive aisle leads to a motor court and centrally located lobby area between Buildings 1 and 2 which also provides separation and aids in breaking the massing between these buildings;
8. There are centralized motor courts serving the Buildings which are located away from the loading zones;
9. The Project will replace existing buildings on the Site that are antiquated in design and functionality, architecturally insignificant, and not built to withstand today's windstorm, global climate change and 21<sup>st</sup> century forces. The new buildings meet all the new building codes;
10. The Project proposes an overwhelming abundance of lush landscaping throughout. Wherever possible, the architectural design creates opportunities for landscape planters, planted green facades, lush green buffers, open air gardens, an abundance of shade trees, and a significant improvement of the greenspace within the front yard area to accommodate a lush vegetative buffer along S. Ocean Boulevard;
11. The Project proposes to immensely improve the landscaping throughout the entire Site as opposed to the predominant plain sod ground cover and the sea of asphalt that exists today; and

#### **Variances**

<b>Code Section</b>	<b>Variance</b>
<b>Edgewater</b>	
<b>Sec. 134-1060(9) Lot Coverage</b>	To allow an increase in the maximum lot coverage of 22% for 5-story buildings to 30% - inclusive of the subgrade garage and terraces.
<b>Ambassador</b>	
<b>Sec. 134-1060(9) Lot Coverage</b>	To allow an increase in the maximum lot coverage of 22% for 5-story buildings to 44% - inclusive of the subgrade garage and terraces.  NOTE: Existing Lot Coverage is nonconforming at 24% NOTE: Portion of structure above grade is 24.6% lot coverage.



The Applicant is seeking to increase the lot coverage from 22% to 30% (18,601 sq. ft. to 24,217 sq. ft.) on the Edgewater (Building 3) site and from 22% to 44% (28,988 sq. ft. to 57,560 sq. ft.) on the Ambassador site (Buildings 1 and 2).

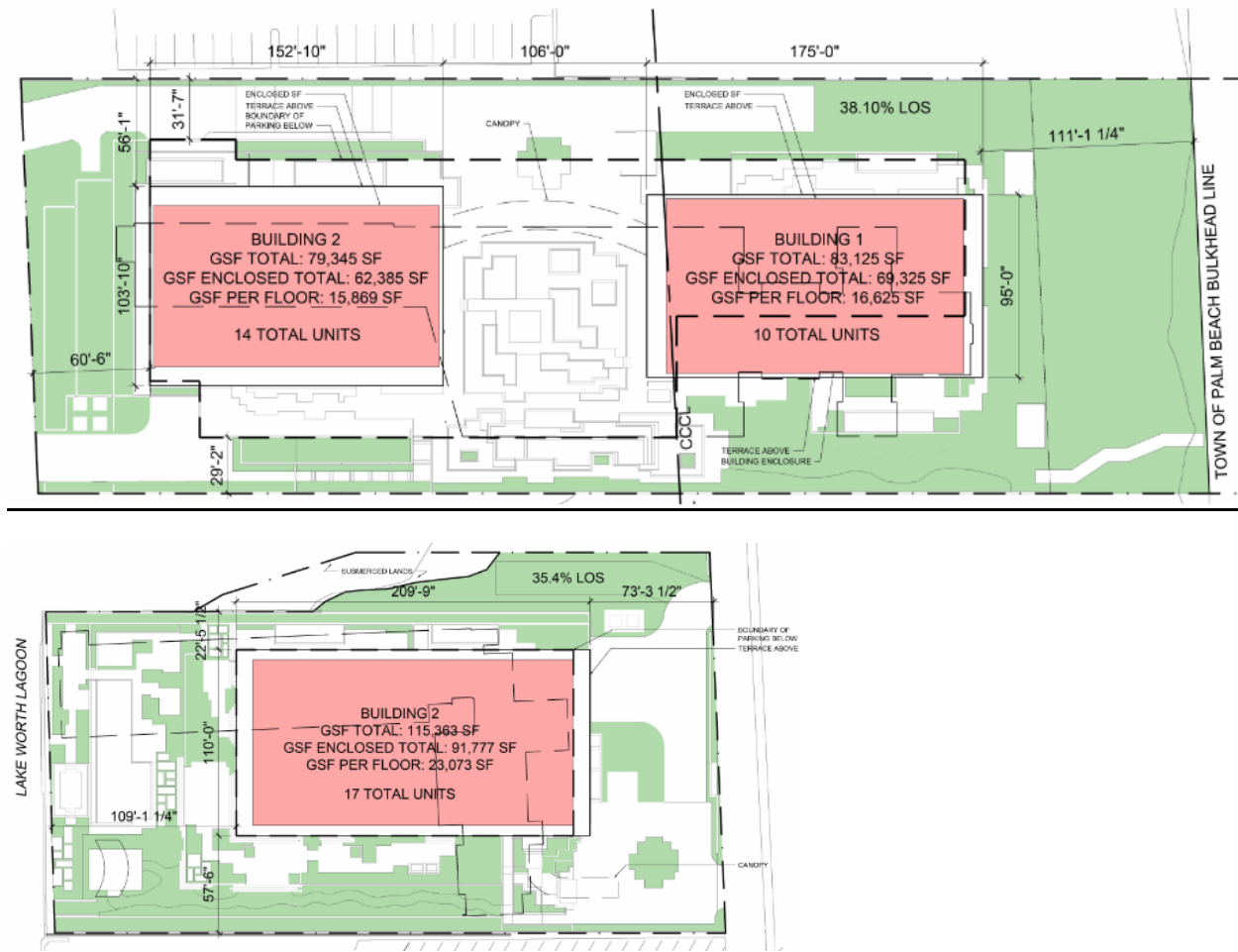
- The main issue is the code definition of a building/structure – which includes any portion of a building that is subgrade (a staff interpretation). Per the Code, a Structure is defined as the “*main and foremost building or structure located on a lot and in which is conducted the main and foremost use of the lot on which the building or structure is situated.*” In the Project, the main structures are the Buildings and not the subgrade parking level.
- That said, customarily from a zoning perspective, the lot coverage is calculated based on the total square footage or footprint of a structure above grade; however, the Code takes into account all subgrade improvements and factors that square footage into the total lot coverage calculation. The graphic above shows the actual footprint of the building in pink, the terrace overhangs in red, and the extent of the subgrade parking level in diagonal hatch – which, on the Ambassador site, extends outside of the building footprint on Building 1 and 2, but emphasis is on the fact that it’s located subgrade which is customarily not counted towards lot coverage.
  - Buildings 1 and 2 are actually 32,494 sq. ft. in total which equates to 24.6%, a significant reduction from 44% lot coverage and only a 0.6% increase from existing. However, if the entire lot was utilized for the calculation (discussed below), then the lot coverage would be in compliance since that lot coverage calculation equates to 17.4%.
- Another issue is the Code definition of a lot – which does not include any land area east of the Town’s bulkhead line. Edgewater is actually 1.941 acres and Ambassador is actually 3.839 acres for a total of 5.78 acres. Because the Code doesn’t include land area east of the bulkhead line, then 1.261 acres of development rights are lost and cannot be utilized towards the calculations for lot coverage. As shown in the graphic above, the shaded areas must be lessed out when calculating the total lot coverage.
- The Code ultimately plays a role in the lot coverage calculations and is not a result of the actions of the Applicant. As stated above, when the combined definitions of lot and structure are utilized



in lot coverage calculations, this creates a burden on the Applicant and the need to seek a variance when customarily, one should not be required. As shown in the analysis, the Buildings theoretically complies with the lot coverage requirements.

#### Variations

Code Section	Variance
<b>Edgewater</b>	
<b>Sec. 134-1874 Maximum Dimension</b>	Allow an increase in the maximum building length from 175 ft. to 209'-9" ft. - inclusive of the subgrade garage and terraces.
<b>Ambassador</b>	
<b>Sec. 134-1874 Maximum Dimension</b>	Allow an increase in the maximum building length from 175 ft. to 433'-10" ft. - inclusive of the subgrade garage and terraces.  NOTE: Portion of structure above grade does not exceed 175'-0"



The Applicant is seeking to allow an increase in the maximum building length from 175 ft. to 209.7 ft. for Building 3 and from 175 ft. to 424.4 ft. for the combined Buildings 1 and 2.

- As discussed above, the Code includes the subgrade parking levels as part of the structure regardless of the fact that it is located subgrade to the Site. As such, for the purpose of building

length, the total length of the subgrade parking level must be used in determining the applicable building length.

- Building 3 is actually 189 ft. in length when excluding the terraces and the subgrade parking. Thus only 14 ft. greater than the Code technically permits. Considering the 397 ft. x 190 ft. lineal configuration of the Edgewater site, Building 3 was designed to comply with the front and rear setbacks and so it was most feasible to provide a slightly longer building, with a 14 ft. length increase being di minimis.
- The same applies to Building 1 (175 ft.) and Building 2 (152.9 ft.). Again, the 773 ft. x 216 ft. lineal configuration of the Ambassador site was considered when designing the Buildings. The Code requires that the entire building, including the subgrade parking be included in the total building length, which yields the 457.4 ft. Note that this building length is not visible at all since it is entirely located below grade and only the principal structures are visible. Thus, only the portion of the two buildings above grade are visible and are compliant, including the terraces.
- Based on analysis of the adjacent properties, it is worth mentioning that buildings comply with the intent of maximum building length.
- Furthermore, as stated before, there needs to be a balance in the Code to allow for the redevelopment of these sites in the South End. Since this Project is the first of its kind in the South End and the Code has not been revised to address this forthcoming redevelopment, the Applicant must seek these variances since it's the only option permitted by the Code to allow the redevelopment.

#### Variances

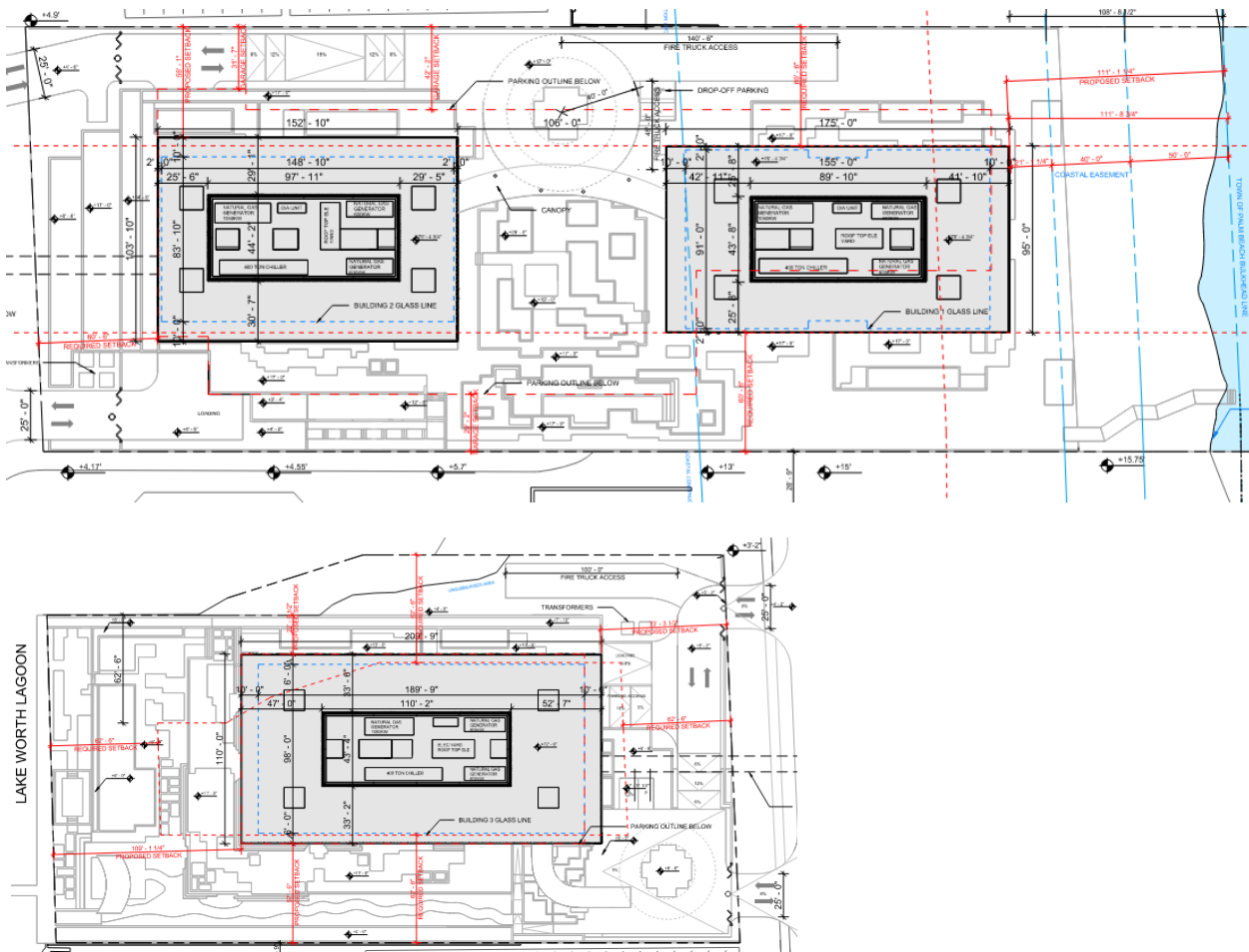
Code Section	Variance
<b>Edgewater</b>	
<b>Sec. 134-1600 Maximum Fill</b>	To permit 9.0 feet of max fill in lieu of 2.60 feet permitted.  COR = 4.8 NAVD FFE = 10.00 NAVD (per Point of Measure Definitions) $10.00 - 4.8 = 5.2 / 2 = 2.60$ FEET MAX FILL
<b>Ambassador</b>	
<b>Sec. 134-1600 Maximum Fill</b>	To permit 12.5 feet of max fill in lieu of 6.10 feet permitted.  COR = 4.8 NAVD FFE = 17.00 NAVD $17.00 - 4.8 = 12.2 / 2 = 6.1$ FEET MAX FILL

Based on DEP requirements (Ambassador) the current FEMA FIRM maps (Edgewater), the required Finished Floor Elevation is significantly higher than the existing natural grade. On the Edgewater property the required finished floor elevation (10.00) NAVD is +/- 6 ft higher than the existing natural grade (4.00 NAVD) and 5.2 ft higher than the crown of road (4.80 NAVD). 2.60 feet of fill is permitted per Town of Palm Beach Zoning Code. On the Ambassador property, the required finished floor elevation (17.00 NAVD) is +/- 13 ft higher than the existing natural grade (4.00 NAVD) and 12.2 ft higher than the crown of road (4.80 NAVD). In order to provide pedestrian and vehicular to the finished floor, fill is required in excess of the code allowances.

#### Variances

Code Section	Variance
<b>Edgewater</b>	
<b>Sec. 134-1060(6)(d)</b>	To allow:

<b>Side Yard Setback</b>	<p>A North Side Yard Setback of 22'-5-1/2" in lieu of 62'-6" required and 10'-0" Existing.</p> <p>A South Side Yard Setback of 57'-6" in lieu of 62'-6" required and 17'-0" existing.</p>
<b>Ambassador</b>	
<b>Sec. 134-1060(6)(d) Side Yard Setback</b>	<p>To allow:</p> <p>A North Side Yard Setback of 31'-7" in lieu of 60'-6" required.</p> <p>A South Side Yard Setback of 29'-2" in lieu of 60'-6" required and 29'-9" existing.</p>



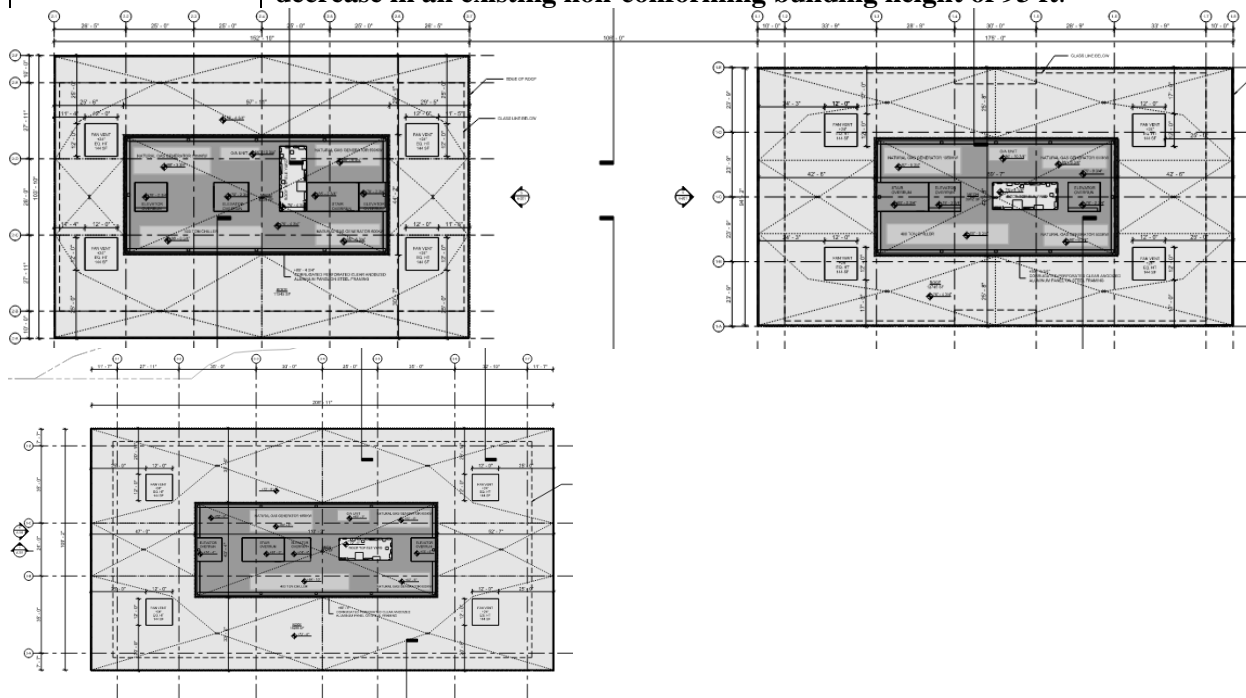
The Applicant is requesting side setback variances to the north for Buildings 1, 2, and 3 as indicated above. It is important to note that these setbacks are, generally, to the subgrade parking. Although the principal structure is above grade and, in most cases, meets the required setbacks noted, the subgrade parking level is still considered a part of the structure and thus must meet all applicable setbacks. As stated above and throughout this Letter of Intent, customarily, setbacks are to structures above the ground level; however, the Code interpretation is that the setbacks are to the portion of the structure that is below grade and not to the portion above grade. Aside for required setbacks related to safety and public welfare, the primary purpose and intent of structural setbacks of principal or accessory structures are to provide a buffer between the use on a site to an adjacent property. In the case of the structural setback of the Project, that setback is



met by the Buildings, and the subgrade parking level that does encroach into the setback is not visible or not offensive to the adjacent properties – hence meeting the customary purpose and intent of a required setback of a principal structure.

### Variances

Code Section	Variance
<b>Edgewater</b>	
<b>Sec. 134-1607(1) Rooftop mechanical equipment</b>	Allow an increase in height of the rooftop mechanical equipment from 60 inches to 140 inches.
<b>Sec. 134-1064(b)(3) Overall Building Height</b>	To allow an increase in the overall building height for the mechanical level by 13' to 75.5 ft. in lieu of the permitted 67.5ft. <b>Building height is for mechanical equipment screening only.</b>
<b>Ambassador</b>	
<b>Sec. 134-1607(1) Rooftop mechanical equipment</b>	Allow an increase in height of the rooftop mechanical equipment from 60 inches to 140 inches.
<b>Sec. 134-1064(b)(3) Overall Building Height</b>	To allow an increase the overall building height building 2 by 6'-10 3/4" in lieu of the permitted from 60'-6" from 9' NAVD for the portion of the building located east of the CCCL. <b>Building height is for mechanical equipment screening only and is also a decrease in an existing non-conforming building height of 93 ft.</b>



The Buildings are in compliance with the overall building height requirement of 62.5 ft. However, the Applicant must request the variances (V4 and V11) to allow an increase in height for the rooftop mechanical equipment on the Buildings. The HVAC systems being utilized for the Project require cooling towers that

are not of the traditional 48-inch height. They are designed to be high efficiency and green-friendly, and thus are taller than the common low efficient units. As such, these newer designed cooling towers are 56 inches taller than the Code allows and thus requires a variance. This in turn triggers the need for a second variance related to the overall building height to screen the rooftop equipment (V6 and V13). Pursuant to Sec. 134-1728 and 134-1729, all rooftop mechanical equipment and generators are required to be completely screened from view from the street. The Applicant proposes to have all the rooftop mechanical equipment centered on the rooftop and provide four-sided screening. The screening has been specifically designed to work with the architecture of the Buildings. As a result of the taller rooftop mechanical equipment, the screening must also be taller and thus requiring the variance.



#### **Variances**

<b>Code Section</b>	<b>Variance</b>
<b>Edgewater and Ambassador</b>	
<b>Sec. 134-1729 Generators</b>	To allow an increase in the height of generators greater than 100 kw from 84 inches to 108 inches and mounted on the roof of the building.

The Applicant is requesting a variance to allow an increase in the maximum height of the generators from 84 inches to 108 inches and on the rooftop of the Buildings. This is a 24-inch increase and almost a di minimis request when considering the various generator types. In order to be prepared for natural disasters and due to the increased hurricane activity affecting Florida, the Applicant proposes to have generators large enough to serve the units during any power outages. Weather related outages can last for hours, days, or even weeks. Not having a generator can be a detriment to the safety and welfare of the residents, food

can spoil in a matter of hours, some medical devices require electricity, and some medications require refrigeration. With the generator, the residents would be able to run essential lights and appliances. Being a multifamily building, portable generators are not an option since there are no safe electrical hook-in areas conveniently located, not to mention that portable generators must be placed in the outdoors and cannot be indoor under any circumstance.

#### **Variances**

<b>Code Section</b>	<b>Variance</b>
<b>Edgewater</b>	
<b>Sec. 134-1667 Sec. 134-1669 Site wall height</b>	To permit a perimeter site/retaining wall along the side property line with a maximum height of 6'-10" where 6'-0" is permitted in the front yard setback and a maximum height of 7'-5" where 7'-0" is permitted within 10 feet of the side property line.
<b>Ambassador</b>	
<b>Sec. 134-1667 Sec. 134-1669 Site wall height</b>	To permit a perimeter site/retaining wall along the side property line with a maximum height of 7'-2" where 6'-0" is permitted in the front yard setback and a maximum height of 15'-4" where 7'-0" is permitted within 10 feet of the side property line.
<b>Sec. 134-1060 (8) Height and Overall Height</b>	To permit a building height of 67'-4" in lieu of 60'-6" permitted for the portion of the building West of the CCCL. NOTE: There is no change to the elevation of the top of the building. The point of measure for this portion of the building is 9.00 NAVD in lieu of 15.90 NAVD for the portion east of the CCCL.

Based on Department of Environmental Protection ("**DEP**") requirements (Ambassador) the current FEMA FIRM maps (Edgewater), the required Finished Floor Elevation is significantly higher than the existing natural grade resulting in interior and perimeter site walls in excess of the 6 feet and 7 feet permitted by the zoning code. Furthermore, the DEP requires the finished floor elevation of a single building to meet the finished floor that is higher than the point of measure per the Code; thus creating the need for the variances.

<b>Code Section</b>	<b>Variance</b>
<b>Edgewater</b>	
<b>Sec. 134-845 Mechanical Equipment Area</b>	A variance to exceed by 14% the rooftop area greater than 10%, to permit 24% for Building 3.
<b>Ambassador</b>	
<b>Sec. 134-845 Mechanical Equipment Area</b>	A variance to exceed by 21% the rooftop area a greater than 10%, to permit 31% for Building 2 and to exceed by 17% to permit 27% for Building 1.

#### **Sec. 134-201. Findings prior to authorization.**

- (a) The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:
  - (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

**RESPONSE:** *There are special conditions and circumstances existing which are peculiar to the land, structures and buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district. See above for a full analysis of each variance and how the literal interpretation of the Code has created an undue burden on the Applicant.*

(2) The special conditions and circumstances do not result from the actions of the applicant.

**RESPONSE:** *The special conditions and circumstances do not result from the actions of the Applicant. See the above for a full analysis of each variance and how the literal interpretation of the Code has created an undue burden on the Applicant.*

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.

**RESPONSE:** *The granting the variance requested will not confer on the Applicant any special privilege that is denied by the Code to other lands, buildings or structures in this same zoning district. In fact, these variances can be requested by any property owner affected by the applicable regulations.*

(4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

**RESPONSE:** *The literal interpretation of this chapter would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the Applicant. See the above for a full analysis of each variance and how the literal interpretation of the Code has created an undue burden on the Applicant.*

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**RESPONSE:** *The requested variances are the minimum variances that will make possible the reasonable use of the land. See the above for a full analysis of each variance and the applicability to the use of the land.*

(6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
  1. Be granted only for the continuation of the same hotel or residential use; and
  2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

**RESPONSE:** *N/A*

(7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants.



Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

***RESPONSE:*** *Granting of the variances will be in harmony with the general intent and purpose of the Code. Additionally, granting of the variances will not be injurious to the area involved or otherwise detrimental to the public welfare.*

## **EXHIBIT D**

### **Sec. 18-205. Criteria for building permit.**

- (a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

- (1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.

**RESPONSE:** *The Applicant considers the plan for the proposed building to be in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.*

- (2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.

**RESPONSE:** *The plan for the proposed building is consistent with the surrounding properties relative to reasonable protection against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.*

- (3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.

**RESPONSE:** *The exterior materials and detailing proposed are of an extremely high quality and enhance the appearance of the local environment.*

- (4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.

**RESPONSE:** *The proposed structure is in harmony with the proposed developments on land in the general area.*

- (5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:

- a. Apparently visibly identical front or side elevations;
- b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or
- c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.

**RESPONSE:** *The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:*

- a. *The front and side elevations are not identical to the surrounding structures.*
- b. *The size and arrangement of doors, windows and porches is not identical to the surrounding structures.*

- c. *The proposed materials are consistent with the architectural style and character of the surrounding area while implementing unique detailing.*
- (6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:
- a. Height of building or height of roof.
  - b. Other significant design features including, but not limited to, materials or quality of architectural design.
  - c. Architectural compatibility.
  - d. Arrangement of the components of the structure.
  - e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
  - f. Diversity of design that is complimentary with size and massing of adjacent properties.
  - g. Design features that will avoid the appearance of mass through improper proportions.
  - h. Design elements that protect the privacy of neighboring property.

**RESPONSE:** *The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same.*

- a. *The proposed height of the building is not excessively dissimilar from the surrounding properties or the existing structure.*
- b. *The architectural expression and exterior detailing are consistent with the proposed architectural style and compatible with the adjacent structures.*
- c. *The proposed work is architectural compatibility with the tropical context and the adjacent structures.*
- d. *The arrangements of the components of the structure are compatible with the adjacent structures.*
- e. *The appearance of mass is broken down by the detailing of the terrace rail and balcony materials. The below grade parking is concealed behind a stepped garden with substantial landscape buffer.*
- f. *While the general architectural approach is consistent with adjacent properties, the detailing and material selection provides diversity of design without become excessively dissimilar.*
- g. *The proportions of the design features have been carefully studied.*
- h. *Varying terrace depths and substantial landscape buffer protect the privacy of the neighboring property in a manner consistent with the surround context.*

- (7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.

**RESPONSE:** *The proposed accessory structures are subservient in style and massing to the principal or main structure.*

- (8) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).

**RESPONSE:** *The proposed architectural style and materials of the structure is consistent with other structures in the immediate area.*

- (9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

**RESPONSE:** *The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.*

- (10) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

**RESPONSE:** *The Project's location and design are oriented to protect unique Site characteristics. Furthermore, the location of Building 3 on the Edgewater property has been located to increase the view of unique Site characteristics for the adjacent property.*

**EXHIBIT E**

**SITE HISTORY**

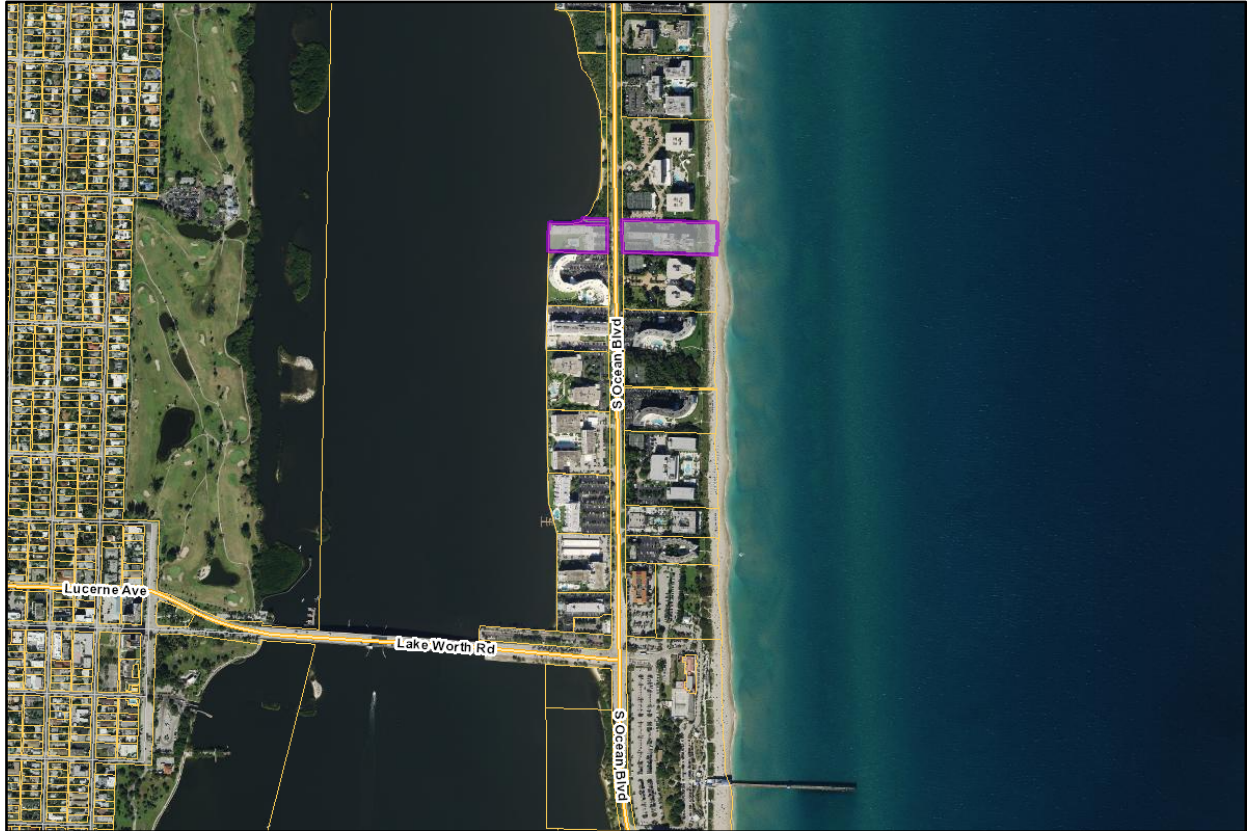
Please provide a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

**N/A**



## **EXHIBIT F**

### **P R O P E R T Y   I N F O R M A T I O N**



**FIGURE 1 – Location map**

<b>Future Land Use (“FLU”):</b>	Multi-Family High Density (“ <b>MF</b> ”)
<b>Zoning District:</b>	R-D(2) High Density Residential District (“ <b>R-D(2)</b> ”)
<b>Property Owner / Address:</b>	Palm Beach Edgewater Fee Borrower LLC, the owner of the property located at 2720 S. Ocean Blvd. (west side of S. Ocean Blvd.). Palm Beach Ambassador Fee Borrower LLC, the owner of the property located at 2730 S. Ocean Blvd. (east side of S. Ocean Blvd.).
<b>Municipality:</b>	Town of Palm Beach (“ <b>Town</b> ”)

## **EXHIBIT G**

### **LEGAL DESCRIPTIONS**

#### **EDGEWATER**

**PROPERTY ADDRESS:**

2720 S. Ocean Blvd.  
Palm Beach, FL 33480

**LEGAL DESCRIPTION:**

*The land referred to herein below is situated in the County of PALM BEACH, State of Florida, and described as follows:*

*All that part of the North 190 feet of the South 350 feet of the North 3,000 feet of Section 23, Township 44 South, Range 43 East, Town of Palm Beach, lying between the West Right-of-Way line of State Road A1A on the East and the waters of Lake Worth on the West, together with any riparian rights thereto appertaining.*

*Parcel 3:*

*That part of the South 35 feet of the North 150 feet of the South 1000 feet of the North 3500 feet of Section 23, Township 44 South, Range 43 East, Palm Beach County, Florida, lying West of the State Road A-1-A as said road A-1-A is shown on Road Plat Book 1, Page 84, Public Records of Palm Beach County, together with all riparian rights, if any, appertaining thereto.*

#### **AMBASSADOR**

**PROPERTY ADDRESS:**

2730 South Ocean Boulevard  
Palm Beach, FL 33480

**LEGAL DESCRIPTION:**

*All of the North 181 feet of the South 350 feet of the North 3000 feet of Section 23, Township 44 South, Range 43 East, Palm Beach County, Florida, lying East of State Road A-1-A, and that part of the South 35 feet of the North 150 feet of the South 1000 feet of the North 3500 feet of Section 23, Township 44 South, Range 43 East, Palm Beach County, Florida, lying East of the right of way of State Road A-1-A as shown on Road Plat Book 1, Page 84, of the Public Records of Palm Beach County, Florida.*