

RESOLUTION NUMBER 24-13

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS SPECIAL EXCEPTION SEZ20230226 TO ALLOW RECONSTRUCTION OF A POOL DECK, CABANAS, FENCE, IRRIGATION SYSTEM AND CHICKEE HUTS IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT FOLLOWING HURRICANE IAN, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 275/322, 200, AND THE COMMON ELEMENT OF 192 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Applicants JABO LLC and Captiva Villas Development LLC are requesting a special exception for the reconstruction of major accessory structures that were destroyed during Hurricane Ian, including a pool deck, walkways, fence, six chickee huts with no utilities, utilities to two movable huts, irrigation and plantings in the Environmentally Critical zoning district, as shown in Exhibit A; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W1-00700.0340 (275/322 Estero Blvd), 24-46-23-W1-00700.037A (Captiva Villas C/E), 24-46-23-W1-00700.0330 (200 Estero Blvd);

WHEREAS, the Property is located in the "Recreation" category of the Future Land Use Map of the Comprehensive Plan and the "Environmentally Critical" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on April 30, 2024, and at the hearing the LPA gave full and complete consideration to the request of Applicants, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted 6 to 0 with one member absent, to recommend approval of the special exception with conditions; and

WHEREAS, on June 17, 2024, the Town Council held a duly noticed public hearing to fully consider the request of the Applicants, the recommendations of Town staff and the LPA, the

documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve with conditions the request.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicants did meet their burden of proof that the requested Special Exception does meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES WITH CONDITIONS** the special exception for the reconstruction of the pool fence, pool, deck, cabanas (on pool deck), six chickee huts, utilities to movable huts, and irrigation seaward of the EC zoning district.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

- A. Any repairs must comply with all relevant local and state floodplain regulations.
- B. Repairs may not damage existing dunes or dune vegetation.
- C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.
- D. A new special exception must be applied for each time the structure is repaired.

Section 4. If the Town Council approves the requested special exception and the following conditions of approval are imposed on the Applicants and the Property:

- A. The terms and conditions of all previous resolutions and ordinances shall continue in full force.
- B. All development must be consistent with the Master Concept Plan (MCP) titled "Pink Shell CPD Gulf Side" or "Pink Shell CPD Bay Side" and marked with a revision date of August 27, 2013.
- C. Additional repairs to major structures in the EC zoning district will require a new special exception.
- D. Approval of this special exception does not give the Applicants an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- E. The Applicants must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
- F. Construction may not occur during sea turtle nesting season.
- G. Approval of this Special Exception is contingent upon approval of the vacation and relocation of Beach Access Easement #42 (Resolution 24-133 approved the vacation and relocation of Beach Access Easement #42).
- H. The landscaping in the Environmentally Critical zoning district, buffering to the north, landscaping around the pool deck, and dune plantings on the secondary dune shall be in accordance with the landscaping plan attached as Exhibit B.
- I. The evacuation plan, attached as Exhibit C, shall be followed in case of emergency.
- J. Any violation of the conditions of approval shall render the special exception null and void.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Atterholt and seconded by Member Safford and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	Abstained
Jim Atterholt, Vice-Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 17th day of June 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Jun 25, 2024 11:33 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

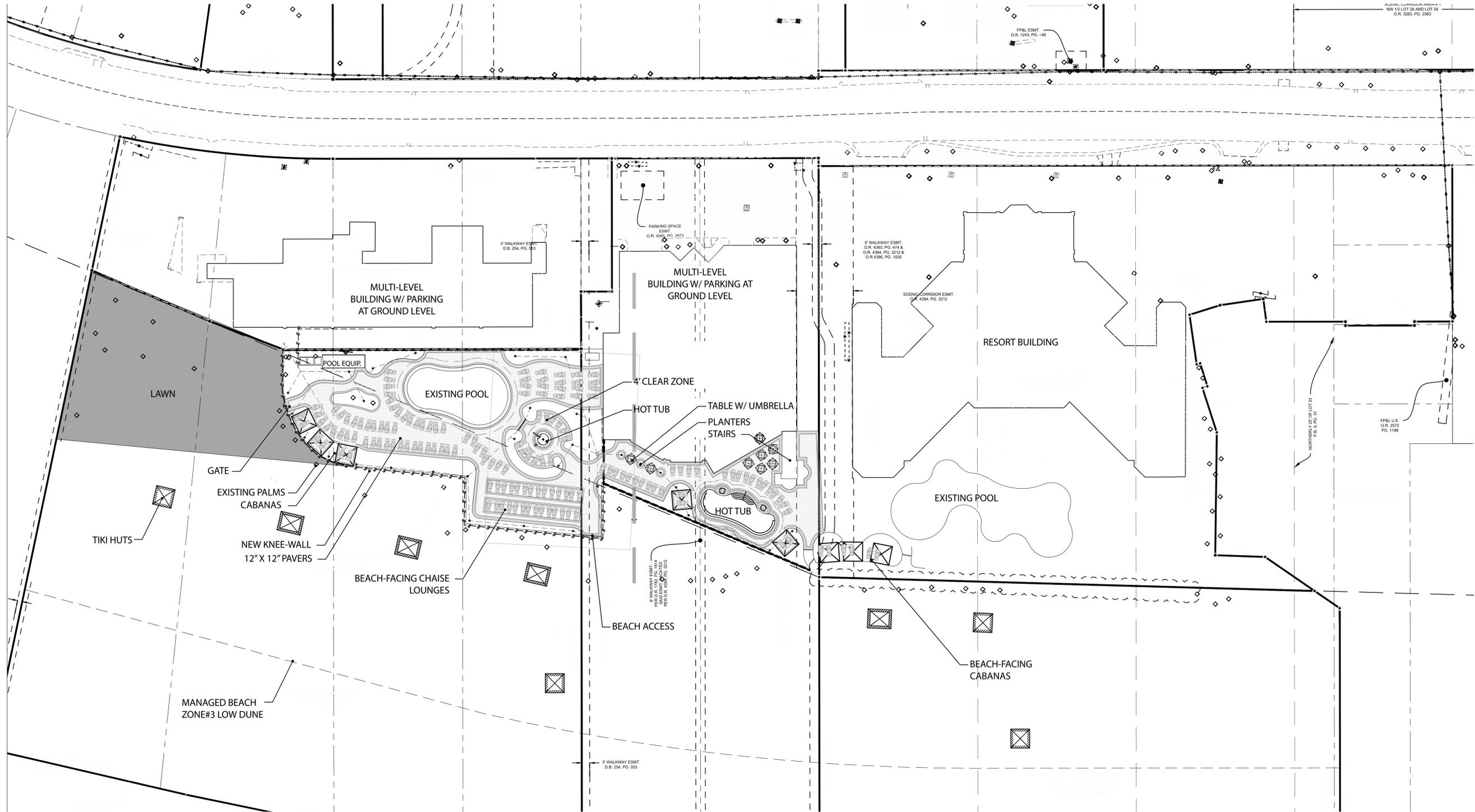
Nancy Stuparich
Nancy Stuparich (Jun 25, 2024 13:25 EDT)

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the 25th day of June 2024.

Attachments:

- Exhibit A- Site plan with approved EC improvements
- Exhibit B- Landscaping Plan
- Exhibit C- Emergency Plan



Copyright RVI

PINK SHELL RESORT • POOL DECK CONCEPT

📍 Lee County, FL
 📅 December 1, 2023
 # 23004319



SCALE: 1" = 30'-0"
 For illustrative purposes only.
 Subject to change without notice.

LANDSCAPE PLANS FOR PINK SHELL RESORT

LEE COUNTY, FLORIDA

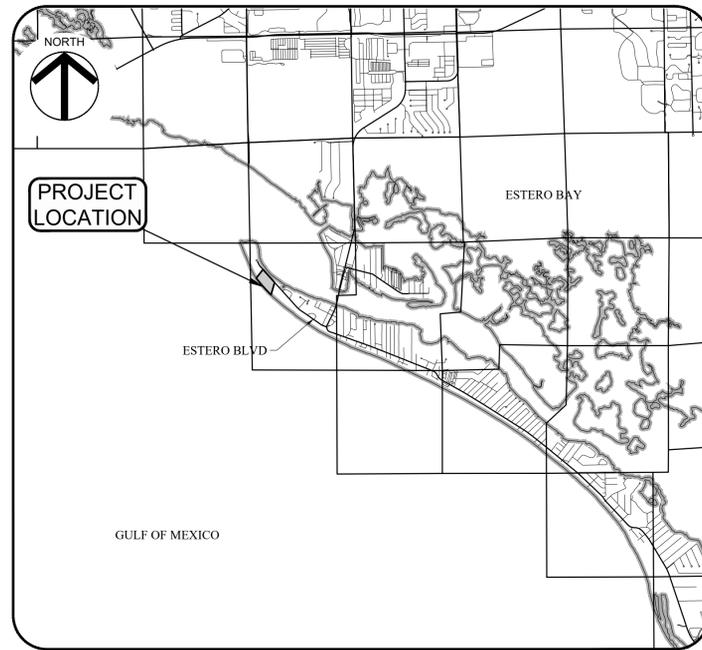
RVi

25100 Bonita Grande Drive
Suite 305
Bonita Springs, Florida 34135
Tel: 239.405.7777
www.rviplanning.com

Laurah Walker, P.L.A.
FL LICENSE NO. LA967582

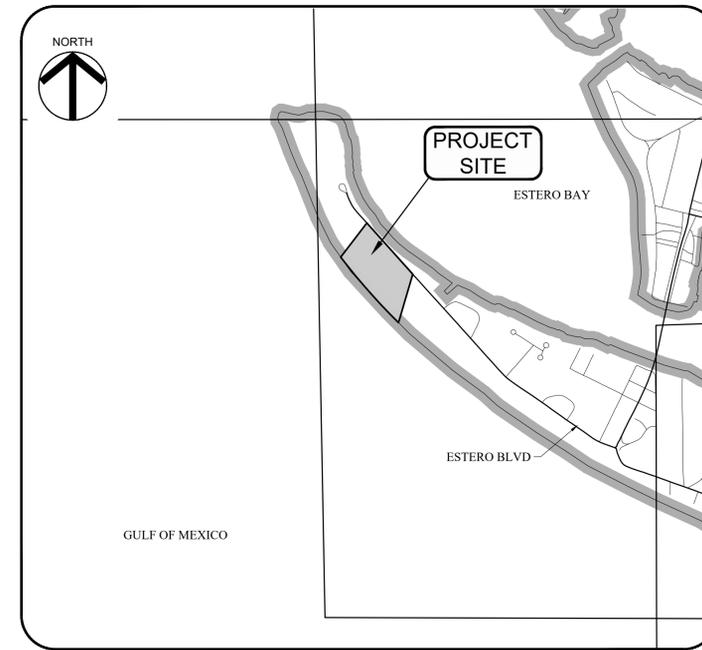
Sunshine

Call 811 or visit sunshine811.com two full business days before digging to have buried facilities located and marked. Check positive response codes before you dig!



PROJECT LOCATION MAP
NO SCALE

SHEET INDEX	
L1	COVER
L2	LANDSCAPE REFERENCE PLAN
L3	LANDSCAPE PLAN
L4	LANDSCAPE PLAN
L5	LANDSCAPE DETAILS



PROJECT LOCATION MAP
NO SCALE

PINK SHELL RESORT
CODE MINIMUM LANDSCAPE PLANS
LEE COUNTY, FLORIDA

PROJECT NO: 23004319
DATE: 05/14/2024
DRAWN: YZ
REVIEWED: LW

REVISIONS

COVER

L1

DEVELOPED BY:
PINK SHELL RESORT
275 ESTERO BLVD, FORT MYERS BEACH, FL 33931



Call 811 or visit sunshine811.com two full business days before digging to have buried facilities located and marked. Check positive response codes before you dig!

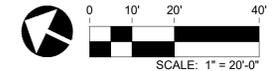
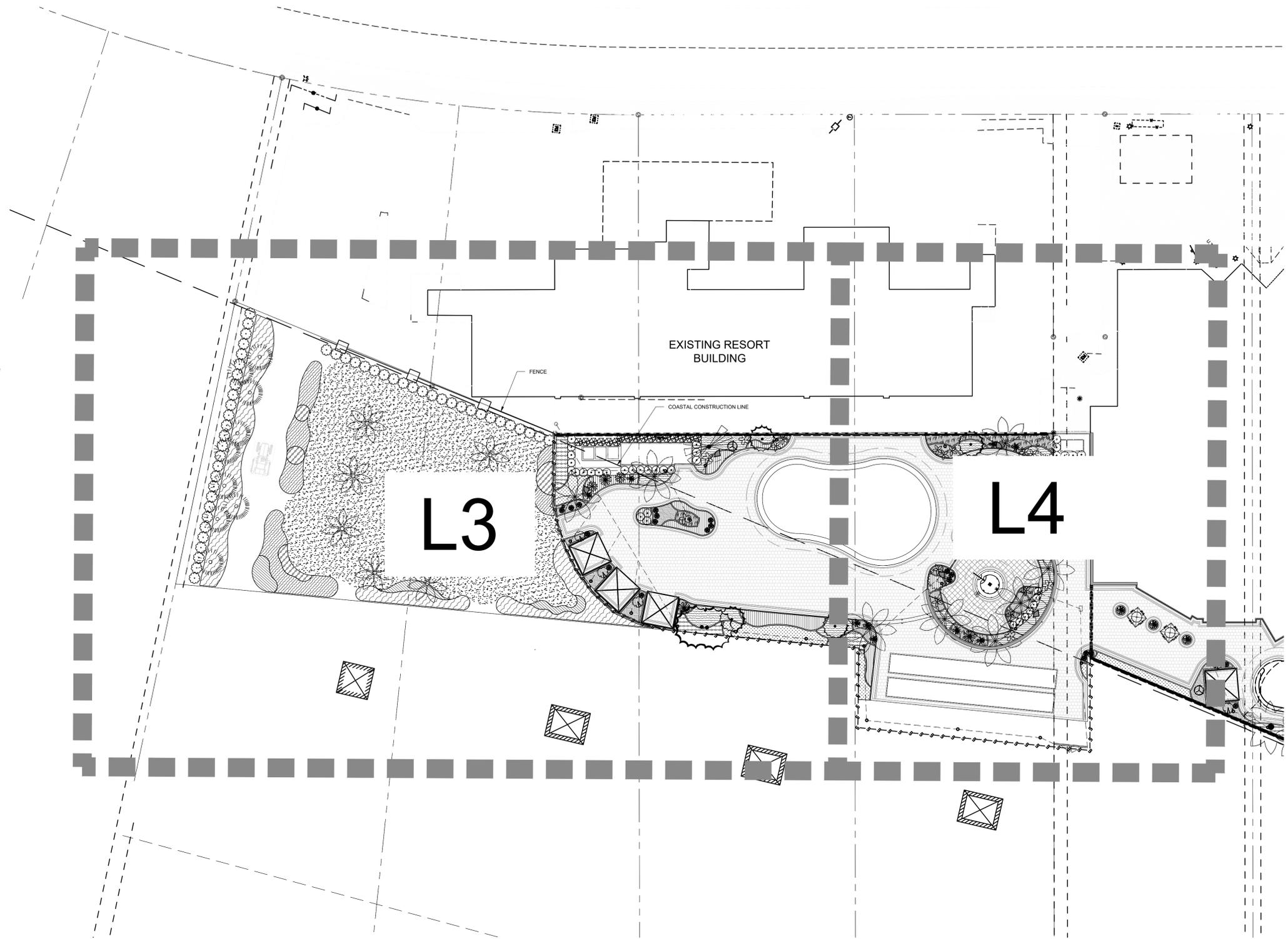
PINK SHELL RESORT
CODE MINIMUM LANDSCAPE PLANS
LEE COUNTY, FLORIDA

PROJECT NO: 23004319
DATE: 05/14/2024
DRAWN: YZ
REVIEWED: LW

REVISIONS

**LANDSCAPE
REFERENCE
PLAN**

L2



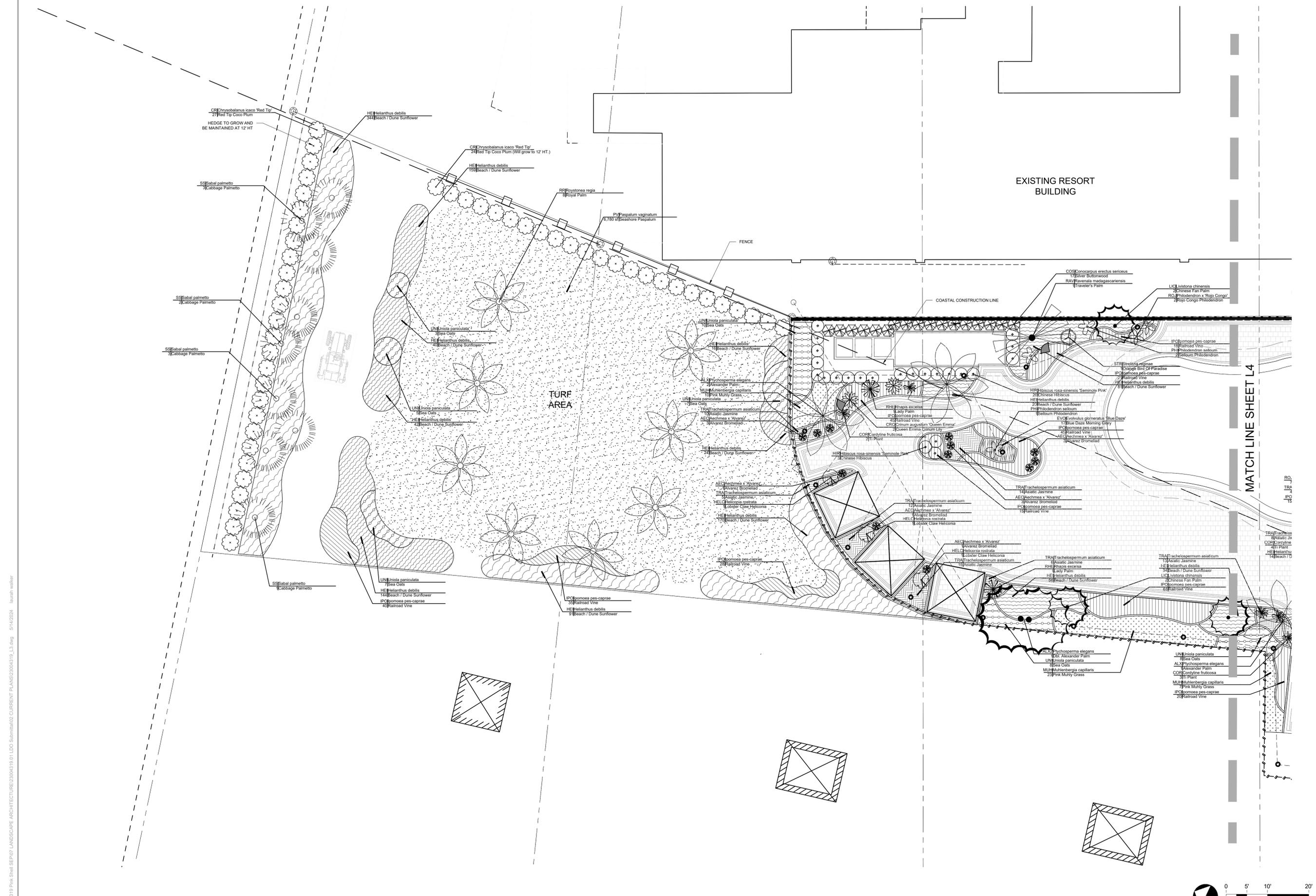
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CODE MINIMUM LANDSCAPE PLANS
LEE COUNTY, FLORIDA

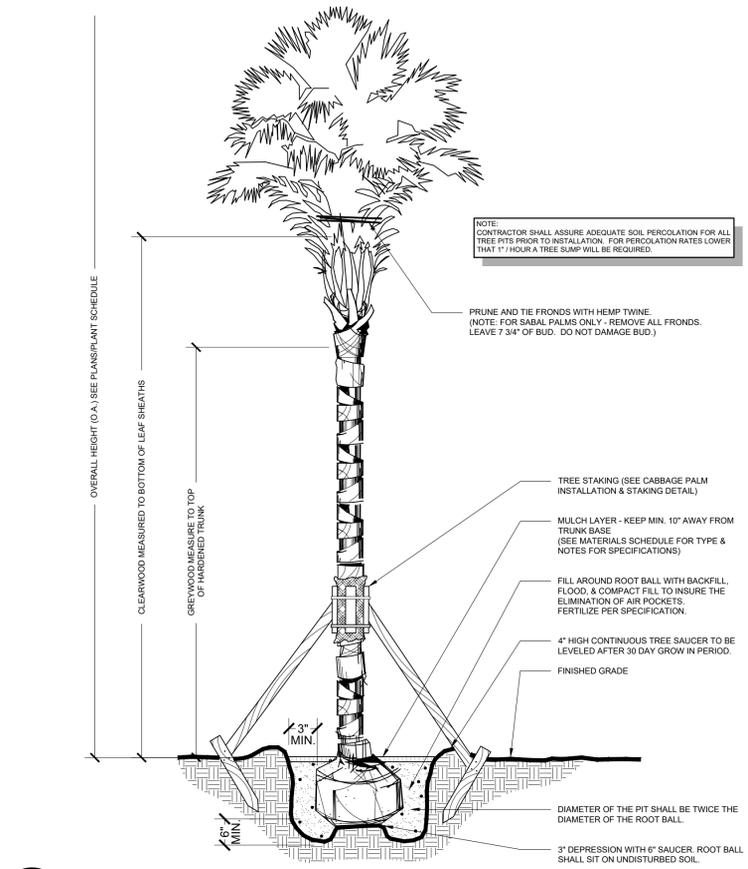
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REVISIONS

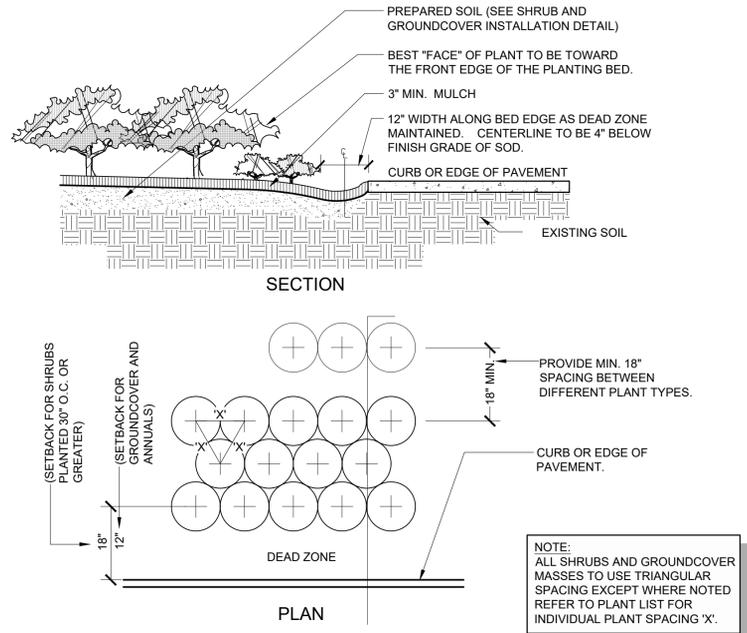
LANDSCAPE PLAN

L3

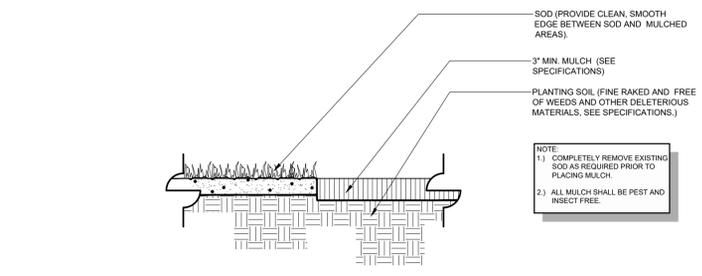




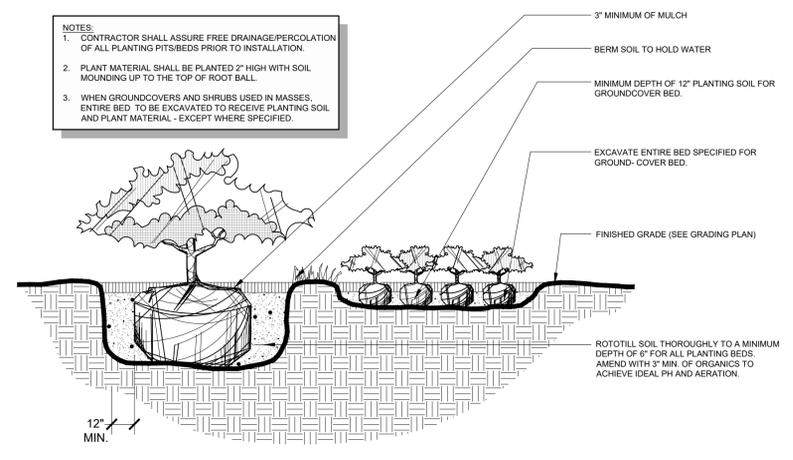
D PALM INSTALLATION
SCALE: N.T.S.



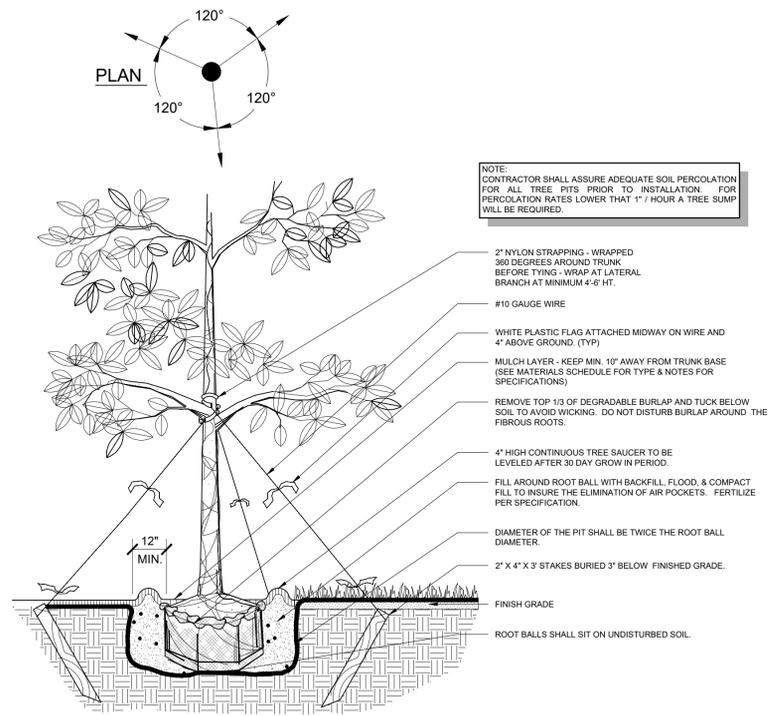
E TYPICAL PLANT SPACING DIAGRAM
SCALE: N.T.S.



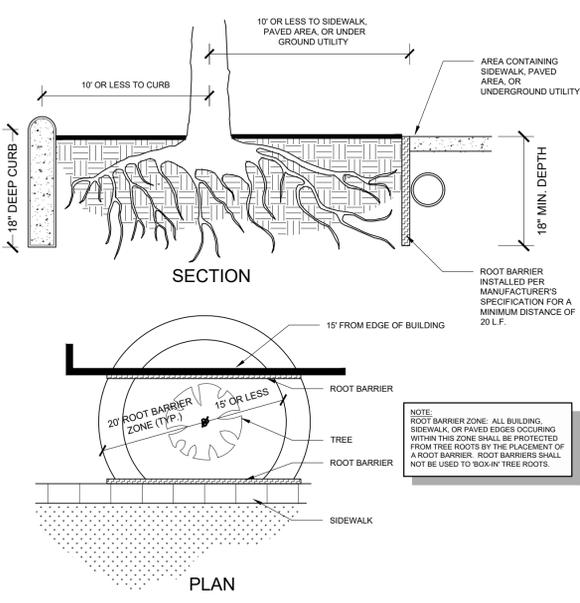
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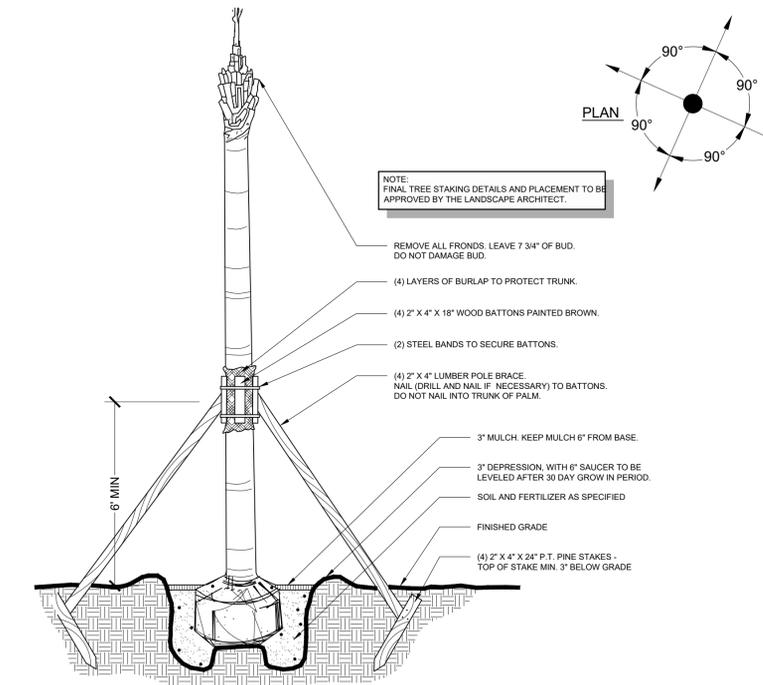
F SHRUB AND GROUNDCOVER INSTALLATION
SCALE: N.T.S.



A LARGE TREE INSTALLATION & STAKING
SCALE: N.T.S.



B ROOT BARRIER DETAIL
SCALE: N.T.S.



C CABBAGE PALM INSTALLATION
SCALE: N.T.S.

Y:\23004319 Pink Shell SEPO7 LANDSCAPE ARCHITECTURE\23004319_01_L00_Submittal\02_CURRENT PLANS\23004319_L5.dwg 5/14/2024 laurah walker

Beach Bar and Beach Nature Center Huts

Pre-Season:

1. Review and update Hurricane Plan. Develop department checklists.
2. Purchase any supplies needed for department preparations. Buy batteries.
3. Prepare current list of Associates and phone numbers.
4. Ensure staff members have Hurricane ID cards.

Hurricane Advisory:

1. Secure loose items around the outside of both Beach huts.

Hurricane Watch:

1. Determine staffing needs and communicate with staff.
2. Monitor weather conditions.

Hurricane Warning:

1. Start to remove all contents from Beach huts. **Recreation Manager and F&B Manager**
2. Relocate all contents to White Sands Lido Ball Room. **Recreation Manager and F&B Manager.**
3. Shut off all electrical by means of disconnects @ Beach Huts distribution panel. Captiva View emergency disconnect located on ground floor by Garage transformers and Captiva view first floor MCC is located across from the Men's bathrooms. **Engineering Manager**
4. Disconnect by means of quick disconnect the electrical located by left of both entrances of huts. **Engineering Manager**
5. Shut off water at the Captiva view garage located by water meter. **Engineering Manager**
6. Disconnect water union fittings located left of both Hut entrances for preparation for hut relocation. **Engineering Manager**
7. All efforts will be made to evacuate and relocate huts off the beach.
8. Both huts are on 4"x10" foundation sleighs and are designed to be mobile, they are supported by a steel unibody reinforced system throughout the bottom of the foundation that are capable of supporting the huts weight once emptied. **Recreation Manager**

9. Using approved designated cable system connect to reinforced eye hooks then to John Deere tractor. **Recreation Manager**
10. With a crew of no less than three excluding tractor operator safely guide tractor and Hut to Sanibel View parking lot. Ensuring that each person is in eye contact and communication with tractor driver. **Recreation Manager**
11. Once landed safely secure huts entrances from inhabitants. **Recreation Manager**