

AMENDMENT TO DEVELOPMENT AGREEMENT

THIS AMENDMENT TO DEVELOPMENT AGREEMENT ("AGREEMENT") is dated the ____ day of _____, 2018, and entered into by and between **NESC, LLC**, a Florida limited liability company, successor in interest to Louis Development, LLC ("Developer"), its successors and assigns, and the **CITY OF CLERWATER, FLORIDA**, a municipality of the State of Florida acting through its City Council, the governing body thereof ("City").

WITNESSETH:

WHEREAS, Developer and the City entered into that certain Development Agreement dated July 27, 2012 (the "Development Agreement") a full copy of which is attached hereto as **Exhibit 1** relating to that certain real property located at 443 East Shore Drive, Clearwater, FL 33767 (the "Property"); and

WHEREAS, Developer and the City acknowledge and agree that a minor revision to the design of the Project which is the subject of the Development Agreement was approved by the Community Development Coordinator pursuant to Section 4-406(A) of the Community Development Code on August 22, 2018; and

WHEREAS, on October 1, 2018, Developer filed two applications to transfer a total of five overnight accommodation units from 22 Bay Esplanade and 699 Bay Esplanade to 443 East Shore; and

WHEREAS, pursuant to the Developer's applications to transfer density rights to the Project the Developer and the City agree to increase the number of total number of overnight accommodation units in the Project from 134 to 139 units, to increase the required parking spaces from 177 spaces to 187 spaces, and to amend certain other provisions of the Development Agreement as set forth herein;

NOW THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and the City agree as follows:

RECITALS:

1. The recitals listed above are true and correct and incorporated herein by reference.

AMENDMENT TO RECITALS:

2. The seventh (7th) recital of the Development Agreement is hereby deleted and the following is substituted in lieu thereof:

"WHEREAS, upon completion the planned resort will contain 139 units, which includes Seventy-One (71) units from the available Beach by Design Hotel Density Reserve;"

3. Amendment of SECTION 4. Scope of Project. Section 4.1 is hereby deleted, and the following is substituted in lieu thereof:

“4.1 The Project (“Project”) shall consist of no more than 139 overnight accommodation units, to be traditional overnight accommodation units. The proposed density is 110.32 units per acre, which is well below the allowed 150 units.”

4. Section 4.2 is hereby deleted, and the following is substituted in lieu thereof:

“4.2 The Project (“Project”) shall include 187 parking spaces as defined in the Community Development Code, 167 of the parking spaces shall be dedicated to the 139 overnight accommodation units, and 17 spaces shall be dedicated to the public boat slips.”

5. Amendment of SECTION 13. Notices. The notice addresses for Developer are hereby deleted, and the following is substituted in lieu thereof:

“If to the Developer: NESC, LLC
 David Leatherwood
 500 Sawgrass Place
 Sanibel, FL 33957

With Copy to: Brian J. Aungst, Jr., Esquire
 Macfarlane Ferguson and McMullen
 625 Court Street, Suite 200
 Clearwater, FL 33756”

6. Amendment of Exhibit “B”. Exhibit “B” to the Development Agreement is hereby deleted and Amended Exhibit “B” attached hereto is substituted in lieu thereof.
7. No Further Changes. Except as set forth herein there are no further changes, amendments or modifications to the Development Agreement.

[remainder of this page is blank – signature page follows]

Developer:
NESC, LLC

Print Name: _____

By: _____
David Leatherwood

Print Name: _____
As to "Developer"

City:
CITY OF CLEARWATER, FLORIDA

Print Name: _____

By: _____
William B. Horne II,
City Manager

Print Name: _____
As to "City"

Attest:

Rosemarie Call, City Clerk

Countersigned:

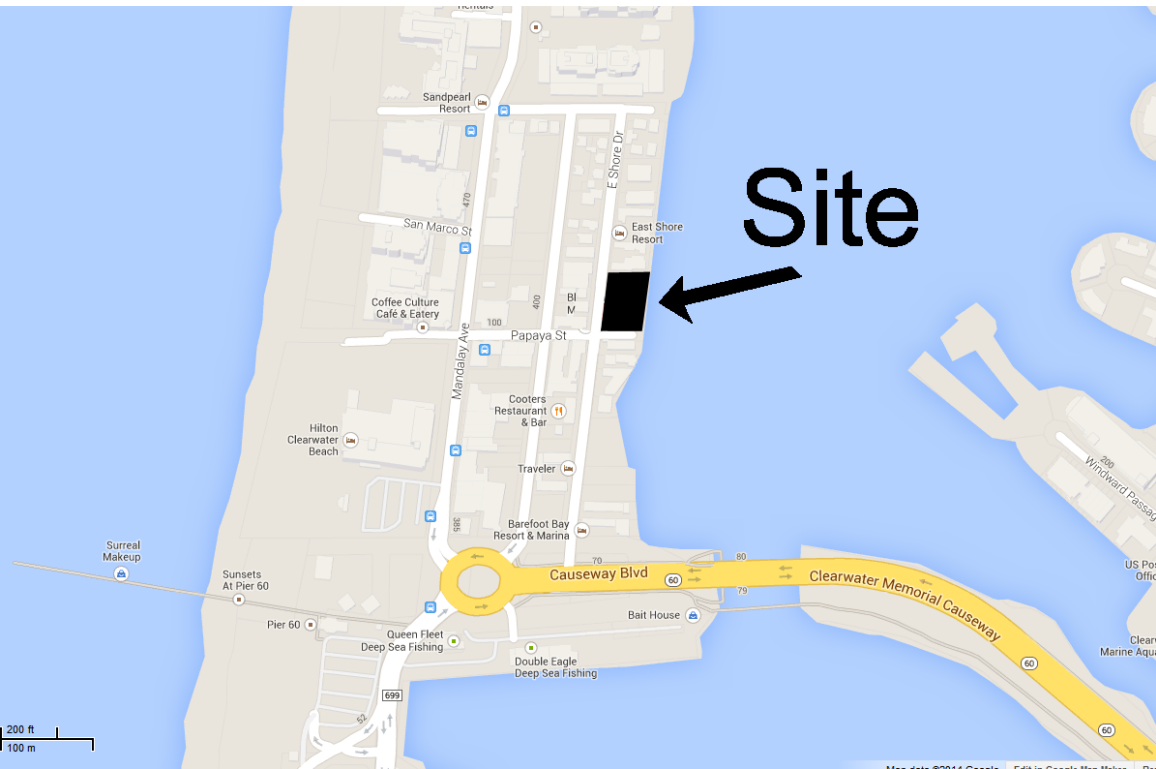
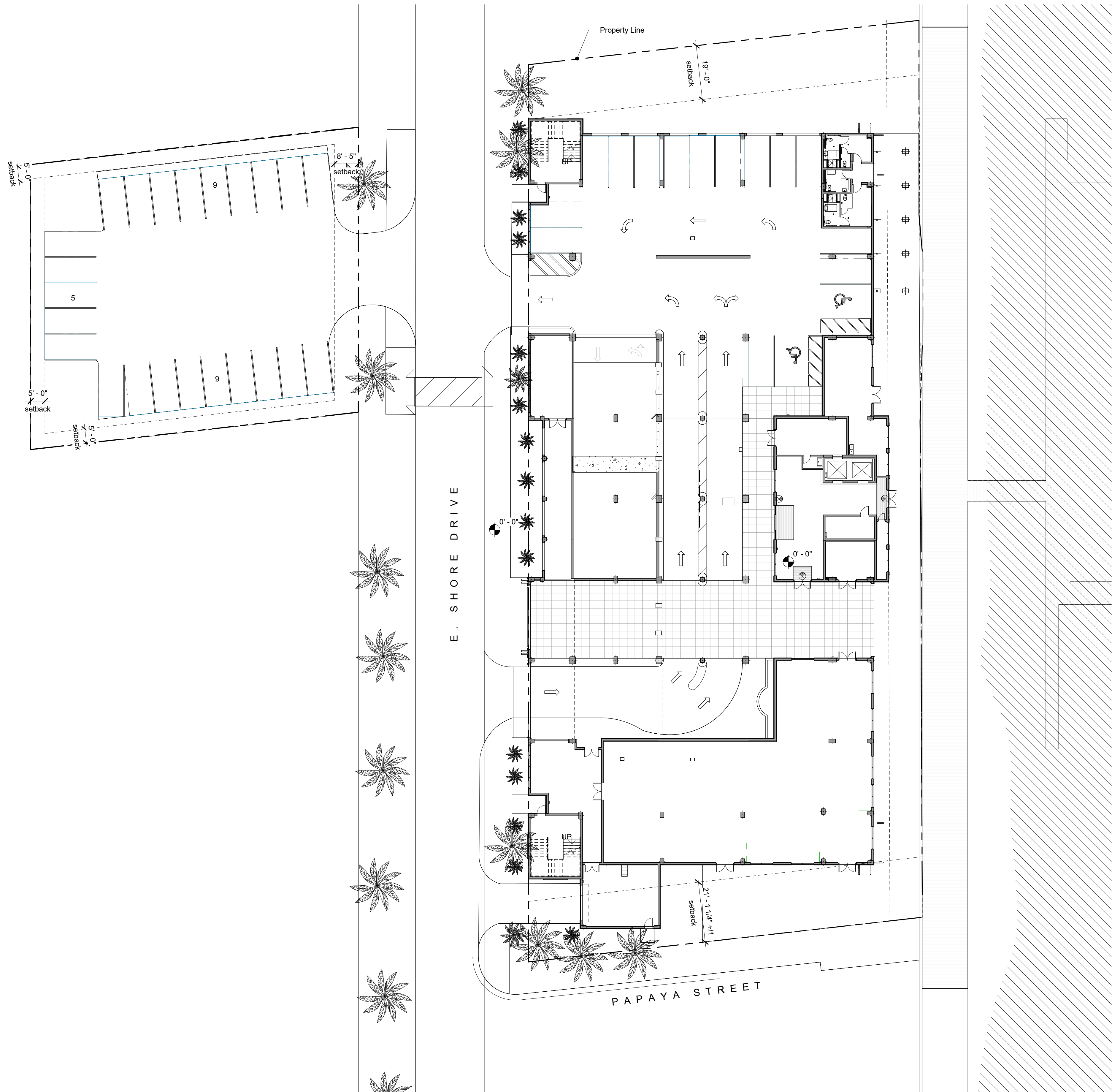
George N. Cretekos, Mayor

Approved as to Form:

Mike Fuino
Assistant City Attorney

AMENDED EXHIBIT “B”
Site and Building Plans

PREVIOUSLY APPROVED SUBMISSION



Site Location Plan

Site Notes

1. Refer to Civil Engineering Drawings for Finished Floor Elevation (FFE).
2. Contractor shall coordinate, prior to the commencement of site work, the finish floor elevation with the Civil Engineer and the Structural Engineer.
3. Information shown on the Site Reference Plan is based on information provided by the owner or Civil Engineer / Site Planner.
4. The Contractor shall, prior to Commencement of construction or Demolition, verify the location of all utilities.
5. Prior to the Commencement of Construction, the General Contractor shall verify items identified on these drawings as existing. In the event of discrepancies, he shall immediately notify the Office of the Architect.
6. Should field conditions differ from plans to such an extent that additional costs or delays to the schedule are anticipated, the contractor shall notify the Architect of such. The Architect, in conjunction with the Owner, will determine the resolution.
7. Contractor must take all reasonable and customary precautions to protect the Owner's property from damage due to construction operations. The boundary of the Contractor's work and storage areas shall be mutually agreed-to by conference.
8. Refer to Civil Engineering Drawings for site construction details, including curb and gutter details and radii, and all other site related details.
9. Landscape design is not included within the scope of work represented in these drawings.

Site Data

FFE: Refer to Civil Drawings
Site Area: 0.94 acres MOL
Building Footprint: 31,827 square feet
Number of Stories: 7
Guest Rooms: 134
Parking Spaces: 8 Accessible, 162 Standard, 177 Total

Required Parking Calculations

Hotel: 134 rooms x 1.2 = 160
Marina: 50 slips total (34 public+ 16 Hotel)
34 public / 2 = 17

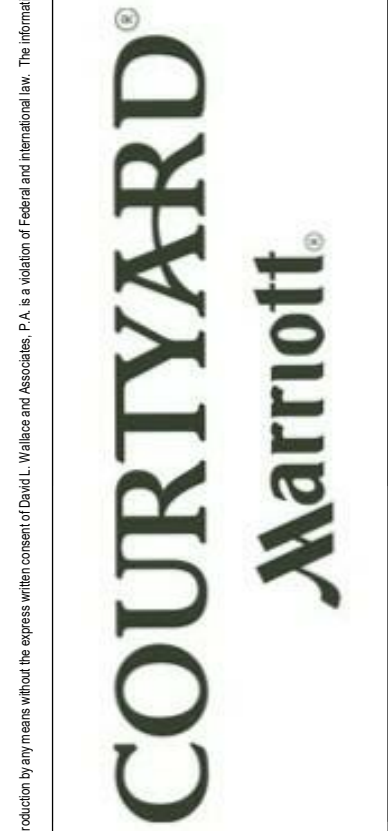
Total Parking Required 177

Parking Schedule

Level 1	
ADA 12x18 (5' aisle)	2
Regular 9x18	37
Level 2	
ADA 12x18 (5' aisle)	2
Regular 9x18	72
Level 3	
ADA 12x18 (5' aisle)	2
Regular 9x18	72
Grand total:	187

FL CoA: AA26001254		
Revision Schedule		
N	Description	Date
2	Marriott 60% 1	01-30-15

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Brand Version:
Hotel and guestrooms:
Gen 4.5 Twilight
Public spaces:
Gen 6 Cynergy



DRAWN	KJ
EDIT DATE	9/20/2018 8:09:56 PM
ISSUE DATE	05/13/16
SCALE	1" = 20'-0"
JOB NUMBER	14-201

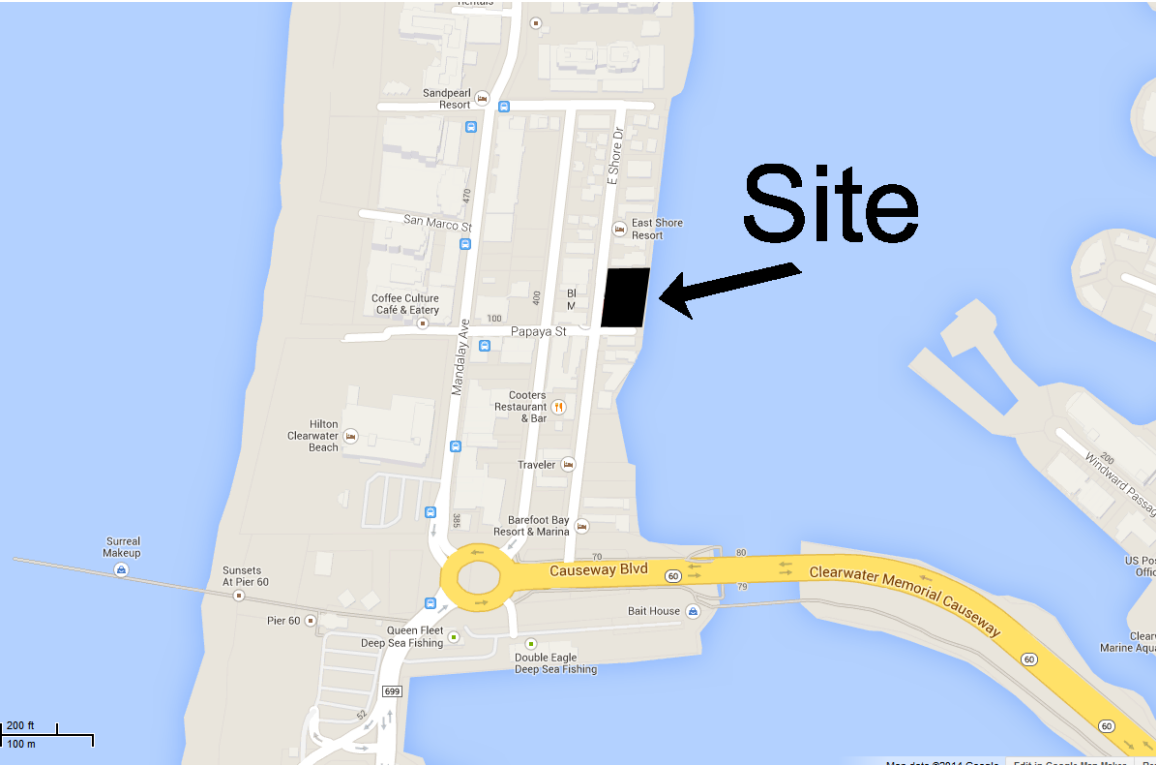
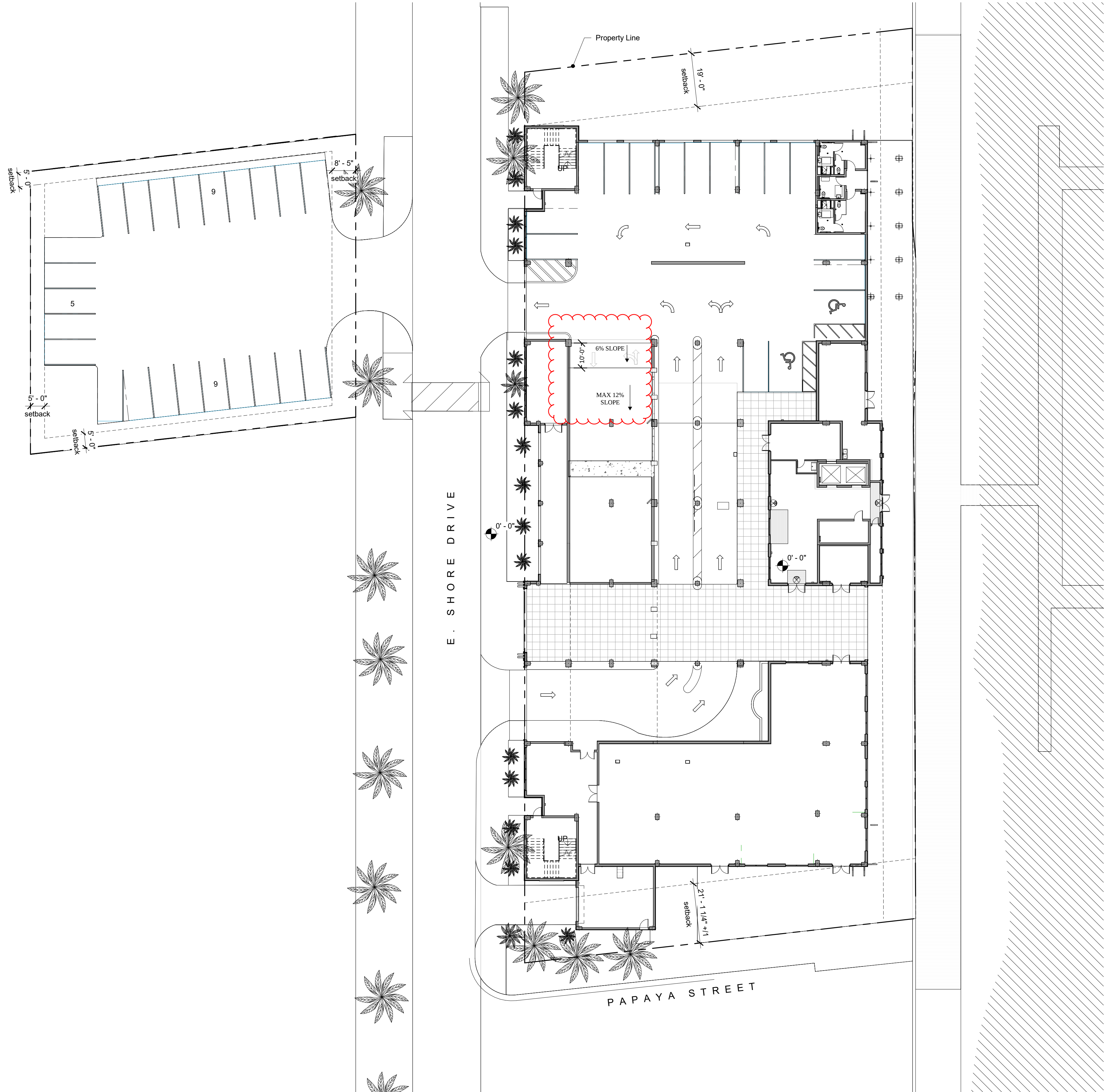
SHEET NAME
Site Plan (Reference)

SHEET NUMBER

A-1.1.0

1 Site Reference Plan
1" = 20'-0"

REVISED SUBMISSION: 10/8/18



Site Location Plan

Site Notes

1. Refer to Civil Engineering Drawings for Finished Floor Elevation (FFE).
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8. Refer to Civil Engineering Drawings for site construction details, including curb and gutter details and radii, and all other site related details.
9. Landscape design is not included within the scope of work represented in these drawings.

Site Data

FFE: Refer to Civil Drawings
Site Area: 0.94 acres MOL
Building Footprint: 31,827 square feet
Number of Stories: 7
Guest Rooms: 139
Parking Spaces:

Required Parking Calculations

Hotel:
139 rooms x 1.2 = 167
Marina:
50 slips total (34 public+ 16 Hotel)
34 public / 2 = 17

Total Parking Required
184

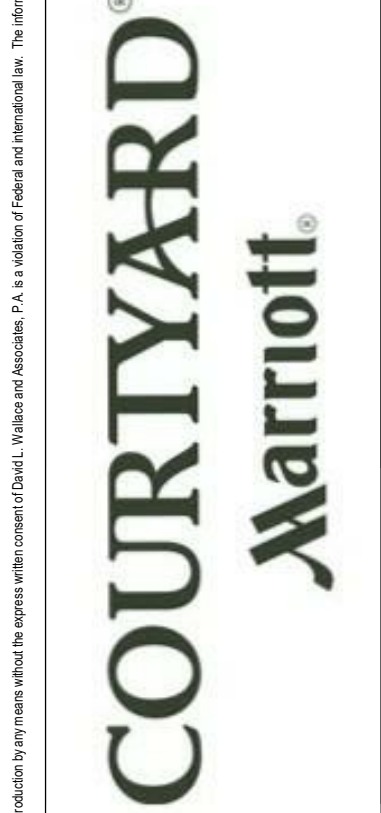
Parking Schedule

Level 1	
ADA 12x18 (5' aisle)	2
Regular 9x18	37
Level 2	
ADA 12x18 (5' aisle)	2
Regular 9x18	72
Level 3	
ADA 12x18 (5' aisle)	2
Regular 9x18	72
Grand total	187

1 Site Reference Plan
1" = 20'-0"

FL CoA: AA26001254		
Revision Schedule		
N	Description	Date
2	Marriott 60% 1	01-30-15

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Brand Version:
Hotel and guestrooms:
Gen 4.5 Twilight
Public spaces:
Gen 6 Cynergy



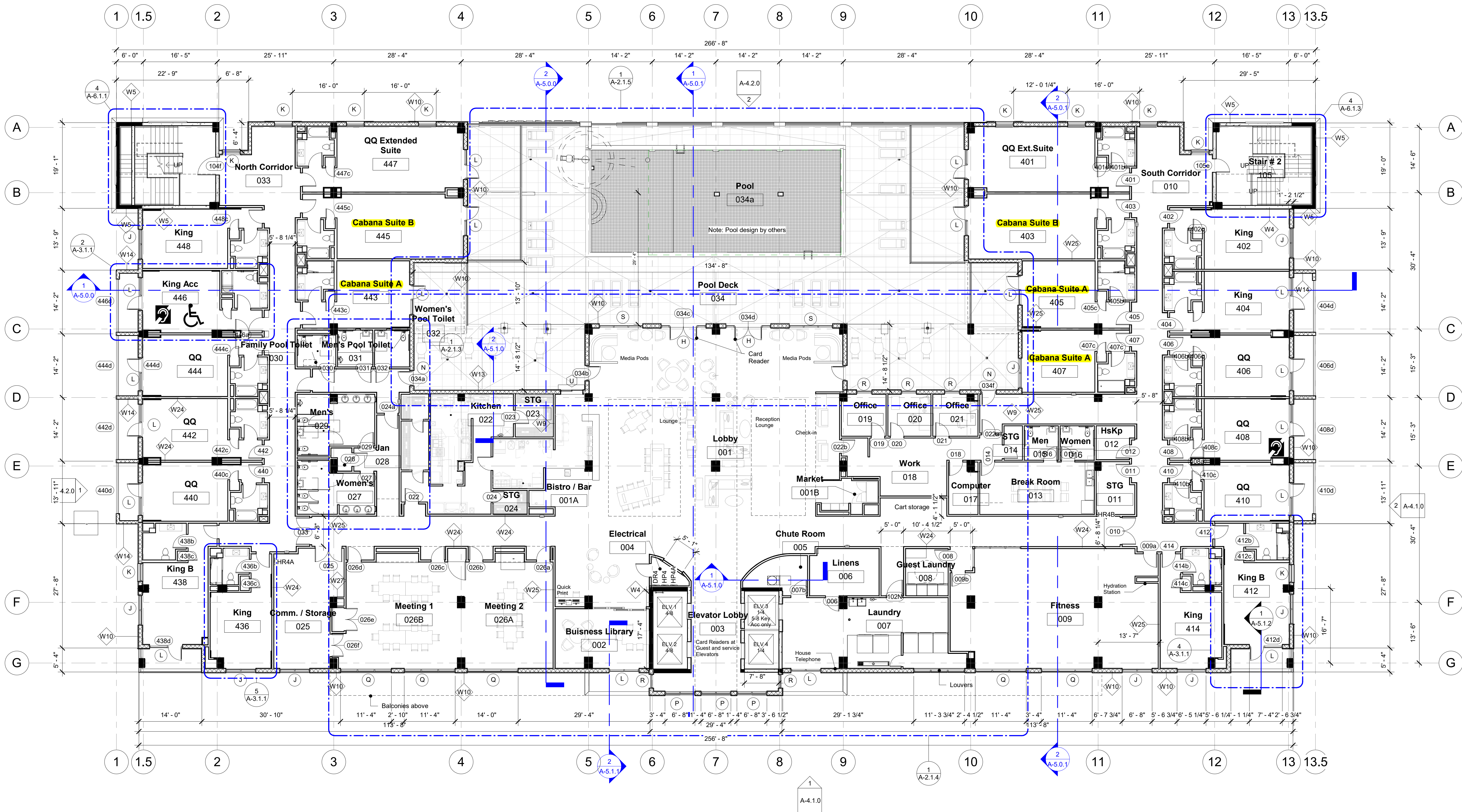
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ISSUE DATE	05/13/16
SCALE	1" = 20'-0"
JOB NUMBER	14-201

SHEET NAME
Site Plan (Reference)

SHEET NUMBER

A-1.1.0

PREVIOUSLY APPROVED SUBMISSION



Revision Schedule		
N	Description	Date
1	Marriott 30%	12-10-14
2	Marriott 60% 1	01-30-15
3	Marriott 60% 2	02-02-16
4	Marriott 90% 2	07-08-16
7	City Comments DO minor 1	10-14-17
8	Trademark changes	06-06-18

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Brand Version:
Hotel and guestrooms:
Gen 4.5 Twilight
Public spaces:
Gen 6 Cynegy

dlw
architects
542 Douglas Avenue
Dunedin, FL 34698
727.736.6000
www.dlwarchitects.com
established 1981

DRAWN	KJ
EDIT DATE	9/20/2018 8:10:16 PM
ISSUE DATE	05/13/18
SCALE	3/32" = 1'-0"
JOB NUMBER	14-201

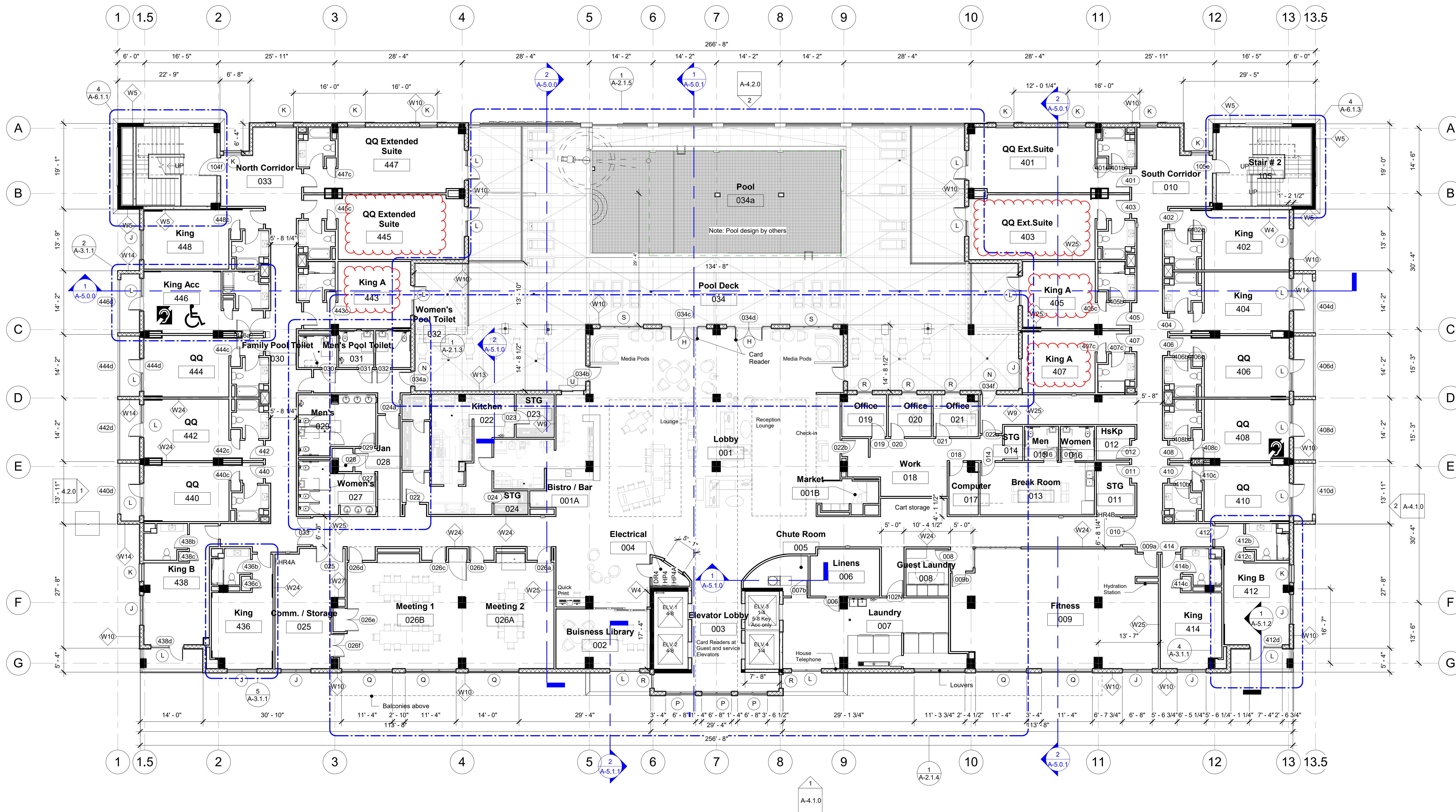
SHEET NAME
Level 4 Floor Plan

SHEET NUMBER

A-1.1.4

1 Level 4
3/32" = 1'-0"

REVISED SUBMISSION: 10/8/18



Revision Schedule		
N	Description	Date
1	Marriott 30%	12-10-14
2	Marriott 60% 1	01-30-15
3	Marriott 60% 2	02-02-16
4	Marriott 90% 2	07-08-16
7	City Comments DO minor 1	10-14-17
8	Trademark changes	06-06-18

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Brand Version:
Hotel and guestrooms:
Gen 4.5 Twilight
Public spaces:
Gen 6 Cynery

dlw
architects
542 Douglas Avenue
Dunedin, FL 34698
727.736.6000
www.dlwarchitects.com
established 1981

DRAWN	KJ
EDIT DATE	9/20/2018 8:10:16 PM
ISSUE DATE	05/13/18
SCALE	3/32" = 1'-0"
JOB NUMBER	14-201

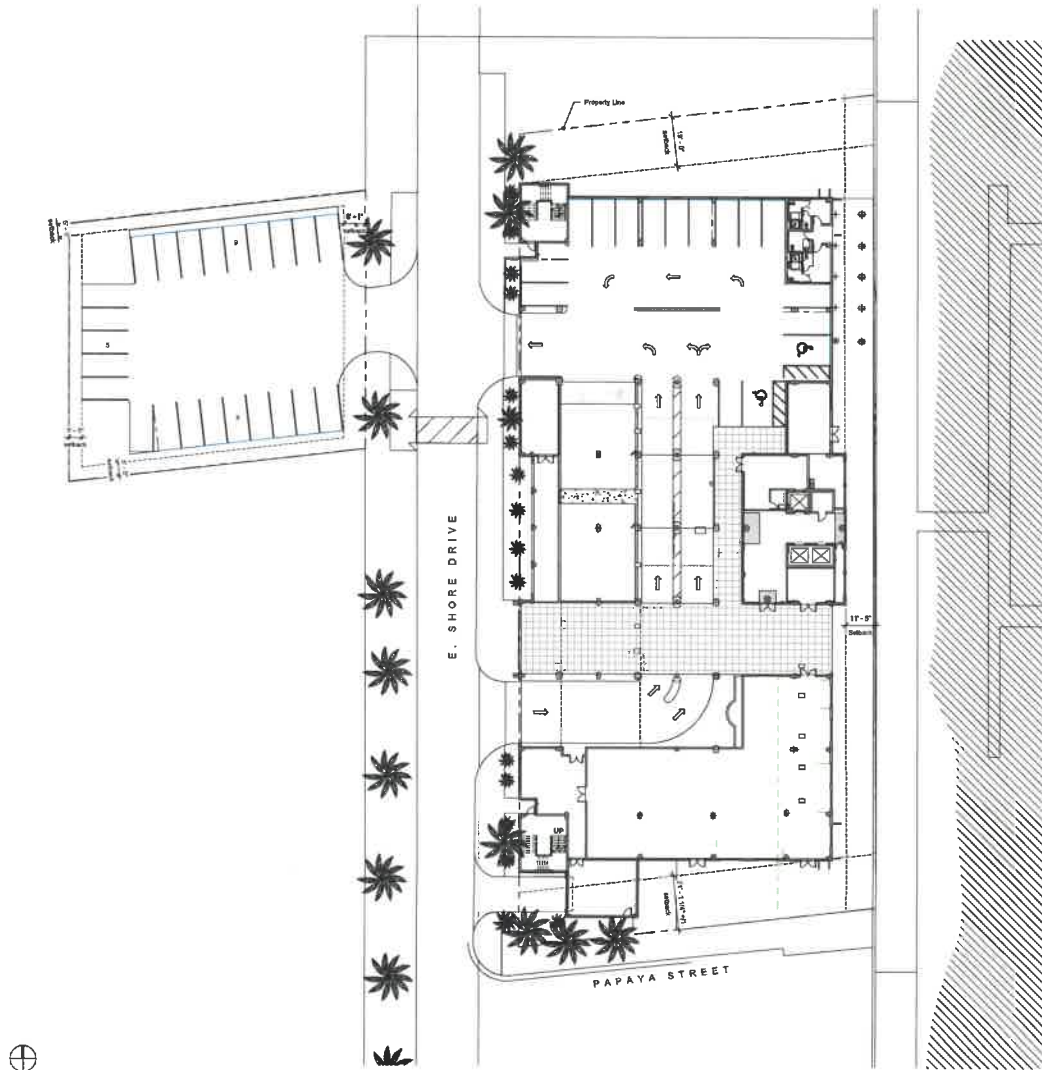
SHEET NAME
Level 4 Floor Plan

SHEET NUMBER

A-1.1.4

1 Level 4
3/32" = 1'-0"

1 Site Reference Plan
1" = 20'-0"



Future Marina (by Others)



Site Location Plan

Site Notes

1. Refer to Civil Engineering Drawings for Finished Floor Elevation (FFE).
2. Contractor shall coordinate, prior to the commencement of all work, the final floor elevation with the Civil Engineer and the Structural Engineer.
3. Information shown on the Site Reference Plan is based on information provided by the owner or Civil Engineer (Site Planner).
4. The Contractor shall, prior to Commencement of construction or Demolition, verify the location of all utilities.
5. Prior to the Commencement of Construction, the General Contractor shall verify shown location of trees existing on site. In the event of discrepancies, he shall immediately notify the Office of the Architect.
6. Should site conditions differ from those in such an extent that additional costs or delays to the schedule are anticipated, the contractor shall notify the Architect at once. The Architect, in conjunction with the Owner, will determine the resolution.
7. Contractor must take all reasonable and customary precautions to protect the Owner's property from damage due to construction operations. The boundary of the Contractor's work and storage areas shall be mutually agreeable by contractors.
8. Refer to Civil Engineering Drawings for site construction details, including cuts and gutter details and radius, and all other site related details.
9. Landscape design is not included within the scope of work represented in these drawings.

Site Data

FPE: Refer to Civil Drawings
 Site Area: 0.94 acres MOL
 Building Footprint: 31,827 square feet
 Number of Stories: 7
 Guest Rooms: 134
 Parking Spaces:
 Accessible: 8
 Standard: 162
 Total: 177

Required Parking Calculations

Hotel:
 134 rooms x 1.2 = 160
 Motorists:
 50 slips total (34 public + 16 hotel)
 34 public / 2 = 17

Total Parking Required
 177

Parking Schedule

Level 1		
ADA 12x18 (5' aisle)	2	
Regular 6x18		37
Level 2		
ADA 12x18 (5' aisle)	2	
Regular 6x18		72
Level 3		
ADA 12x18 (5' aisle)	2	
Regular 6x18		72
Grand total:	197	

FL Cak AA20001254	
Revision Schedule	
#	Date
2	March 2024 11:30-1

Courtyard by Marriott
 443 East Shore Drive
 Clearwater Beach, FL 33767
 Louis Developments, LLC



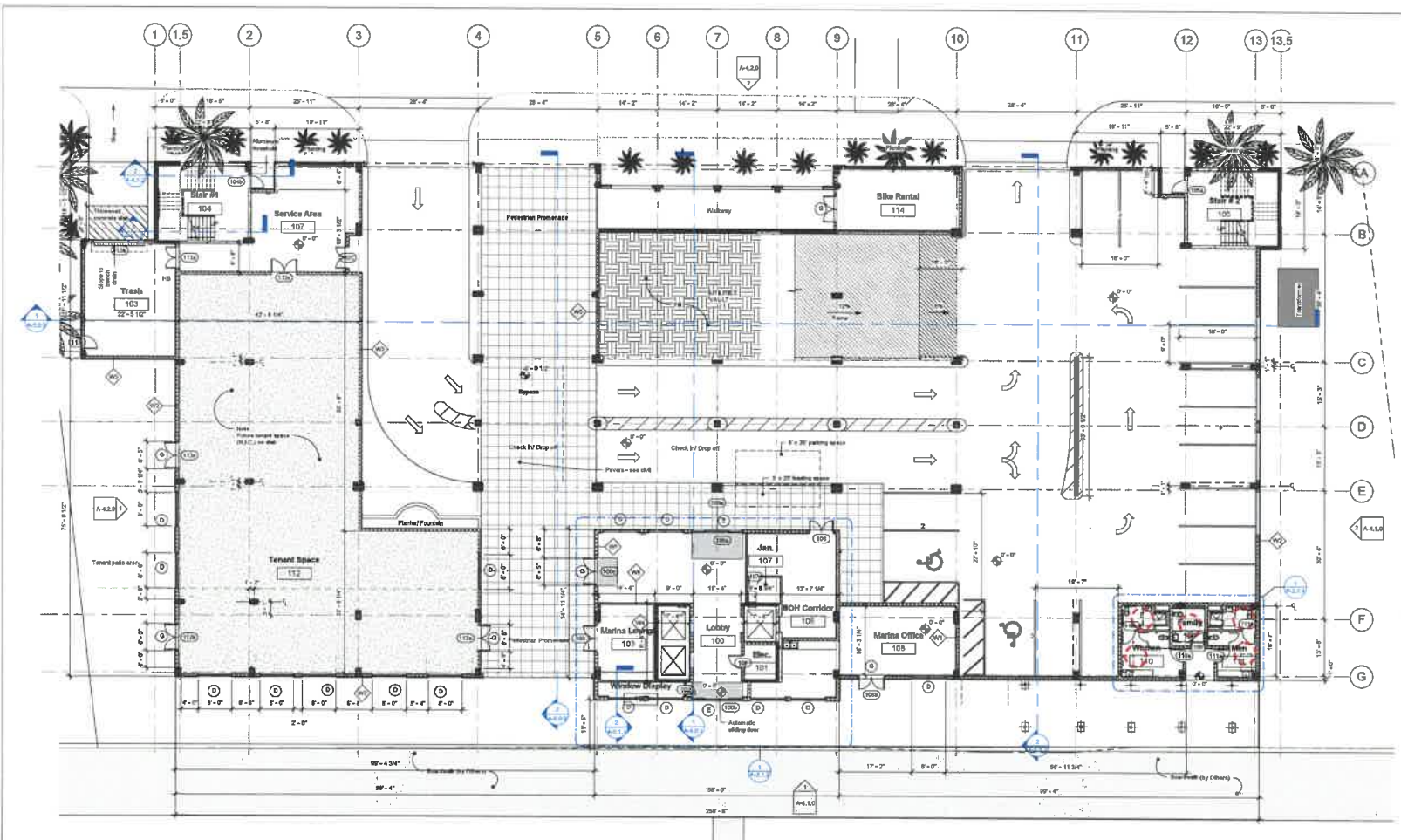
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2D NUMBER:	14-201

SHEET NAME
 Site Plan (Reference)

SHEET NUMBER
 A-1.1.0



Level 1
312' x 140'

Parking Schedule

Level 1	
ADA 12x18 (5' aisle)	2
Regular 9x18	37
Level 2	
ADA 12x18 (5' aisle)	2
Regular 9x18	72
Level 3	
ADA 12x18 (5' aisle)	2
Regular 9x18	72
Grand total	187

FL CDA# AD0001264	
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1	Initial 30% 12-10-1
2	Marriott 80% 01-30-1
3	Marriott 90% 02-29-1
4	City Comments 10-14-1
5	DC minor 1 10-14-1
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7	

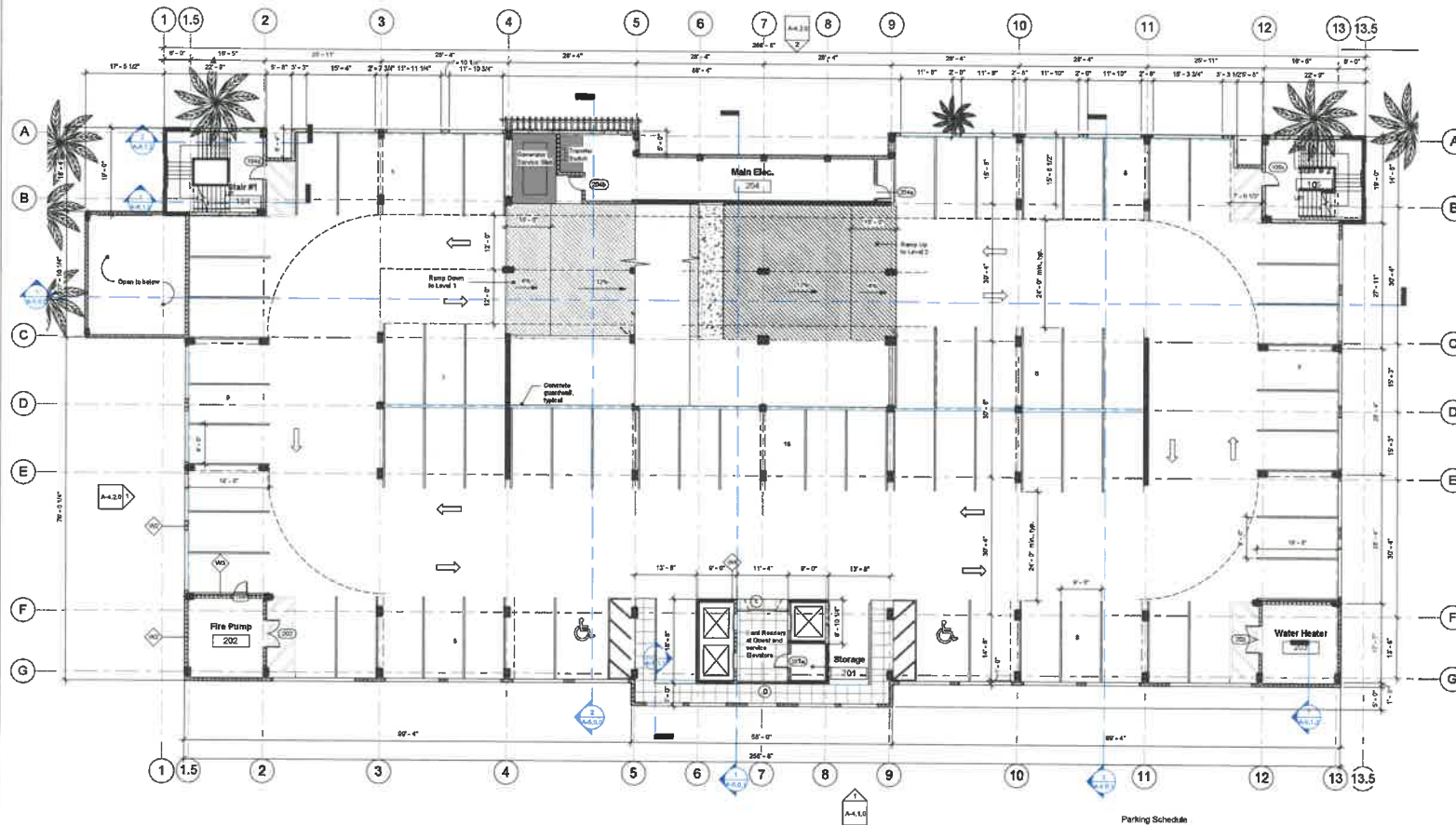
Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Consultant:



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ISSUE DATE	09/19/18
SCALE	3/8" = 1'-0"
JOB NUMBER	14-201
SHEET NAME	Level 1 Floor Plan
SHEET NUMBER	A-1.1.1



Parking Schedule

Level 1	
ADA 12x16 (5' aisle)	2
Regular 9x18	37
Level 2	
ADA 12x16 (5' aisle)	2
Regular 9x18	72
Level 3	
ADA 12x16 (5' aisle)	2
Regular 9x18	72
Grand total:	167

① Level 2
3/3/2" = 1'-0"

Revision Schedule		
Rev	Description	Date
2	Revised 009.1	01-30-17
4	Revised 009.2	01-30-17
6		05-30-17
7	Top Comments	05-30-17

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC

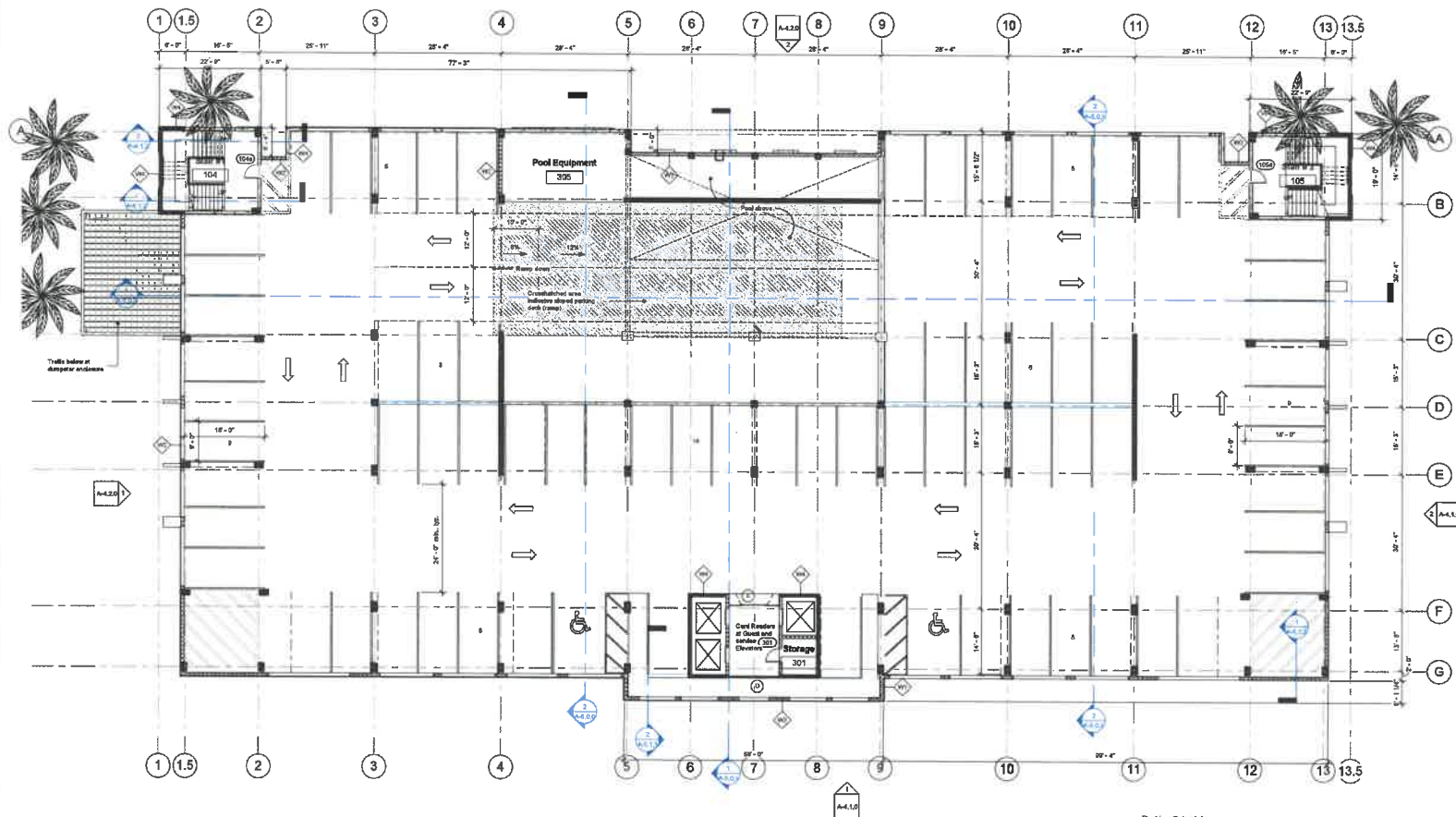


Consultant:



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DATE	05/15/18
SCALE	3/8" = 1'-0"
JOB NUMBER	18-001
SHEET NAME	Level 2 Floor Plan
SHEET NUMBER	

A-1.1.2



Parking Schedule

Level 1	
ADA 12x18 (5' aisle)	2
Regular 8x18	37
Level 2	
ADA 12x18 (5' aisle)	2
Regular 8x18	72
Level 3	
ADA 12x18 (5' aisle)	2
Regular 8x18	72
Grand total	187

Level 3
3/32" = 1'-0"

FL Cak. AA26001254		
Revision Schedule		
No	Description	Date
2	Mar 11 09:11	01-20-11
6	More Comments	01-20-11
	DO minor	10-16-11

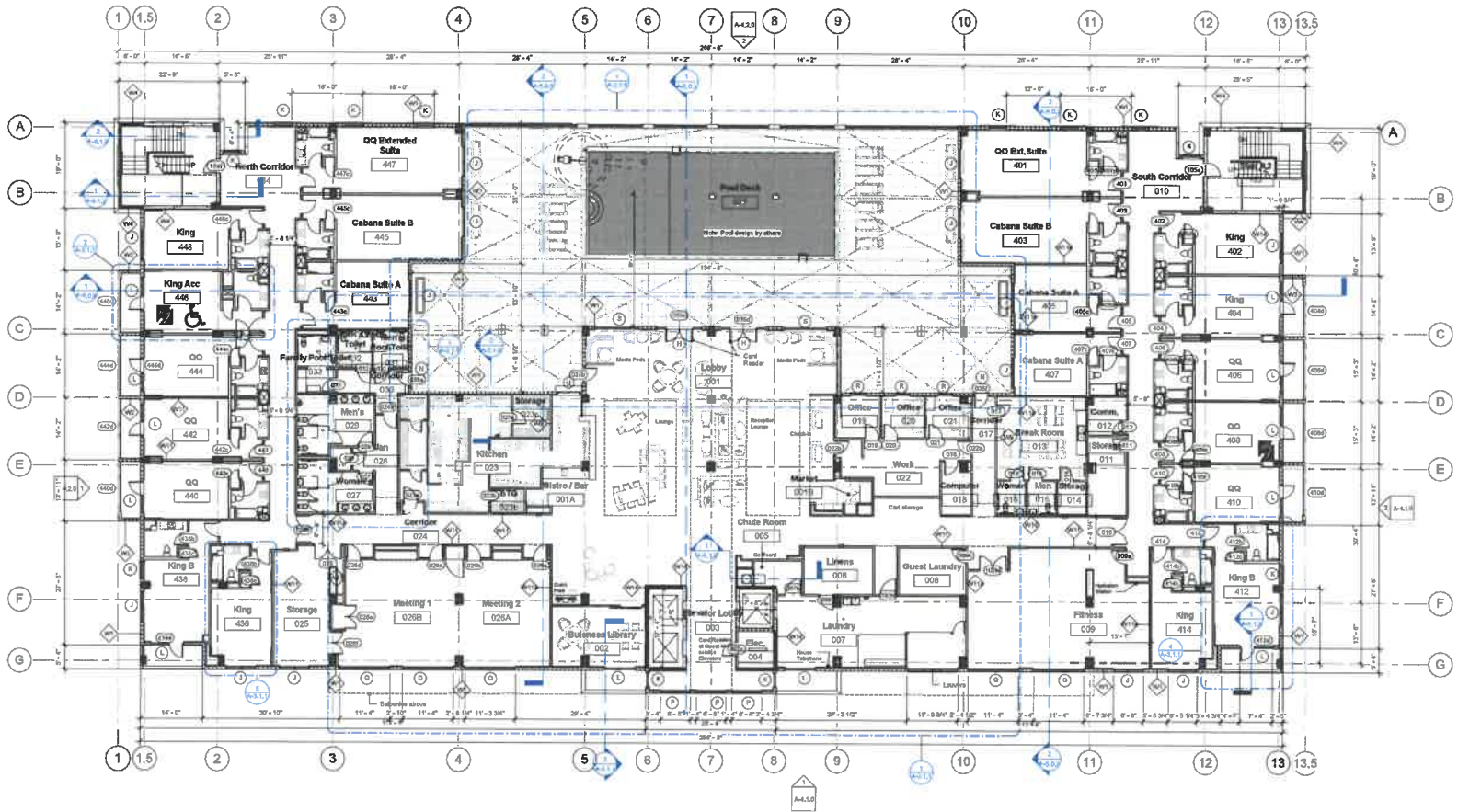
Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Consultant:



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DATE	7/26/2011 3:13:15 PM
ISSUE DATE	7/26/2011
SCALE	3/32" = 1'-0"
SHEET NUMBER	187
SHEET NAME	Level 3 Floor Plan
SHEET NUMBER	A-1.1.3



FL Oak: A420001034

Room	Description	Area
1	Master Sls	10.104
2	Master Sls	10.104
3	Master Sls	10.104
4	Master Sls	10.104
5	Master Sls	10.104
6	Master Sls	10.104
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9	Master Sls	10.104
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100	Master Sls	10.104

Courtyard by Marriott
 443 East Shore Drive
 Clearwater Beach, FL 33767
 Louis Developments, LLC



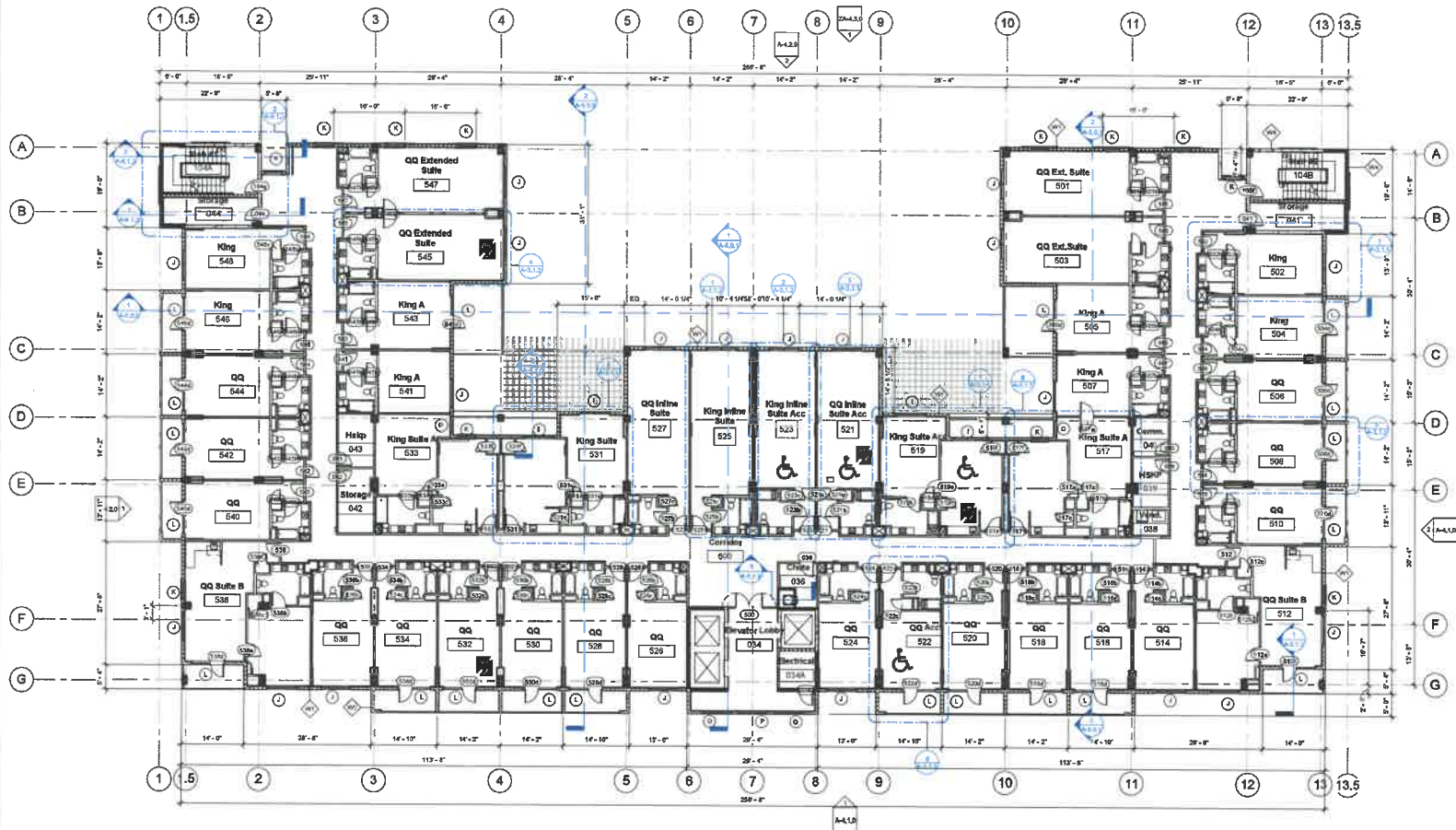
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DATE	7/20/2019 5:02:24 PM
ISSUE DATE	05/19/18
SCALE	3/32" = 1'-0"
20% PLUMBING	14-201

SHEET NAME	Level 4 Floor Plan
SHEET NUMBER	A-1.1.4

Level 4
 3/32" = 1'-0"



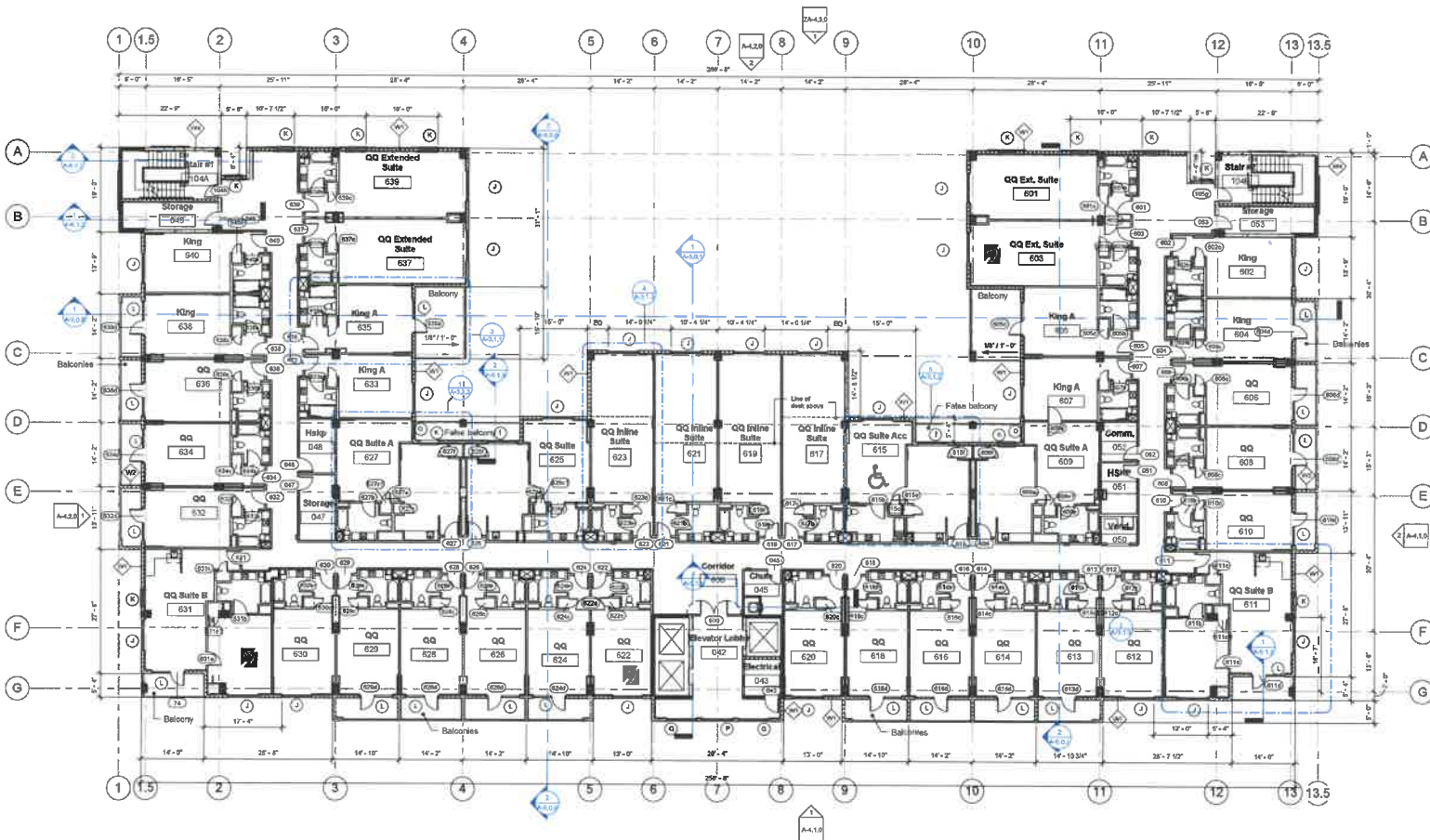
Level 5
3/32" = 1'-0"

FL CoA: AA20001254		
Revision Schedule		
No.	Description	Date
2	Marriott 0091	10-10-11 5
7	City Commission DO minor 1	10-14-11 7

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



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REVISED DATE	7/20/2011 5:25:51 PM
ISSUE DATE	09/19/11
SCALE	3/32" = 1'-0"
2011 NUMBER	11-201
SHEET NAME	Level 5 Floor Plan
SHEET NUMBER	A-1.1.5



Level 6
3/32" = 1'-0"

FL CNA A20001204	Revision Schedule
1	Description
2	Revised 06/11
3	City Comments
4	DO Alter 1
5	01-30-11
6	10-16-11
7	7

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



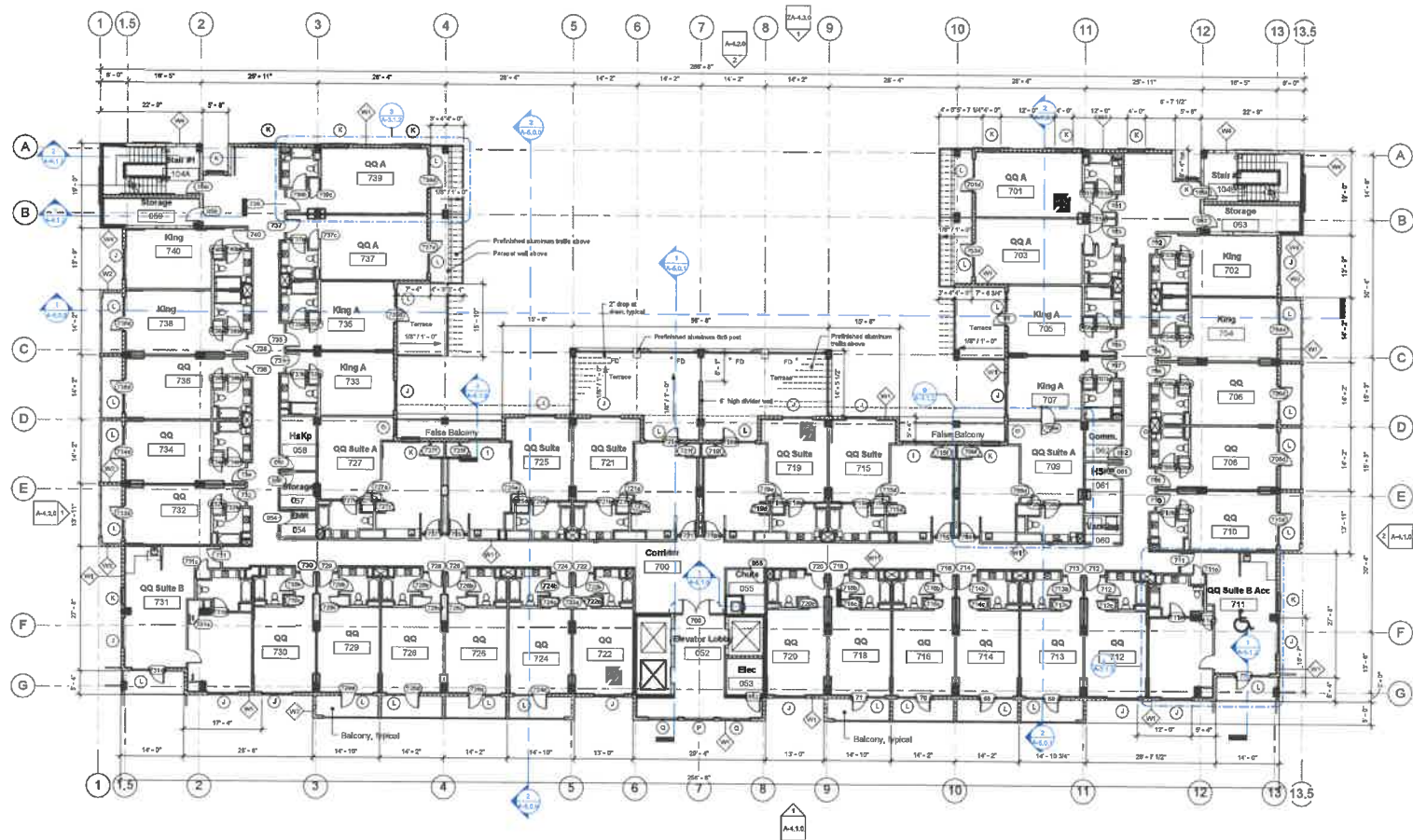
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ISSUE DATE	08/19/11
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SHEET NUMBER	14-201

SHEET NAME
Level 6 Floor Plan

SHEET NUMBER
A-1.1.6



FL Code AA200010104		
Revision Schedule		
Rev	Description	Date
1	Issued for 8/26/17	8/26/17
2	Revised 8/26/17	8/26/17
3	Revised 8/26/17	8/26/17

Courtyard by Marriott
443 East Shore Drive
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Louis Developments, LLC



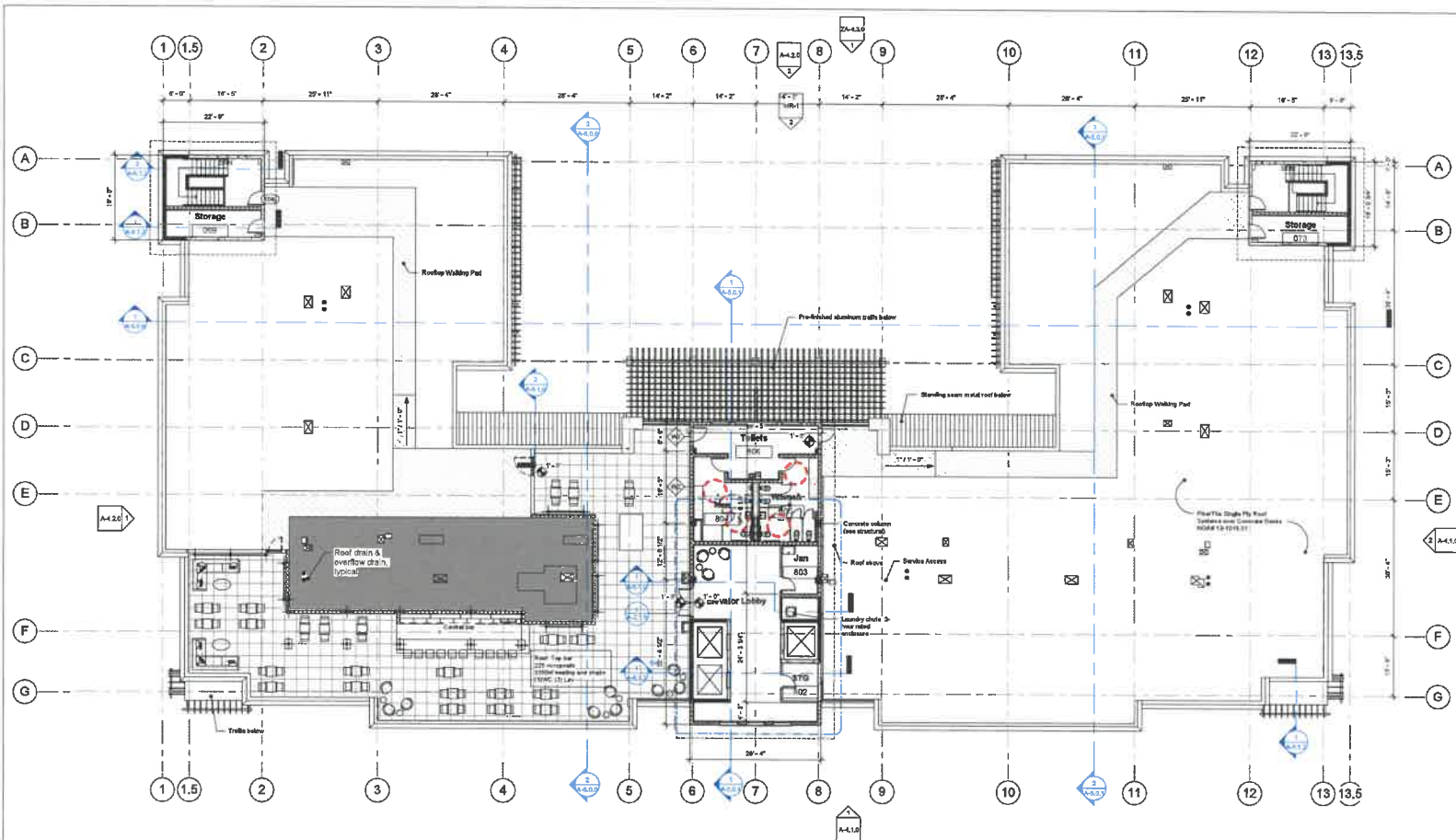
Copyright



DRAWN	QJ
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DESIGN	DATE
SCALE	3/8" = 1'-0"
JOB NUMBER	1000

SHEET NAME	Level 7 Floor Plan
SHEET NUMBER	A-1.1.7

1 Level 7
3/32" = 1'-0"



1 Penthouse Plan
3/32" = 1'-0"

FL C:\A\A33801054
Drawing Schedule
3
Checkered
Date

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC

COURTYARD
Marriott

Copyright

dllw
architects
15000 15th Avenue
P.O. Box 10000
Clearwater, FL 33767
www.dllw.com

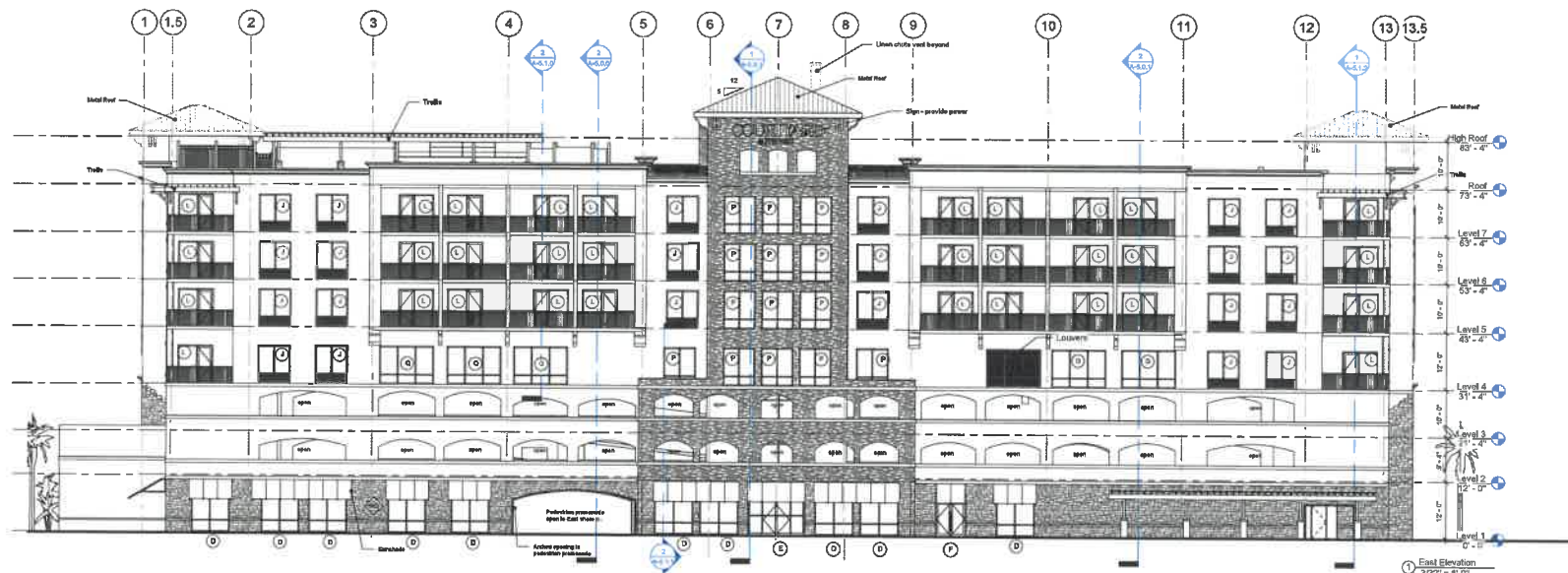
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09/15/15
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JOB NUMBER
14-201

SHEET NAME
Penthouse Level Plan

SHEET NUMBER
A-1.1.9



(2) North Elevation
3/32" = 1'-0"



(1) East Elevation
3/32" = 1'-0"

FL Civil AA200011554	
Revision Schedule	
1. Description	Date
1. Marriot 30%	12-10-1
2. Marriot 50%	12-10-1
3. Marriot 75%	12-10-1
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Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC

COURTYARD
by **Marriott**

Consultant:

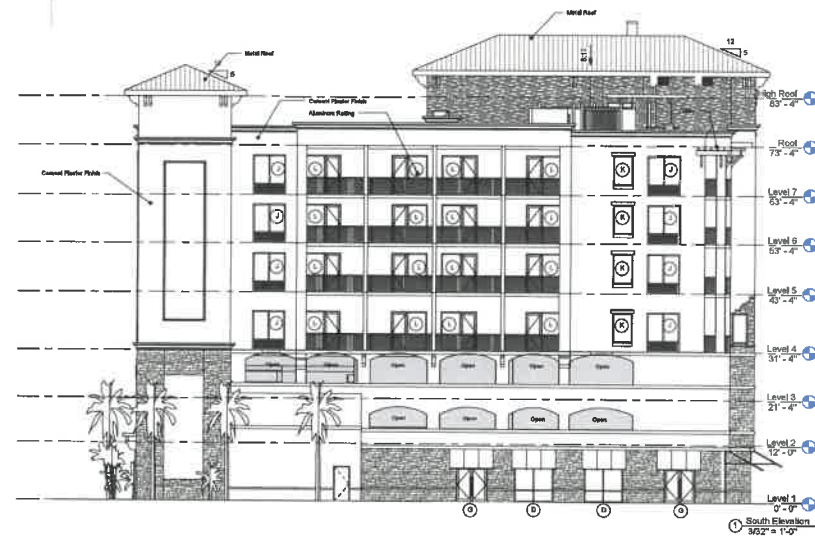
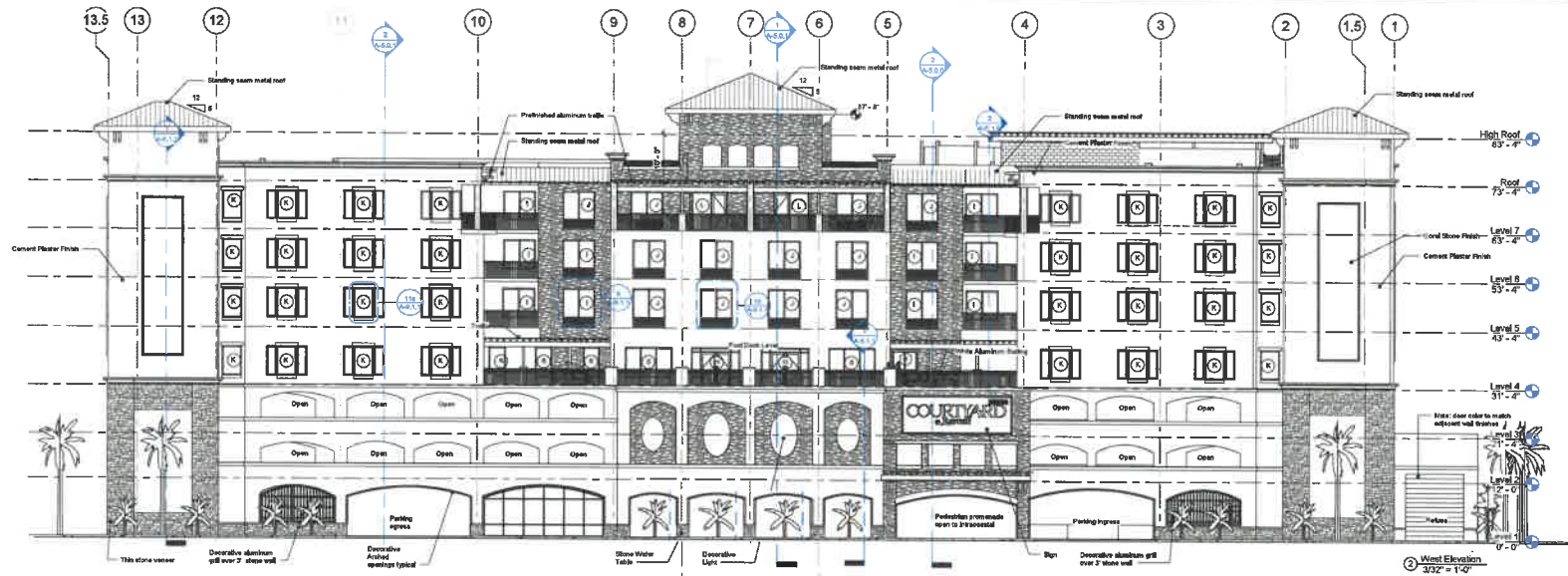
dhw
ARCHITECTS
10000 13th Avenue
P.O. Box 134000
Clearwater, FL 33713-4000
(813) 461-1111
www.dhwarchitects.com

DRAWN
6/1
EDIT DATE
12/20/2014 4:13:28 PM
ISSUE DATE
09/23/15
SCALE
3/32" = 1'-0"
JOB NUMBER
14-201

SHEET NAME
Elevation

SHEET NUMBER

A-4.1.0



Revision Schedule		
No.	Description	Date
1	Revised SRS	12-15-1
2	Revised 07% 1	01-05-1
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20	Revised 07% 1	01-05-1

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC

COURTYARD
by **Marriott**

Contract:

dlw
Dillon
443 East Shore Drive
Clearwater Beach, FL 33767
www.dillonarchitects.com
architects 1981

DRAWN
12
REVISION DATE
20060908 5:42:12 PM
ISSUE DATE
03/19/08
SCALE
3/32" = 1'-0"
A08 NUMBER
14001
SHEET NAME
Elevations
SHEET NUMBER
A-4.2.0



3 CDB - West Elevation Concept
3/22" = 1'-0"



1 West Elevation - East Shore Drive
3/22" = 1'-0"

FL CA# AA30001254
Revision Schedule
4
Description
Date

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC



Corr. 8/21



DRAWN
Author
DATE DATE
7/20/2016 5:15:30 PM
REVISE DATE
05/20/17
SCALE
5/2" = 1'-0"
JOB NUMBER
16-001

SHEET NAME
Presentation Elevations

SHEET NUMBER

MR-2



② ODB - East Elevation - Concept
3/2" = 1'-0"



① East Elevation - Intracoastal
3/2" = 1'-0"

FL CoA: AA26001254		
Revision Schedule		
Rev	Description	Date

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC

COURTYARD
Marriott

Consultant:

dlw
architects
441 Courtney Avenue
Clearwater, FL 33767
(727) 441-1111
www.dlwarchitects.com
ESTABLISHED 1981

DRAWN
Author
EDIT DATE
10/26/2014 6:15:23 PM
REVISED DATE
09/01/17
SCALE
3/2" = 1'-0"
JOB NUMBER
14-001

SHEET NAME
Presentation Elevations

SHEET NUMBER

MR-3



FL Gov: AA28091254
Revision Schedule

Rev	Description	Date
1	Initial	01/15/2016

Courtyard by Marriott
443 East Shore Drive
Clearwater Beach, FL 33767
Louis Developments, LLC

COURTYARD
by **MARRIOTT**

Contract:

dlw
D O C U M E N T S
443 East Shore Drive
Clearwater Beach, FL 33767
727.794.4000
www.dlwdocuments.com
enrich@dlw.com

DRAWN

Author

EDIT DATE

2/25/2016 5:15:24 PM

ISSUE DATE

07/08/16

SCALE

JOB NUMBER

14-01

SHEET NAME

Renderings

SHEET NUMBER

MR-4



FL Cak: AA2001004		
Revision Schedule		
N	Description	Date
Courtyard by Marriott 443 East Shore Drive Clearwater Beach, FL 33767 Louis Developments, LLC		
COURTYARD Marriott		
Consultant:		
dllw ARCHITECTS 443 East Shore Drive Clearwater Beach, FL 33767 www.dllwarchitects.com (813) 461-1111		
DRAWN		
Author		
DATE: 7/26/2018 8:15:24 PM		
SCALE: 1/8"=1'-0"		
JOB NUMBER: 18-001		
SHEET NAME: Renderings		
SHEET NUMBER: MR-5		

EXHIBIT 1
Development Agreement dated July 27, 2012

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("AGREEMENT") is dated the 27 day of July, 2012, and entered into between **Louis Developments LLC, a Florida limited liability company** ("Developer"), its successors and assigns, and the **CITY OF CLEARWATER, FLORIDA**, a municipality of the State of Florida acting through its City Council, the governing body thereof ("City").

RECITALS:

WHEREAS, one of the major elements of the City's revitalization effort is a preliminary plan for the revitalization of Clearwater Beach entitled *Beach by Design*; and

WHEREAS, Sections 163.3220 - 163.3243, Florida Statutes, which set forth the Florida Local Government Development Agreement Act ("Act"), authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property located within the corporate limits of the City; and

WHEREAS, under Section 163.3223 of the Act, the City has adopted Section 4-606 of the City of Clearwater Community Development Code ("Code"), establishing procedures and requirements to consider and enter into development agreements; and

WHEREAS, *Beach by Design* proposed additional hotel units to equalize development opportunities on the beach and ensure Clearwater Beach remains a quality, family resort community by further providing for a limited pool of additional hotel units ("Hotel Density Reserve") to be made available for such mid-sized hotel projects; and

WHEREAS, the Developer owns and controls approximately 1.26 acres of real property ("Property") in the corporate limits of the City, consisting of 1.26 acres of upland from the face of the seawall more particularly described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the Developer desires to develop the Property by demolishing three single story dated structures used for overnight accommodations in order to add additional overnight accommodation units, a restaurant not to exceed six thousand five hundred (6500) square feet, fifty (50) boat slips without fueling facilities, ground level pool, new lobby, a parking garage and additional remote ground level parking spaces, all of which will generally conform to the architectural elevation dimensions shown in composite Exhibit "B"; and

WHEREAS, upon completion the planned resort will contain 134 units, which includes Seventy-One (71) units from the available *Beach By Design* Hotel Density Reserve; and

WHEREAS, the City has conducted such hearings as are required by and in accordance with Chapter 163.3220 Fla. Stat. (2011) and any other applicable law; and

WHEREAS, the City has determined that, as of the Effective Date of this Agreement, the proposed project is consistent with the City's Comprehensive Plan and Land Development Regulations; and

WHEREAS, the City has conducted public hearings as required by §§ 4-206 and 4-606 of the Community Development Code; and

WHEREAS, at a duly called public meeting on July 19, 2012, the City Council approved this Agreement and authorized and directed its execution by the appropriate officials of the City; and

WHEREAS, the City has previously approved the construction of fifty (50) boat slips on the Property, as set forth in and limited by the City in Development Order FLD2009-02009-443-460-462-463 East Shore Drive (the "Boat Slip D.O."); and

WHEREAS, the Boat Slip D.O. was extended pursuant to S.B. 360 and subsequent legislative amendments as evidenced by letter of (date) and may be entitle to additional extensions; and

WHEREAS, the Community Development Board approved the design and site plan as a Flexible Development on June 19, 2012, conditioned upon the approval and execution of this Agreement; and

WHEREAS, approval of this Agreement is in the interests of the City in furtherance of the City's goals of enhancing the viability of the resort community and in furtherance of the objectives of *Beach by Design*; and

WHEREAS, Developer has approved this Agreement and has duly authorized certain individuals to execute this Agreement on Developer's behalf.

STATEMENT OF AGREEMENT

In consideration of and in reliance upon the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound and in accordance with the Act, agree as follows:

SECTION 1. Recitals. The above recitals are true and correct and are a part of this Agreement.

SECTION 2. Incorporation of the Act. This Agreement is entered into in compliance with and under the authority of the Code and the Act, the terms of which as of the date of this Agreement are incorporated herein by this reference and made a part of this Agreement. Words used in this Agreement without definition that are defined in the Act shall have the same meaning in this Agreement as in the Act.

SECTION 3. Property Subject to this Agreement. The Property described in Exhibit "A" is subject to this Agreement ("Property").

3.1 The Property currently has a land use designation of Resort Facilities High (RFH) and is zoned Tourist (T).

3.2. The Property is owned in fee simple by the Developer.

3.3 The Property is generally located at North East corner of Papaya Street and East Shore Drive, Clearwater, FL 33767, but includes a parcel on the West side of East Shore Drive having an address of 460 and 462 East Shore Drive. The Property is an assemblage of five parcels of land as more fully described in Exhibit "A" attached hereto.

SECTION 4. Scope of Project.

4.1 The Project ("Project") shall consist of no more than 134 overnight accommodation units, to be traditional overnight accommodation units. The proposed density is 106.26 units per acre, which is well below the allowed 150 units.

4.2 The Project shall include 201 parking spaces, as defined in the Community Development Code, of which 177 will be provided by a parking garage having 9 spaces on the ground level, and 84 spaces on each the second and the third level, with 24 additional spaces being provided in a remote, ground level parking lot.

4.3 The proposed height of the building is 73.75 feet to the roof deck midpoint of the pitched roof, less than the 80 feet allowed. The elevator tower height of 85.5 feet is allowed pursuant to the height definition in the Code.

4.4 The design of the Project, as represented in Exhibit "B", is consistent with *Beach by Design*.

4.5 The Project shall include a fifty (50) slip boat dock, without fueling facilities, located on the eastern boundary of the Project ("Docks"). The Docks have been approved by the City under the Boat Slip D.O. The Finding of Fact and Conditions of Approval in the Boat Slip D.O. as extended are incorporated into this Agreement. A copy of the Boat Slip D.O. as extended is attached hereto as Exhibit "E".

4.6 The project shall comply with the Metropolitan Planning Organization (MPO) countywide approach to the application of concurrency management for transportation facilities.

SECTION 5. Effective Date/Duration of this Agreement.

5.1 This Agreement shall not be effective until this Agreement is properly recorded in the public records of Pinellas County, Florida, and thirty (30) days have elapsed after having been received by the Department of Economic Opportunity pursuant

to Florida Statutes Section 163.3239 and Clearwater Community Development Code Section 4-606.G. 2 (the "Effective Date").

5.2 Within fourteen (14) days after the City approves the execution of this Agreement, the City shall record the Agreement with the Clerk of the Circuit Court for Pinellas County. The Developer shall pay the cost of such recording. The City shall submit to the Department of Economic Opportunity a copy of the recorded Agreement within fourteen (14) days after the Agreement is recorded.

5.3 This Agreement shall continue in effect until terminated, as defined herein, but for a period not to exceed ten (10) years.

SECTION 6. Obligations under this Agreement.

6.1 Obligations of the Developer:

6.1.1 The obligations under this Agreement shall be binding upon and the benefits of this Agreement shall inure to the Developer, its successors in interests or assigns.

6.1.2 At the time of development of the Property, the Developer will submit such applications and documentation as are required by law and shall comply with the City's Code applicable at the time of building permit review.

6.1.3 The following restrictions shall apply to development of the Property:

6.1.3.1 The Property and improvements located thereon shall be developed in substantial conformance with the Site and Building Plans attached as Exhibit "B" and approved by the Community Development Board ("CDB") as case number FLD2012-03008 and the Boat Slip D.O. as extended. Any minor revisions or changes to the Site Plan shall be consistent with the approved Site Plan and shall be approved by the Planning Director as a minor modification, pursuant to the Code. Any modifications determined by the Planning Director as either inconsistent with the approved Site Plan or constituting a substantial deviation from the approved Site Plan and thus requiring further approval by the CDB shall require an amendment to this Agreement in accordance with the procedures of the Act and the Code, as necessary and applicable. Any and all such approved and adopted amendments shall be recorded in the public records of Pinellas County, Florida.

6.1.3.2 The Developer shall obtain building permits within one (1) year of the date of this Agreement (the "Initial Term"), and shall thereafter timely obtain required certificates of occupancy, in accordance with Code Section 4-407. Nothing herein shall restrict Developer from seeking an extension of these time frames pursuant to applicable provisions of the

Code and of the Florida Building Code or from seeking an amendment to this Agreement.

6.1.3.3 The Developer shall execute, prior to commencement, a mandatory evacuation/closure covenant, substantially in the form of Exhibit "C" that the accommodation use will closed as soon as practicable after a hurricane watch that includes Clearwater Beach is posted by the National Hurricane Center.

6.1.4 Covenant of Unified Use. Prior to the issuance of the first building permit for the Project, the Developer hereby agrees to execute and record in the Public Records of Pinellas County, Florida the covenant of unified use and development for the Project Site providing that the Project Site shall be developed and used as a single project, the form of which covenant is attached as Exhibit "D"; provided however, that nothing shall preclude the Developer from selling all or a portion of the Developer's Property in the event that Developer determines not to construct the Project. Additionally, prior to the issuance of the first building permit for the Project, the Developer hereby agrees to execute a Declaration of Unity of Title for the Project Site providing that the Project Site shall be developed and used as a single project, the form of which Declaration of Unity of Title is available from the City Planning Department. It is understood and agreed that, in the event that the Developer enters into the anticipated covenant of unified use and development, and the Developer elects not to construct the Project and notifies the City of its election in writing, and, alternatively, as of the date of expiration, termination or revocation any rights of Developer to incorporate the Hotel Density Reserve Units into the Project, the City shall execute and deliver to the Developer a termination of such covenant of unified use and development suitable for recording in the Public Records of Pinellas County, Florida. Additionally, the City shall execute and deliver to the Developer a Release of Unity of Title suitable for recording in the Public Records of Pinellas County, Florida.

6.1.5 Allocation of Units from Hotel Density Reserve; Return of Units to the Reserve Pool. Covenant Regarding Use of Hotel Density Reserve Units. Subject to the terms and conditions of this Agreement, the City hereby allocates and grants to the Developer from the Hotel Density Reserve an additional 71 hotel units to the Project Site in accordance with applicable law. In the event this Agreement is terminated pursuant to Section 10 of this Agreement, or if any of the units granted to the Developer from the Hotel Density Reserve are not constructed in conjunction with the Project approved by City and in accordance with Paragraph 6.1.3.2, or if any units or the Project fail to meet and maintain the criteria for Hotel Density Reserve Units contained in the City of Clearwater Ordinance No. 7925-08, as amended, said units shall be returned to the Hotel Density Reserve and be unavailable to the Developer for use on the Project, pursuant to *Beach by Design*. Prior to the issuance of the Certificate of Occupancy for the Project, the Developer agrees to execute and record a Covenant in the Public Records of Pinellas County, Florida restricting the Hotel Density Reserve Units in perpetuity to the use approved by City and by this Agreement.

6.1.6 Transient Use. Occupancy in the overnight accommodation units from the Hotel Density Reserve is limited to a term of one (1) month or thirty-one (31) consecutive days, whichever is less. Nothing herein shall prevent a purchaser of a fractional share unit from owning a period of time greater than thirty-one (31) days, provided every occupancy is limited to a term of one (1) month or thirty-one (31) consecutive days, whichever is less.

6.1.7 Docks. The fifty (50) Boat Slips to be constructed on the Property shall be constructed in compliance with the findings and conditions set forth in the Boat Slip D.O.

6.2 Obligations of the City.

6.2.1 The City shall promptly process site and construction plan applications for the Property that are consistent with the Comprehensive Plan and the Concept Plan and that meet the requirements of the Code.

6.2.2 Upon adoption of this Agreement, the Project shall receive 71 units from the Hotel Density Reserve as defined in Beach by Design.

6.2.3 It is anticipated that as a condition to the approval of the Project by the City, Developer will be required to construct and maintain a boardwalk along the seawall on the Property (the "Boardwalk"), and to permit the general public to enter upon and traverse the Boardwalk at all times, and to exit the Boardwalk via an easement over the Property in favor of the City (or for the benefit of the public at large) to be located at the north end of the Boardwalk, connecting the Boardwalk to East Shore Drive. Said easement shall include terms and conditions acceptable to the City, and which are typical of such other easements for similar access that are currently in effect between the City (or for the benefit of the public at large) and private land owners. Upon the adoption of this Agreement, City shall enter, in favor of Developer and its successors and assigns, a general indemnification and hold harmless agreement, to be effective upon the issuance of a C.O. for the Project, pursuant to which the City shall indemnify and hold harmless Developer, to the extent allowed by law, from and against any and all claims for injury, death, and damage brought in connection with the use of the Boardwalk by the general public at large; provided, however, that such indemnification and hold harmless agreement shall not relieve Developer of any liability for its negligence in maintaining the Boardwalk, or any willful or wanton acts by Developer or those under the authority or control of Developer.

SECTION 7. Public Facilities to Service Development. The following public facilities are presently available to the Property from the sources indicated below. Development of the Property will be governed by the concurrency ordinance provisions

applicable at the time of development approval unless otherwise provided by law. With respect to transportation and other public infrastructure and services subject to concurrency requirements, the City of Clearwater finds that all applicable concurrency provisions for the proposed development have been met.

7.1 Potable water is available from the City. The Developer shall be responsible for all necessary main extensions and applicable connection fees.

7.2 Sewer service is currently provided by the City. The Developer shall be responsible for all necessary main extensions and applicable connection fees.

7.3 Fire protection from the City.

7.4 Drainage facilities for the Property will be provided by the Developer at the Developer's sole expense.

7.5 Transportation concurrency requirements have been met.

7.6 All improvements associated with the public facilities identified in Subsections 7.1 through 7.4 shall be completed prior to the issuance of any certificate of Occupancy.

7.7 The Developer is responsible for the payment of any required impact fees.

SECTION 8. Required Local Government Permits. The required local government development permits for development of the Property include, without limitation, the following:

8.1 Site plan approval(s) and associated utility licenses, access, and right-of-way utilization permits;

8.2 Construction plan approval(s);

8.3 Building permit(s); and

8.4 Certificate(s) of occupancy.

SECTION 9. Consistency. The City finds that development of the Property is consistent with the terms of this Agreement and is consistent with the City Comprehensive Plan and the Code.

SECTION 10. Termination. If the Developer's obligations set forth in this Agreement are not followed in a timely manner, as reasonably determined by the City Manager, after notice to the Developer and an opportunity to be heard, existing permits shall be administratively suspended and issuance of new permits suspended until the Developer has fulfilled its obligations. Failure to timely fulfill its obligations may serve as

a basis for termination of this Agreement by the City, at the discretion of the City and after notice to the Developer and an opportunity for the Developer to be heard.

SECTION 11. Other Terms and Conditions.

11.1 Except in the case of termination, until ten (10) years after the date of this Agreement, the Property shall not be subject to down-zoning, unit density reduction, or intensity reduction, unless the City has held a public hearing and determined:

11.1.1 That substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or

11.1.2 This Agreement is based on substantially inaccurate information provided by the Developer; or

11.1.3 That the change is essential to the public health, safety, or welfare.

SECTION 12. Compliance with Law. The failure of this Agreement to address any particular permit, condition, term or restriction shall not relieve the Developer from the necessity of complying with the law governing such permitting requirements, conditions, terms or restrictions.

SECTION 13. Notices. Notices and communications required or desired to be given under this Agreement shall be given to the parties by hand delivery, by nationally recognized overnight courier service such as Federal Express, or by certified mail, return receipt requested, addressed as follows (copies as provided below shall be required for proper notice to be given):

If to the Developer: Louis Development LLC
630 South Gulfview Blvd.
Clearwater, FL 33767-2642

With Copy to: Northside Engineering Services, Inc.
300 South Belcher
Clearwater, FL 33765

If to City: City of Clearwater, City Attorney
ATTN: Pamela Akin, Esq.
112 South Osceola Avenue
Clearwater, FL 33756

Properly addressed, postage prepaid, notices or communications shall be deemed delivered and received on the day of hand delivery, the next business day after deposit with an overnight courier service for next day delivery, or on the 3rd day following deposit in the United States mail, certified mail, return receipt requested. The parties may change the addresses set forth above (including the addition of a mortgagee to receive copies of all notices), by notice in accordance with this Section.

SECTION 14. Assignments.**14.1 By the Developer:**

14.1.1 Prior to the Commencement Date, the Developer may sell, convey, assign or otherwise dispose of any or all of its right, title, interest and obligations in and to the Project, or any part thereof, only with the prior written notice to the City, provided that such party (hereinafter referred to as the "assignee"), to the extent of the sale, conveyance, assignment or other disposition by the Developer to the assignee, shall be bound by the terms of this Agreement the same as the Developer for such part of the Project as is subject to such sale, conveyance, assignment or other disposition.

14.1.2 If the assignee of the Developer's right, title, interest and obligations in and to the Project, or any part thereof assumes all of the Developer's obligations hereunder for the Project, or that part subject to such sale, conveyance, assignment or other disposition, then the Developer shall be released from all such obligations hereunder which have been so assumed by the assignee, and the City agrees to execute an instrument evidencing such release, which shall be in recordable form.

14.1.3 An assignment of the Project, or any part thereof, by the Developer to any corporation, limited partnership, limited liability company, general partnership, or joint venture, in which the Developer (or an entity under common control with Developer) has either the controlling interest or through a joint venture or other arrangement shares equal management rights and maintains such controlling interest or equal management rights shall not be deemed an assignment or transfer subject to any restriction on or approvals of assignments or transfers imposed by this Agreement, provided, however, that notice of such assignment shall be given by the Developer to the City not less than thirty (30) days prior to such assignment being effective and the assignee shall be bound by the terms of this Agreement to the same extent as would the Developer in the absence of such assignment.

14.1.4 No assignee, purchaser, sublessee or acquirer of all or any part of the Developer's rights and obligations with respect to any one Parcel shall in any way be obligated or responsible for any of the Developer's obligations with respect to any other Parcel by virtue of this Agreement unless and until such assignee, purchaser, sublessee or acquire has expressly assumed the Developer's such other obligations.

14.1.5 Notwithstanding any other provision of this paragraph, the sale of individual Interval Ownership Units in the ordinary course of business shall not be subject to the requirements of this paragraph.

14.2 Successors and Assigns. The terms herein contained shall bind and inure to the benefit of the City, and its successors and assigns, and the Developer and, as applicable to the parties comprising Developer, their personal representatives, trustees, heirs, successors and assigns, except as may otherwise be specifically provided herein.

SECTION 15. Minor Non-Compliance. The Developer will not be deemed to have failed to comply with the terms of this Agreement in the event such noncompliance, in the judgment of the City Manager, reasonably exercised, is of a minor or inconsequential nature.

SECTION 16. Covenant of Cooperation. The parties shall cooperate with and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement and in achieving the completion of development of the Property.

SECTION 17. Approvals. Whenever an approval or consent is required under or contemplated by this Agreement such approval or consent shall not be unreasonably withheld, delayed or conditioned. All such approvals and consents shall be requested and granted in writing.

SECTION 18. Completion of Agreement. Upon the completion of performance of this Agreement or its revocation or termination, a statement evidencing such completion, revocation or termination shall be signed by the parties hereto and recorded in the official records of the City.

SECTION 19. Entire Agreement. This Agreement (including any and all Exhibits attached hereto all of which are a part of this Agreement to the same extent as if such Exhibits were set forth in full in the body of this Agreement), constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof.

SECTION 20. Construction. The titles, captions and section numbers in this Agreement are inserted for convenient reference only and do not define or limit the scope or intent and should not be used in the interpretation of any section, subsection or provision of this Agreement. Whenever the context requires or permits, the singular shall include the plural, and plural shall include the singular and any reference in this Agreement to the Developer includes the Developer's successors or assigns. This Agreement was the production of negotiations between representatives for the City and the Developer and the language of the Agreement should be given its plain and ordinary meaning and should not be strictly construed against any party hereto based upon draftsmanship. If any term or provision of this Agreement is susceptible to more than one interpretation, one or more of which render it valid and enforceable, and one or more of which would render it invalid or unenforceable, such term or provision shall be construed in a manner that would render it valid and enforceable.

SECTION 21. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance is declared invalid or unenforceable, the remainder of this Agreement, including any valid portion of the invalid term or

provision and the application of such invalid term or provision to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall with the remainder of this Agreement continue unmodified and in full force and effect. Notwithstanding the foregoing, if such responsibilities of any party hereto are thereby limited, to the extent that the purpose of this Agreement or the benefits sought to be received hereunder are frustrated, such party shall have the right to terminate this Agreement upon fifteen (15) days written notice to the other parties.

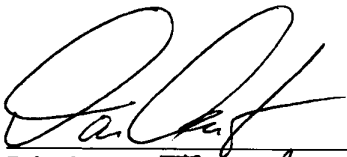
SECTION 22. Code Amendments. Subsequently adopted ordinances and codes of the City which is of general application not governing the development of land shall be applicable to the Property, and such modifications are specifically anticipated in this Agreement.

SECTION 23. Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Florida without regard to the conflict of laws principles of such state.

SECTION 24. Counterparts. This Agreement may be executed in counterparts, all of which together shall continue one and the same instrument.

SECTION 25. Amendment. This Agreement may be amended by mutual written consent of the City, the Developer, and the Association so long as the amendment meets the requirements of the Act, applicable City ordinances, and Florida law.

[remainder of this page is blank – signature page follows]



Print Name: Elias Anastasopoulos

LOUIS DEVELOPMENTS, LLC

By: Elias Anastasopoulos
Elias Anastasopoulos as its Manager/Member



Print Name: Roland Rogers
As to "Developer"

CITY OF CLEARWATER, FLORIDA

By: William B. Horne II
William B. Horne II,
City Manager

Print Name: _____

Print Name: _____
As to "City"

Attest:

Rosemarie Call
Rosemarie Call, City Clerk



Countersigned:

- George N. Cretekos
George N. Cretekos Mayor

Approved as to Form:

Leslie K. Dougall-Sides
Leslie K. Dougall-Sides
Assistant City Attorney

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by
_____ He is [] personally known to me or has [] produced
_____ as identification.

Notary Public
Print Name: _____
My Commission Expires: _____

EXHIBIT "A"

Legal Description of Project Site

UNOFFICIAL COPY

EXHIBIT "A"

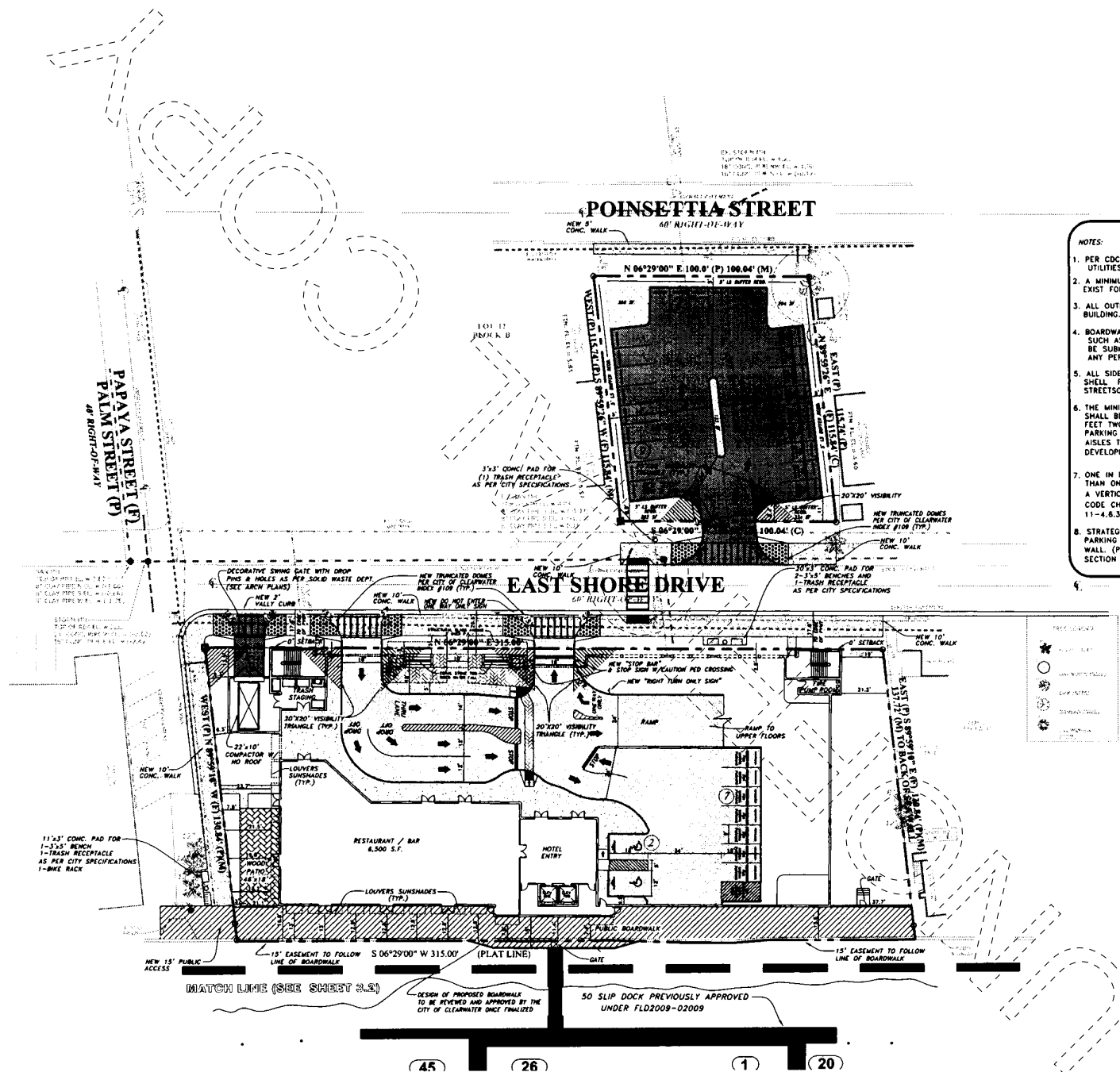
Legal Description for Properties located generally at 443 East Shore Drive

Parcel I.D. No. 08/29/15/16434/003/0100

LOTS 8 – 12, BLOCK C WITH RIPARIAN RIGHTS, TOGETHER WITH LOTS 10 & 11, BLOCK B, A RE-PLAT OF
BLOCK "A" AND LOTS 1 TO 15 INCL. BLOCK B OF CLEARWATER BEACH PARK FIRST ADDITION, AS
RECORDED IN PLAT BOOK 21, PAGE(S) 21, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA

EXHIBIT "B"
Site and Building Plans

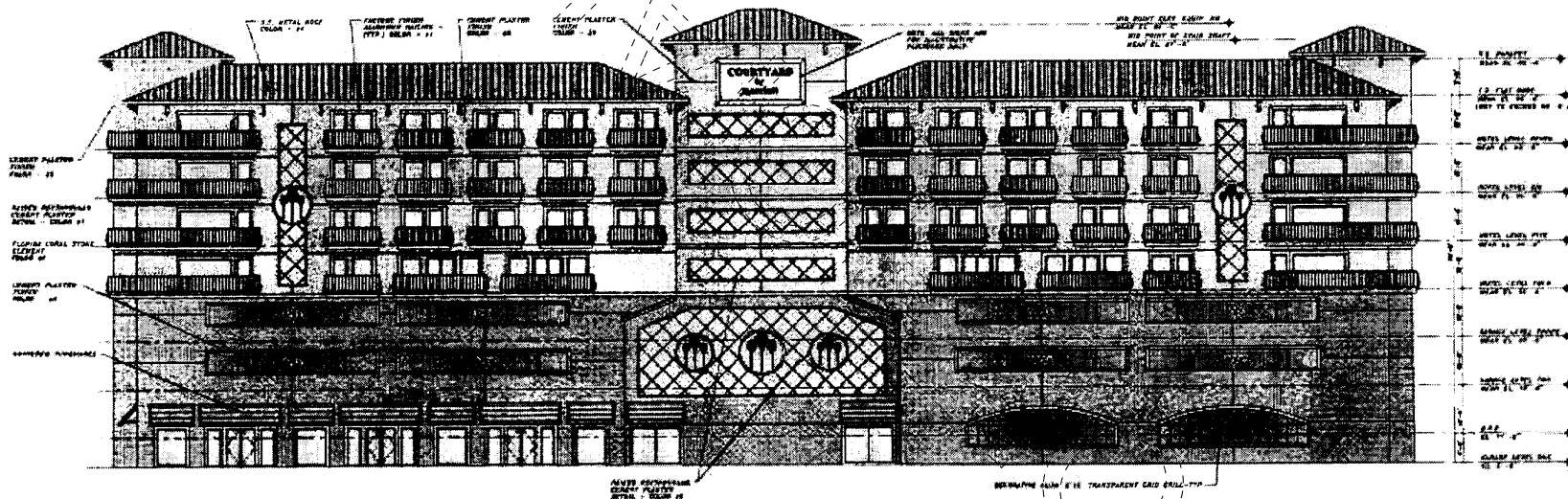
UNOFFICIAL COPY



COURTYARD by MARRIOTT

443 EAST SHORE DRIVE

CLEARWATER BEACH, FLORIDA 33767



PAINT & COLOR SCHEDULE	
1. EXTERIOR WALLS	TRAC 900
2. EXTERIOR WALLS	TRAC 900
3. EXTERIOR WALLS	TRAC 900
4. EXTERIOR WALLS	TRAC 900
5. EXTERIOR WALLS	TRAC 900

EAST ELEVATION CONCEPT

SCALE - 3/8" = 1'-0"

EXTENDED FINISHES AND SUPPLIES PERCENTAGE STUDY			
ITEM	FINISH	ITEM	FINISH
1. EXTERIOR WALLS	TRAC 900	2. EXTERIOR WALLS	TRAC 900
3. EXTERIOR WALLS	TRAC 900	4. EXTERIOR WALLS	TRAC 900
5. EXTERIOR WALLS	TRAC 900	6. EXTERIOR WALLS	TRAC 900
7. EXTERIOR WALLS	TRAC 900	8. EXTERIOR WALLS	TRAC 900
9. EXTERIOR WALLS	TRAC 900	10. EXTERIOR WALLS	TRAC 900

Revision	By	Date

Sponcor and Associates Architecture, Inc.
 Architecture
 Planning
 P.O. Box 200
 Indian Rocks Beach, Florida 33756
 727/945-4300
 727/945-7500
 www.sponcorand.com

COURTYARD by MARRIOTT
 443 EAST SHORE DRIVE
 CLEARWATER BEACH, FLORIDA 33767

EAST ELEVATION RENDERING

Drawn	S.P.
Checked	S.P.
Date	4-13-11
Scale	3/8" = 1'-0"
Job No.	00000000

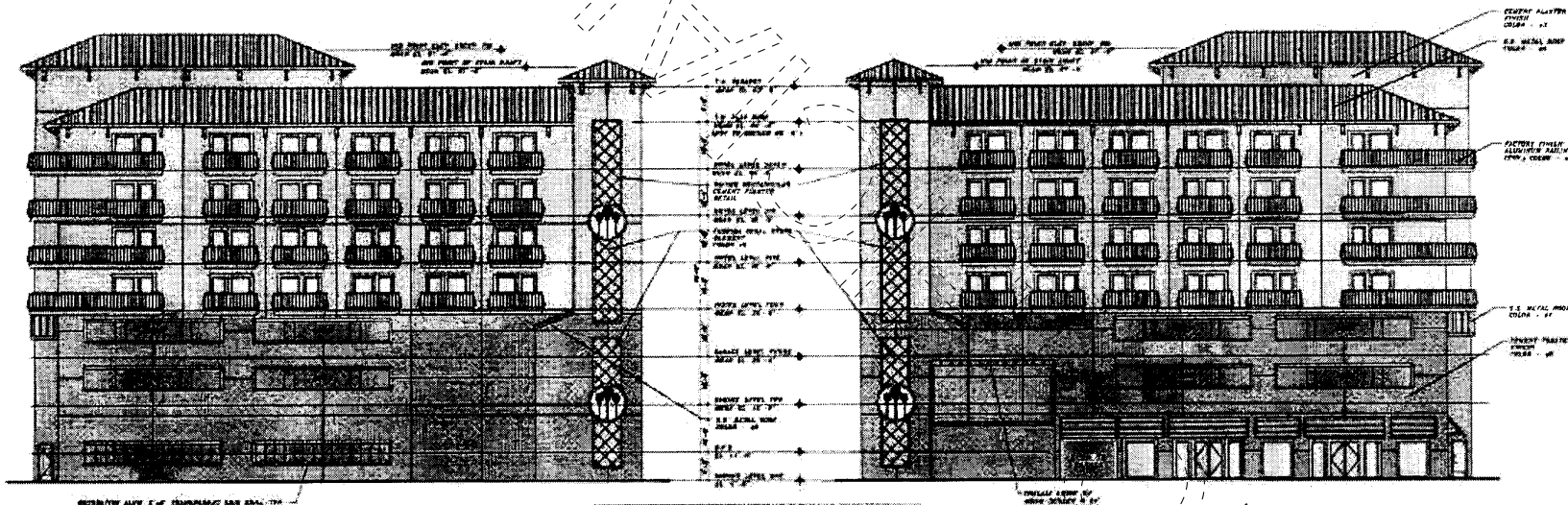
B

EXHIBIT "B"

COURTYARD by MARRIOTT

443 EAST SHORE DRIVE

CLEARWATER BEACH, FLORIDA 33767



NORTH ELEVATION CONCEPT

SCALE = 3/32" = 1'-0"

SOUTH ELEVATION CONCEPT

SCALE = 3/32" = 1'-0"

STANDARD FINISHES AND MATERIALS (EXCEPT WHERE NOTED)			
ITEM	DESCRIPTION	FINISH	REMARKS
1	WALLS	PLASTER	INTERIOR
2	CEILING	PLASTER	INTERIOR
3	FLOOR	CONCRETE	INTERIOR
4	ROOF	FLAT	INTERIOR

PAINT & COLOR SCHEDULE	
1	EXTERIOR
2	INTERIOR
3	PAINT
4	PAINT
5	PAINT
6	PAINT

Revisions	Date	By

Spencer and Associates Architecture, Inc.
 Architects
 401 S. 2nd St.
 Indian Rocks Beach, Florida 33785
 727-464-4444
 www.spencerarch.com

COURTYARD by MARRIOTT
 443 EAST SHORE DRIVE
 CLEARWATER BEACH, FLORIDA 33767

NORTH & SOUTH ELEVATION RENDERING

Date	08/15/05
Drawn	SJA
Date	08/15/05
Scale	3/32" = 1'-0"
Job No.	08151-05

C

EXHIBIT "C"**COVENANT REGARDING HURRICANE EVACUATION
And DEVELOPMENT, USE AND OPERATION
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made as of the _____ day of _____, 2012, by **Louis Developments, LLC** ("Developer").

Developer is the owner of fee simple title to the real property described in Schedule 1 attached hereto and made a part hereof (hereinafter, the ("Real Property")). The City of Clearwater, Florida (the "City"), has amended its Comprehensive Plan to designate Clearwater Beach as a Community Redevelopment District pursuant to the Pinellas County Planning Council Rules in order to implement the provisions of "Beach by Design," a plan for the revitalization of Clearwater Beach.

The designation of Clearwater Beach as a Community Redevelopment District (the "Designation") provides for the allocation of Hotel Density Reserve Units as an incentive for the development of mid-sized quality hotels. Pursuant to the Designation, the allocation of Hotel Density Reserve Units is subject to compliance with a series of performance standards, including a requirement that resorts containing a hotel developed with Hotel Density Reserve Units shall be closed and all Guests evacuated from such resorts as soon as practicable after the National Hurricane Center posts a hurricane watch that includes Clearwater Beach. The purpose of such evacuation is to ensure that such a Resort Hotel is evacuated in advance of the period of time when a hurricane evacuation would be expected in advance of the approach of hurricane force winds.

The City has granted, by City Council Resolution 12-07, passed and approved on July 19, 2012, Developer's application for Hotel Density Reserve Units pursuant to the Designation, subject to Developer's compliance with the requirements of the Designation. Developer desires for itself, and its successors and assigns, as owner, to establish certain rights, duties, obligations and responsibilities with respect to the use and operation of the Real Property in accordance with the terms and conditions of the allocation of the Hotel Density Reserve Units to the City and the Designation, which rights, duties, obligations and responsibilities shall be binding on any and all successors and assigns and will run with the title to the Real Property.

THEREFORE, in consideration of the covenants and restrictions herein set forth and to be observed and performed, and in further consideration of the allocation of Hotel Density Reserve Units to Developer, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Developer hereby declares, covenants and agrees as follows:

1. Benefit and Enforcement. These covenants and restrictions are made for the benefit of Developer and its successors and assigns and shall be enforceable by them and also for the benefit of the residents of the City and shall be enforceable on behalf of said residents by the City Council of the City.

2. Covenant of Development, Use and Operation. Developer hereby covenants and agrees to the development, use and operation of the Real Property in accordance with the provisions of this Declaration.

2.1 Use. The use of the resort on the Real Property is restricted as follows:

2.1.1 A maximum of Seventy-One units, which is the number of hotel units allocated to Developer, shall be used solely for transient occupancy of one month or thirty (30) consecutive days or less, must be licensed as a public lodging establishment and classified as a hotel, and

must be operated by a single licensed operator of the hotel. No such hotel unit shall be used as a primary or permanent residence.

2.1.2 All other 63 units shall be licensed as a public lodging establishment. No unit shall be used as a primary or permanent residence.

2.1.3 As used herein, the terms "transient occupancy," "public lodging establishment," "hotel," "time share," and "operator" shall have the meaning given to such terms in Chapter 509, Part I, Florida Statutes (2004).

2.2 Closure of Improvements and Evacuation. The Hotel developed on the Real Property shall be closed as soon as practicable upon the issuance of a hurricane watch by the National Hurricane Center, which hurricane watch includes Clearwater Beach, and all Hotel guests, visitors and employees other than emergency and security personnel required to protect the resort, shall be evacuated from the Hotel as soon as practicable following the issuance of said hurricane watch. In the event that the National Hurricane Center shall modify the terminology employed to warn of the approach of hurricane force winds, the closure and evacuation provisions of this Declaration shall be governed by the level of warning employed by the National Hurricane Center which precedes the issuance of a forecast of probable landfall in order to ensure that the guests, visitors and employees will be evacuated in advance of the issuance of a forecast of probable landfall.

3 Effective Date. This Declaration shall become effective upon issuance of all building permits required to build the project ("Project") and Developer's commencement of construction of the Project, as evidenced by a Notice of Commencement for the Project. This Declaration shall expire and terminate automatically if and when the allocation of Reserve Units to the Developer expires or is terminated.

4 Governing Law. This Declaration shall be construed in accordance with and governed by the laws of the State of Florida.

5 Recording. This Declaration shall be recorded in the chain of title of the Real Property with the Clerk of the Courts of Pinellas County, Florida.

6 Attorneys' Fees. Developer shall reimburse the City for any expenses, including reasonable attorneys' fees, which are incurred by the City in the event that the City determines that it is necessary and appropriate to seek judicial enforcement of this Declaration and the City obtains relief, whether by agreement of the parties or through order of a court of competent jurisdiction.

7 Severability. If any provision, or part thereof, of this Declaration or the application of this Declaration to any person or circumstance will be or is declared to any extent to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision or portion thereof to any person or circumstance, shall not be affected thereby, and each and every other provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

[remainder of this page is blank – signature page follows]

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed this _____ day of _____, 2012.

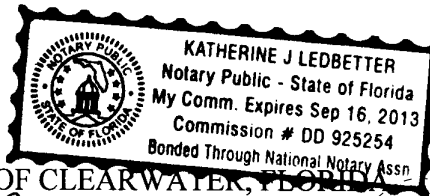
In the Presence of:

LOUIS DEVELOPMENTS, LLC

Kathie Ledbetter
Print Name: Kathie Ledbetter

Taso Anastasopoulos
Print Name Taso Anastasopoulos
As to "Developer"

By: Eilas Anastasopoulos
Eilas Anastasopoulos, as Manager/Member



CITY OF CLEARWATER, FLORIDA

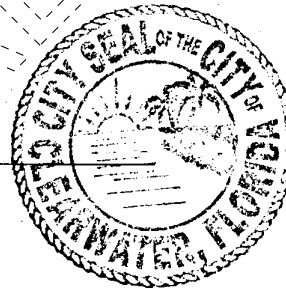
By: William B. Horne II
William B. Horne II,
City Manager

Print Name: _____

Print Name _____
As to "City"

Attest:

Rosemarie Call
Rosemarie Call, City Clerk



Countersigned:

George N. Cretekos
George N. Cretekos, Mayor

Approved as to Form:

Leslie K. Dougall-Sides
Leslie K. Dougall-Sides
Assistant City Attorney

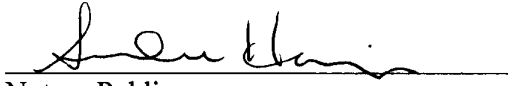
STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____ He is [] personally known to me or has [] produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 27th day of July, 2012, by WILLIAM B. HORNE, II, as City Manager of the City of Clearwater, Florida, who is [☒] personally known to me or who has [☐] produced _____ as identification.



Notary Public

Print Name: Sandra Harriger

My Commission Expires:



SANDRA HARRIGER
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE142238
Expires 1/4/2016

EXHIBIT "D"**COVENANT OF UNIFIED USE**

PLEASE RETURN RECORDED DOCUMENT TO:

Kent Runnells, P.A.
101 Main Street, Suite A
Safety Harbor, FL 34695

COVENANT OF UNIFIED USE

THIS COVENANT OF UNIFIED USE (the "Agreement") is executed this ____ day of _____, 2012, by Louis Developments, LLC ("Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the real property legally described on Schedule "A" attached hereto and incorporated herein by reference (the "Real Property"); and

WHEREAS, Developer and the City of Clearwater, Florida (the "City") are parties to that certain Development Agreement dated _____, 2012 (the "Development Agreement"), pursuant to which the City has agreed that Developer may develop and construct upon the Real Property a hotel project as described in the Development Agreement (the "Project"); and

WHEREAS, Developer intends to develop and operate the Real Property for a unified use, as more particularly described in this Agreement.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer does hereby agree that, effective as of the date on which Developer receives all permits required to construct the Project and Developer commences construction thereof, as evidenced by a Notice of Commencement for the Project, the Real Property shall be developed and operated as a hotel and fractional share/interval ownership project, as described in the Development Agreement. The restrictions set forth in the preceding sentence shall expire automatically when and if Developer's allocation of additional hotel units (as defined in the Development Agreement) expires or is terminated. Nothing in this Agreement shall require Developer to develop the Project or restrict Developer's ability to sell, assign, transfer or otherwise convey its right in and to the Real Property or any portion or portions thereof to unrelated third parties. Further, nothing in this Agreement shall preclude the purchase and sale of one or more Fractional Share Units to be constructed as a part of the Project (the "Fractional Ownership") (or Hotel Units (as defined in the Development Agreement) if sold in a condominium form of ownership), to separate, unrelated third parties, provided that such Fractional Share Ownership or Hotel Units are operated and occupied as part of the Project as a single unified project throughout the term of this Agreement. Developer agrees that the City shall have the right to enforce the terms and conditions of this Agreement.

Notwithstanding the foregoing, all Hotel Units may be operated by a single hotel operator and all Fractional Share Units may be operated by a different, single management firm/operator.

IN WITNESS WHEREOF, Developer has caused this Agreement to be executed this ____ day of _____, 2012.

In the Presence of:

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by WILLIAM B. HORNE, II, as City Manager of the City of Clearwater, Florida, who is [] personally known to me or who has [] produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires: _____

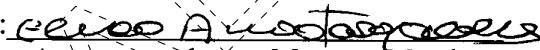
UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have hereto executed this Agreement the date and year first above written.

In the Presence of:


Print Name: Taso Anastasopoulos

LOUIS DEVELOPMENTS, LLC

By: 
Elias Anastasopoulos, as Manager/Member


Print Name Roland Rogers
As to "Developer"

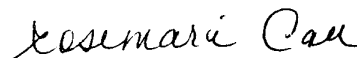
CITY OF CLEARWATER, FLORIDA

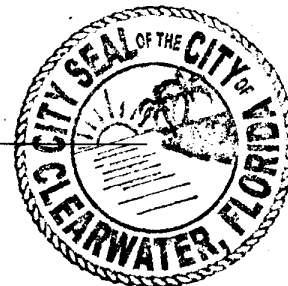
Print Name: _____

By: 
William B. Horne II, City Manager

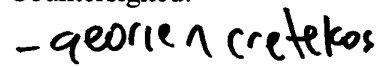
Print Name
As to "City"

Attest:


Rosemarie Call, City Clerk



Countersigned:


George N. Cretekos, Mayor

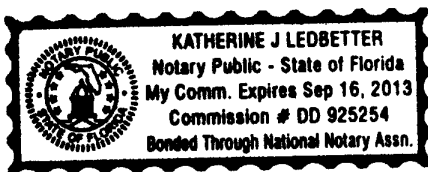
Approved as to Form:



Leslie K. Dougall-Sides
Assistant City Attorney

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 16th day of July, 2012, by Elias Anastasopoulos. He is [☒] personally known to me or has [☐] produced _____ as identification.



Katherine J. Ledbetter
Notary Public
Print Name: Katherine J. Ledbetter
My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 27th day of July, 2012, by WILLIAM B. HORNE, II, as City Manager of the City of Clearwater, Florida, who is [☒] personally known to me or who has [☐] produced _____ as identification.

Sandra Harriger
Notary Public
Print Name: Sandra Harriger
My Commission Expire _____



SANDRA HARRIGER
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE142238
Expires 1/4/2016