

Objections and Protests to Application PB25-0792

Stearns Weaver Miller for Penrod Bros. Inc.

Role: Ensure Conformance with All LDRs

- Planning Board must ensure “conform[ance with] all development regulations.”
- Planning Board must consider land use matters referred by Commission.

THIS APPLICATION DOES **NOT COMPLY WITH THE LDRs**

1. **BAIT & SWITCH.** Resolution No. 2023-3282, approved Contract, requires that development of the Property “**substantially conform**” with authorized conceptual design. Application requests use and development **radically different** from conceptual design.
 2. **COMP PLAN.** Application requests largely commercial uses **prohibited** in ROS.
-

Rules: LDRs & Comp Plan

- 1) LDR requires “substantial conformance” of Application with Boucher RFP submission.
 - Not about “procurement”
 - Bait & switch also procurement law violation, but not before you.
 - Resolution/Contract is the LDR
 - Applicant admits Resolution/Contract requirements governs:

Design Board Meeting
January 08, 2026

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1 requires with the minimum, maximum setback, and the concession
2 agreement that governs the development of this property. And
3 that concession agreement requires that the public parking
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Rules: LDRs & Comp Plan

- 1) LDR requires “substantial conformance” of Application with Boucher RFP submission.

7.1.1. Concessionaire shall retain the services of such architecture, engineering and design firms for the Work as approved by the City Manager or his/her designee pursuant to this Agreement. On or before April 1, 2024, Concessionaire shall submit to the City (acting in its proprietary capacity as owner of the Concession Area) all of the preliminary plans and specifications for the renovations and improvements to be made to the Property, which shall substantially conform to the conceptual designs presented by Concessionaire with its RFP submission (the “RFP Conceptual Designs”) and shall include a site plan and all items constituting architectural plans and exhibits and landscape plans and exhibits that are required by the City Land Development Boards to be included in the application for Project Approvals (the “Preliminary Plans and Specifications”). The City Manager shall

- Resolution/Contract requires that Application “**substantially conform**” with conceptual design in Boucher RFP proposal.
-

Evidence: Applicant Ignores Issue 1, Admits Issue 2

- 1) LDR requires “substantial conformance” of Application with Boucher RFP submission.
 - *Evidence from applicant?*
 - Ignore LDR
 - No evidence of substantial conformance
 - No evidence about Boucher RFP submission—cannot even examine conformance
 - *Evidence from us?*
 - Show you Boucher RFP submission
 - Prove with architectural expert report → NO SUBSTANTIAL CONFORMANCE
-

Rules: LDRs & Comp Plan

- 2) Application must conform with Comprehensive Plan.
 - *Cannot approve use violating comprehensive plan without amendment to comprehensive plan.*
-

Evidence: Applicant Ignores Issue 1, Admits Issue 2

- 2) Application must conform with Comprehensive Plan.
 - *City staff and Applicant admit application violates comprehensive plan*
 - Comp plan limits ROS to recreation and open space facilities.
 - Application proposes largely commercial uses
-

Request: Defer or Deny

- Penrod is an interested party.
 - Operator of Nikki Beach
 - Operating within 375-foot radius of planned development
 - On notice list
 - Providing world-renowned luxury operations from this flagship location for nearly 40 years
- Enforce LDRs
- Deny or Defer Application





Bait & Switch = No Substantial Conformance

City land regulations require “substantial conformity” of development with promised and City-authorized proposal

Instead, applicant requests radical deviation from the proposal it promised and the City authorized

Approved and required project...



...but Application pulls a bait and switch



Application requests project radically different from required and authorized plans



Non-Conformity with Required Project: Complete Demo & Larger New Construction

Required Development

- Maintain existing structure
- Maintain parking format & location
- Maintain main building footprint
- Total operational SF of 73,600
- Lot coverage of 13%
- Reduce construction waste

New Non-Conforming Application

- Total demolition, new construction
 - Construction of parking understory
 - Increase in footprint by 7,745 SF
 - Increase operational SF by 10,700 SF
 - Lot coverage of 41%
 - Increase to 141,000 SF of demolition
-

Required: Maintain Existing Structure



goal of having a minimum 85% waste diversion rate. Along with maintaining existing structures, we will aim to reuse and reintegrate a significant portion of the existing site materials in the project

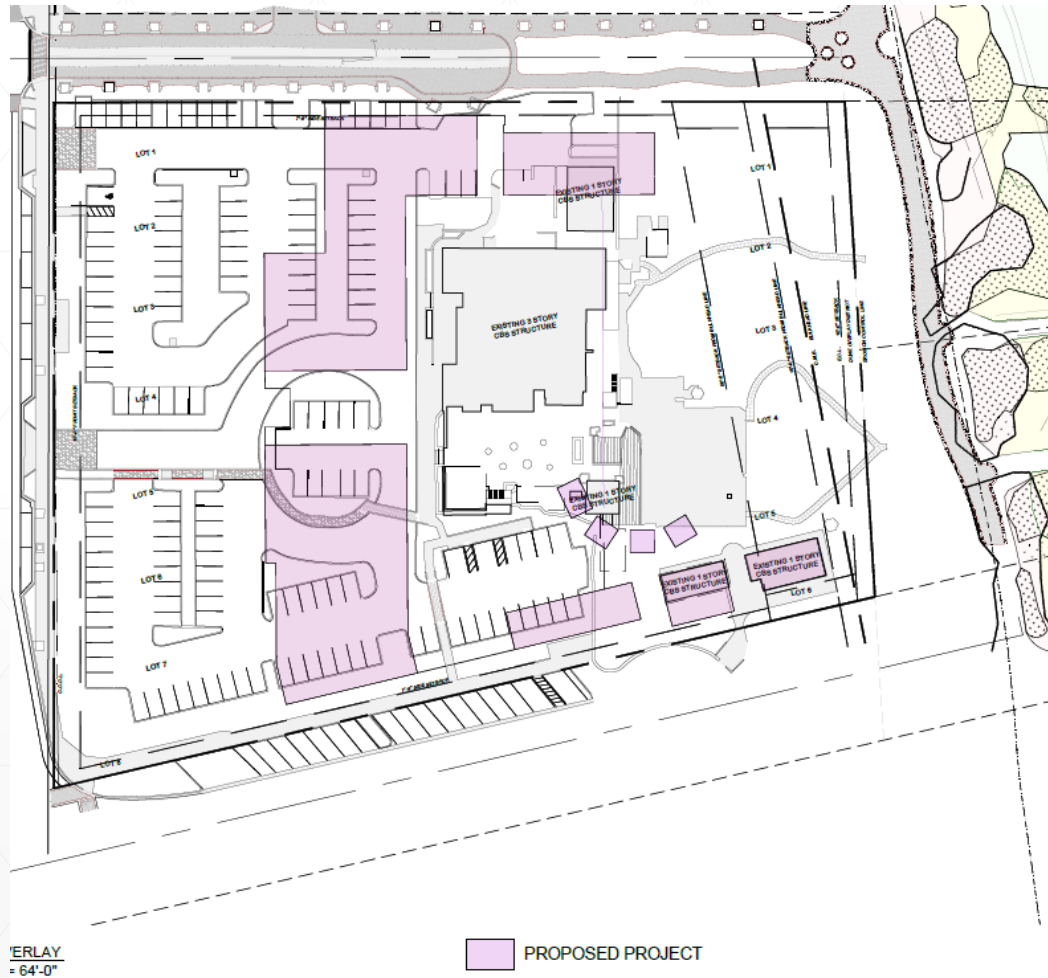
into the design of our critical systems, landscape, and stormwater design. Our plan includes the permanence of the existing structure; however, we will be protecting the building envelope against water intrusion and damage. Additionally,

CITY EVALUATOR: So you're not proposing [] any tear-down and rebuild from scratch?

APPLICANT: Correct.

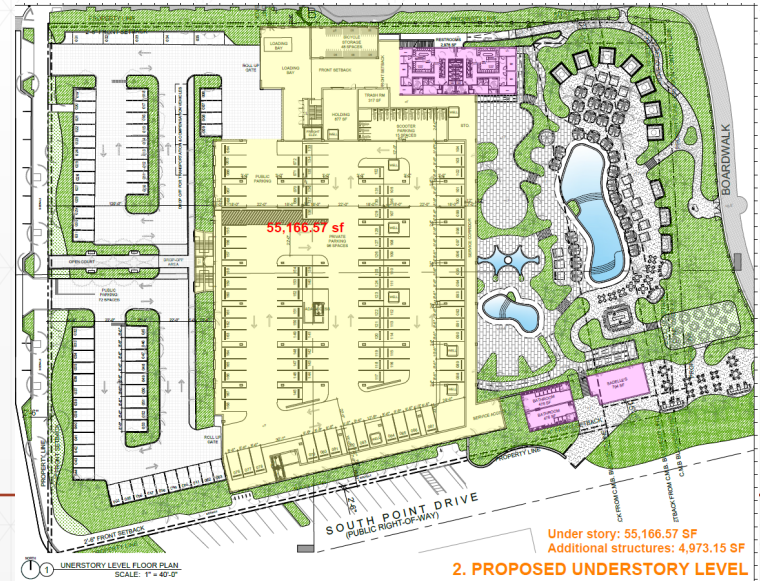
APPLICANT'S ARCHITECT: Correct. That is correct. . . what we're looking to do is we're looking to take the existing building, and, basically, we're going to rehab it.

Non-Conforming Request: New Construction



Required: Maintain Parking Format

Request: New Parking Under-Story



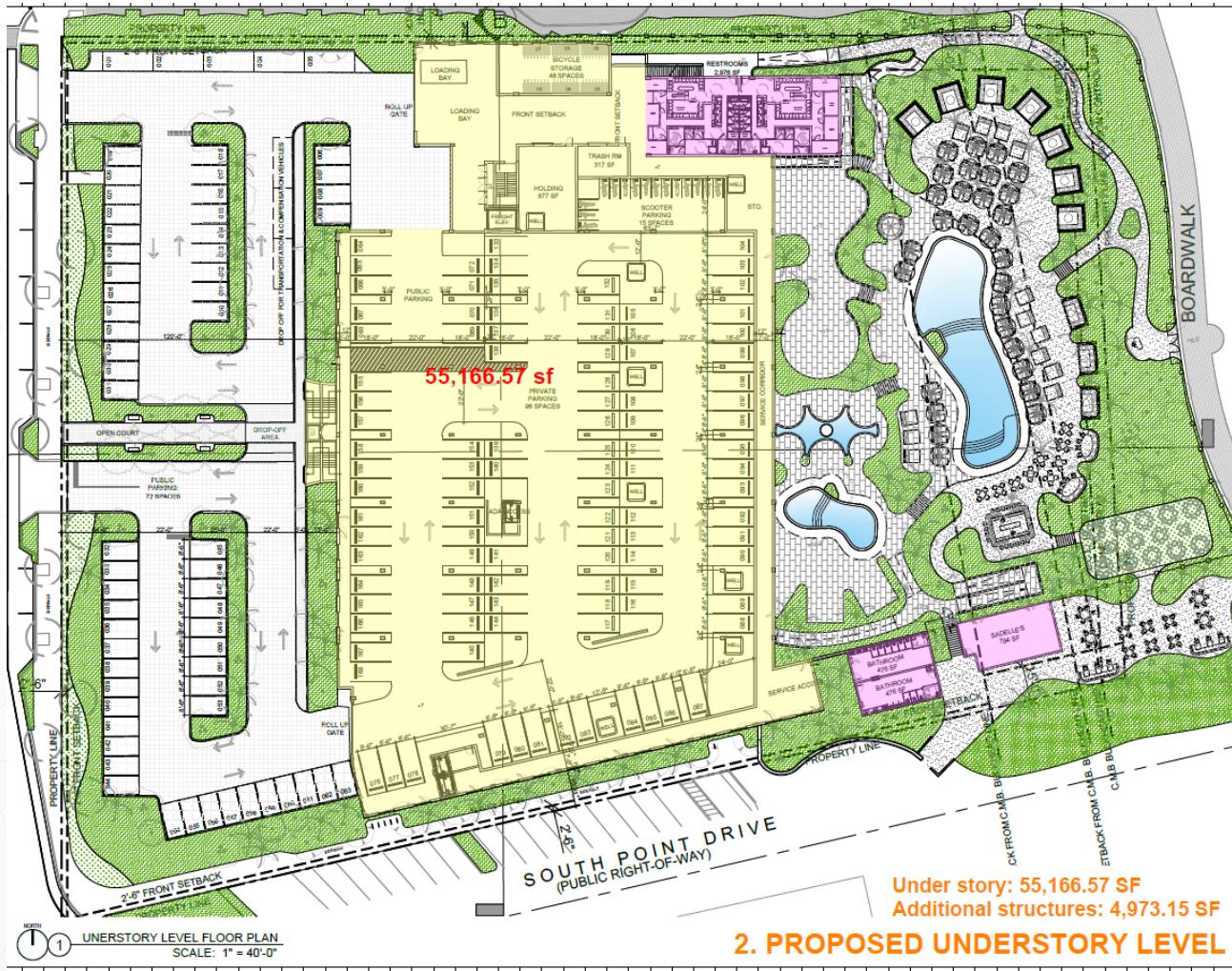
Required: Maintain Parking Format



Non-Conforming Request: New Parking Under-Story

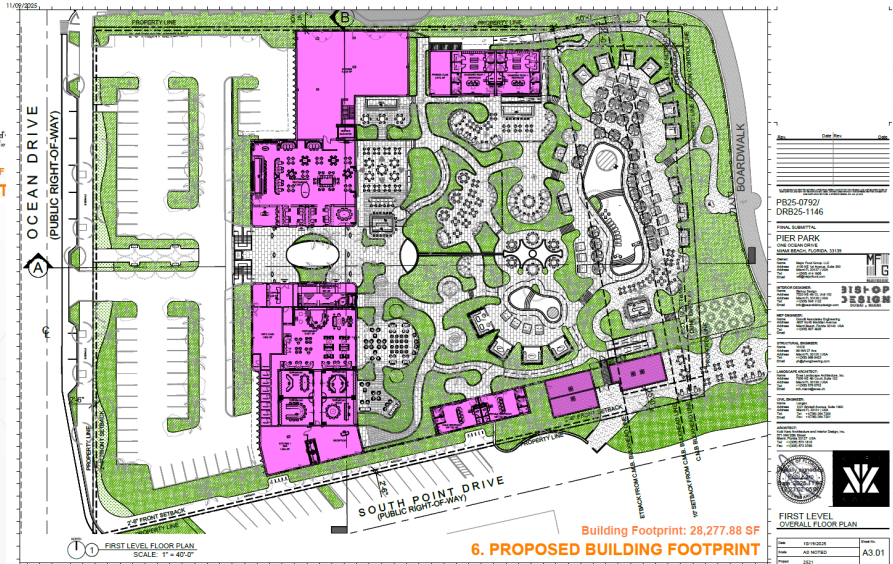
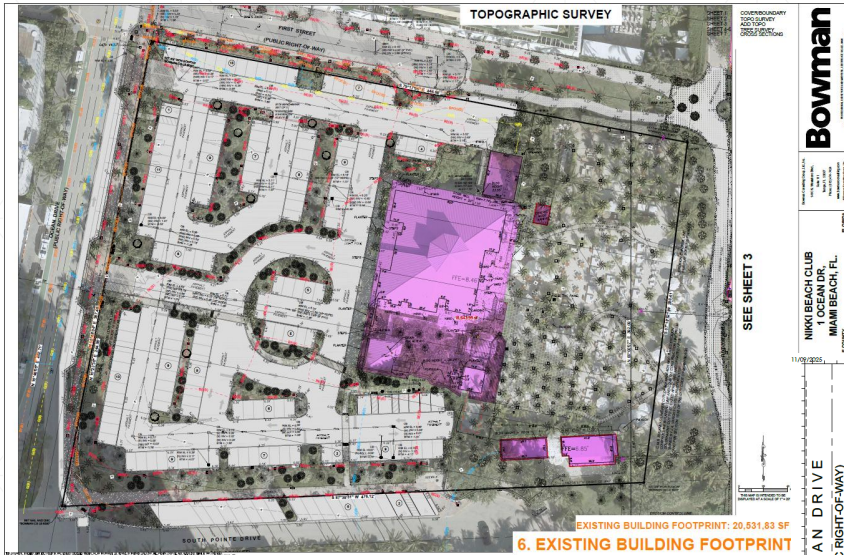


Non-Conforming Request: New Parking Under-Story



Required: Maintain Footprint

Request: Relocation & Increase Footprint



Required: FAR 23,343 SF (73,600 Max. operational)

Request: Increase Operational SF to 84,297

4.1

CONCEPTUAL DESIGN



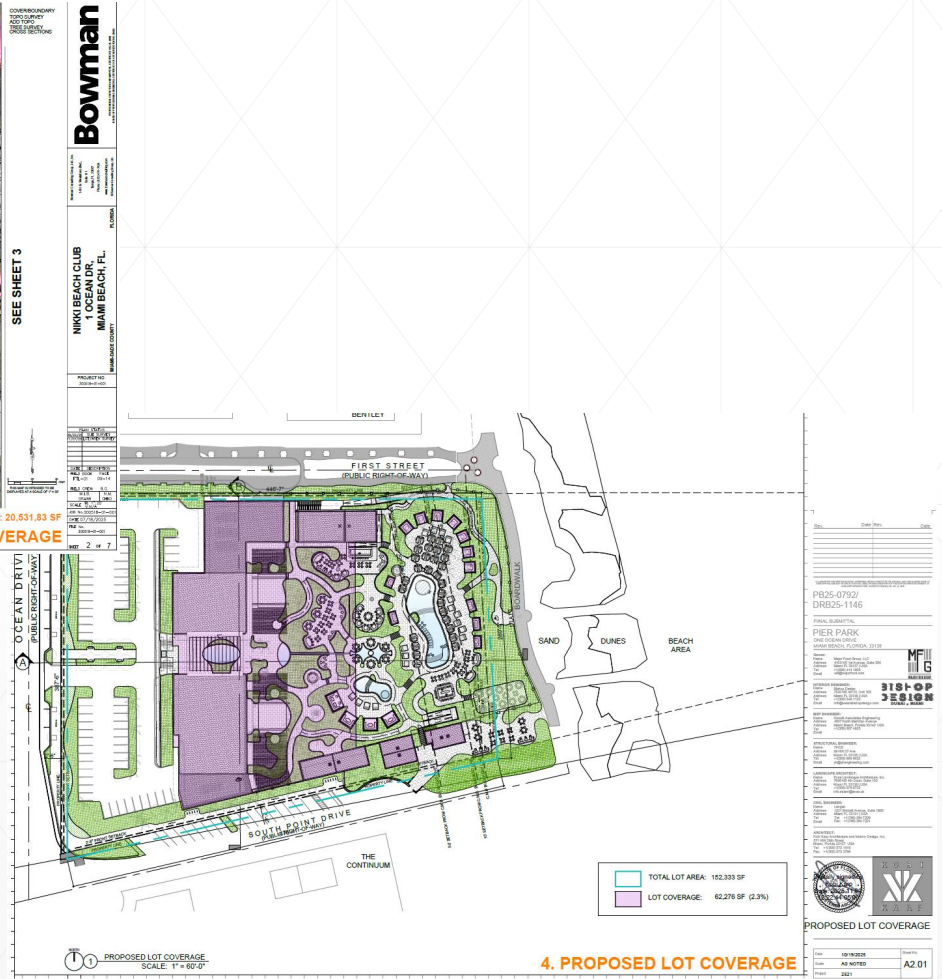
portion is reserved exclusively for club use. The redevelopment will maintain the existing surface level parking lot available for public use and will redevelop the site with a new 84,297 square feet beach club establishment with an expected completion date of 2028. We analyzed the three

Required: Lot Coverage of 13%

Request: Increased Lot Coverage of 41%



4. EXISTING LOT COVERAGE



4. PROPOSED LOT COVERAGE

Bowman

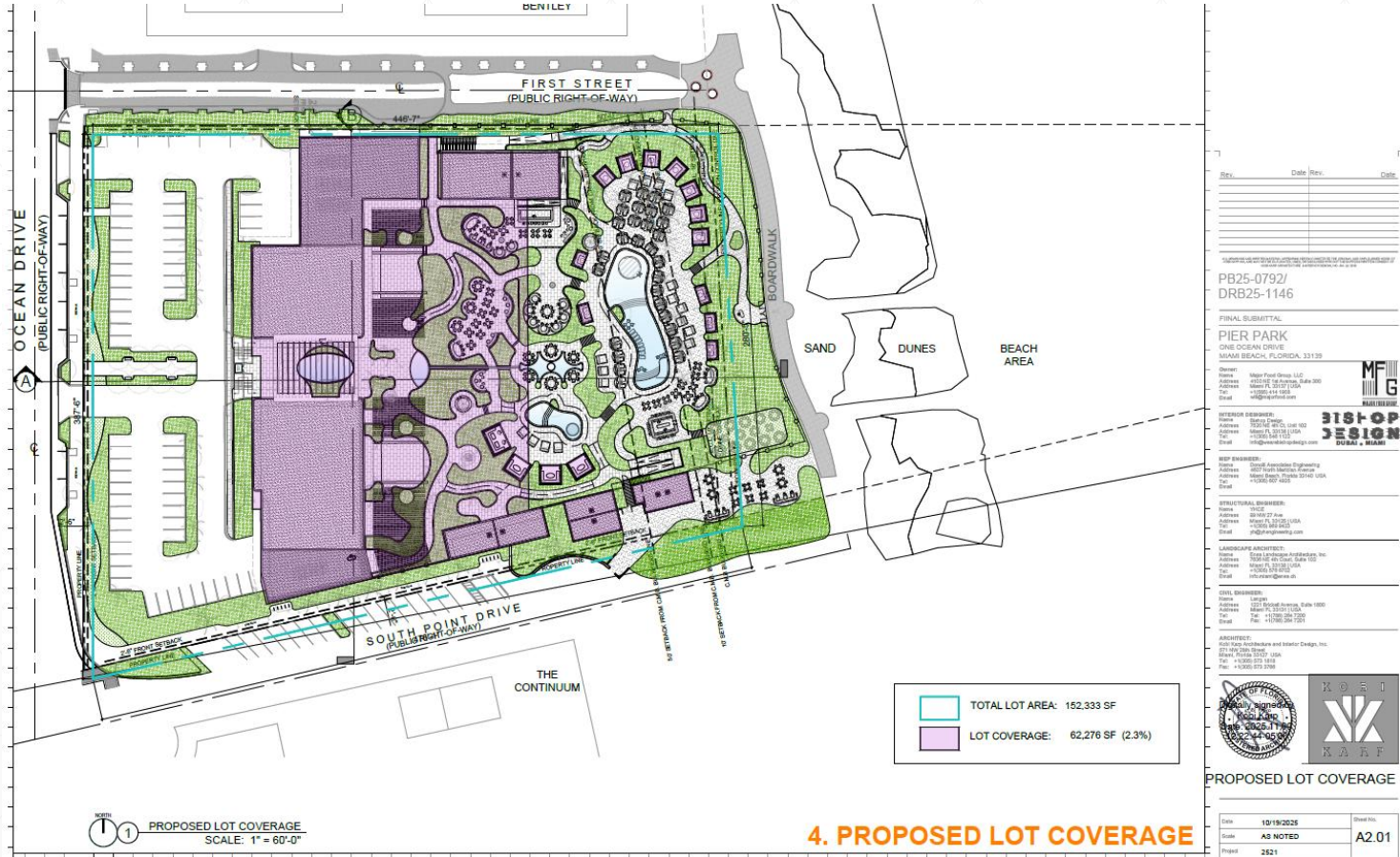
NIKKI BEACH CLUB
1 OCEAN DR.
MIAMI BEACH, FL

PROJECT NO: 2018-001
SHEET 2 OF 7

PB25-0702/
 DRB25-1146
 PIER PARK
 1000 OCEAN DRIVE
 MIAMI BEACH, FL 33139
 DATE: 10/19/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT MANAGER: [Name]
 ARCHITECT: [Name]
 CIVIL ENGINEER: [Name]
 LANDSCAPE ARCHITECT: [Name]
 MECHANICAL ENGINEER: [Name]
 ELECTRICAL ENGINEER: [Name]
 PLUMBING ENGINEER: [Name]
 STRUCTURAL ENGINEER: [Name]
 TRAFFIC ENGINEER: [Name]
 ENVIRONMENTAL ENGINEER: [Name]
 HISTORIC PRESERVATION: [Name]
 GEOTECHNICAL ENGINEER: [Name]
 SOILS ENGINEER: [Name]
 WIND ENGINEER: [Name]
 MARINE ENGINEER: [Name]
 PAVEMENT ENGINEER: [Name]
 SIGNAGE ENGINEER: [Name]
 SPECIALTY CONSULTANTS: [Name]

10/19/2023
 ALL NOTES
 A2.01
 2021

Non-Conforming Request: Increase of Lot Coverage of 42,195 SF to 41%



Rev. Date Rev. Cmt.

PB25-0792/
DRB25-1146

FINAL SUBMITTAL

PIER PARK
ONE OCEAN DRIVE
NORTH BEACH, FLORIDA, 33138

Owner: **Major Food Group, LLC**
Address: 2621 27th Ave, Suite 100
City: NORTH BEACH, FL 33138
Tel: +1305-414-0525
Email: +1305-414-0525



INTERIOR DESIGNER:
Address: **3151-OP DESIGN**, Unit 100
City: MIAMI, FL 33133 USA
Tel: +1305-348-1103
Email: +1305-348-1103



MEP ENGINEER:
Address: **3151-OP DESIGN**, Unit 100
City: MIAMI, FL 33133 USA
Tel: +1305-348-1103
Email: +1305-348-1103

STRUCTURAL ENGINEER:
Address: **3151-OP DESIGN**, Unit 100
City: MIAMI, FL 33133 USA
Tel: +1305-348-1103
Email: +1305-348-1103

LANDSCAPE ARCHITECT:
Address: **3151-OP DESIGN**, Unit 100
City: MIAMI, FL 33133 USA
Tel: +1305-348-1103
Email: +1305-348-1103

CIVIL ENGINEER:
Address: **3151-OP DESIGN**, Unit 100
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Tel: +1305-348-1103
Email: +1305-348-1103

ARCHITECT:
Address: **3151-OP DESIGN**, Unit 100
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Email: +1305-348-1103

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Non-Conformity with Required Project: Elimination of Sustainability Features

Required Development

- Increased “jungle” tree canopy
- Sustainable surfacing
- Resiliency feature of solar panels
- Location of pools & amenities alongside restaurants

New Non-Conforming Application

- Reduced tree canopy
 - Increase impervious surface by 18%
 - Elimination of solar panels
 - Relocation of pools and addition of multiple water features, increasing maintenance and safety risks
-

Required: Increased “Jungle” Tree Canopy
Request: Reduced Tree Canopy



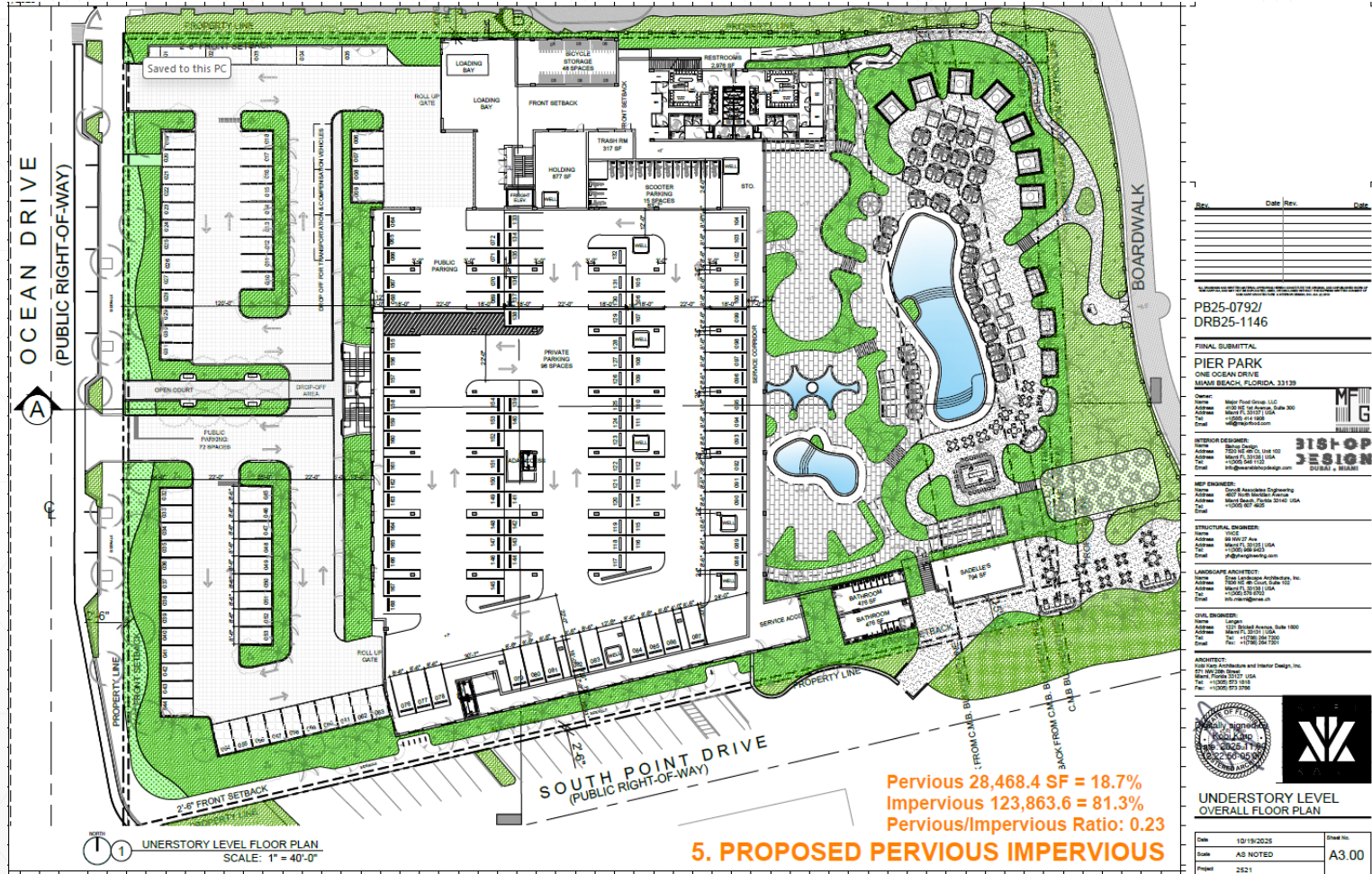
jungles
RAYMOND JUNGLES
LANDSCAPE ARCHITECT



Required: Sustainable; Impervious Surfacing: 62.5%; Pervious/Impervious Ratio: 0.60

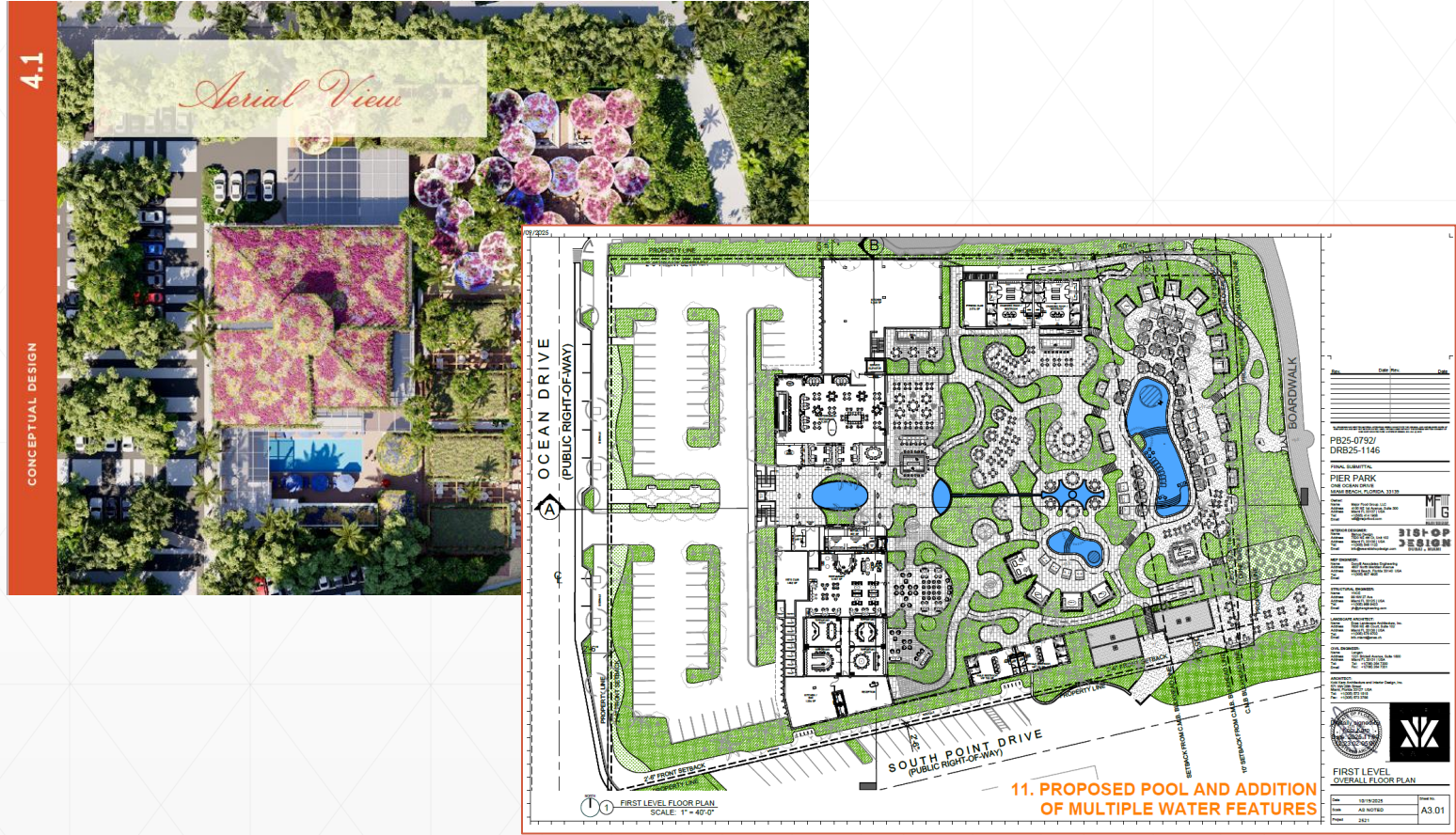


Non-Conforming Request: Impervious Surfacing: 81.3%; Pervious/Impervious Ratio: 0.23



Required: Adjacent Pool & Amenities

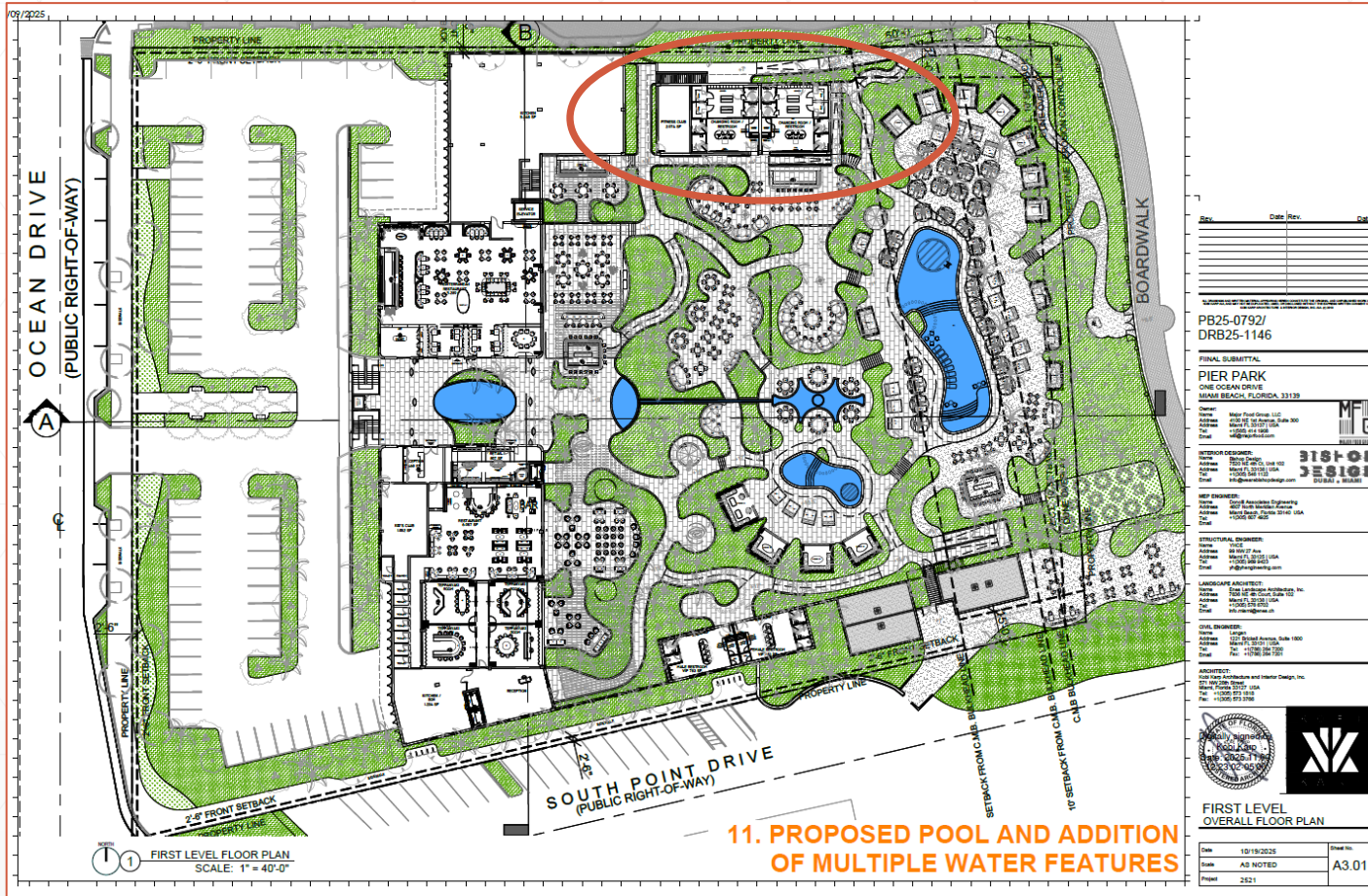
Request: Relocated Pool & Amenities



Required: Adjacent Pool & Amenities



Non-Conforming Request: Relocated Pool & Amenities



Non-Conformity with Required Project: Increased Intensity

Required Development

- No reduction in parking during construction
- Traffic flow consistent with existing structure
- 13 month construction timeline
- FAR (GFA) of 23,343 SF

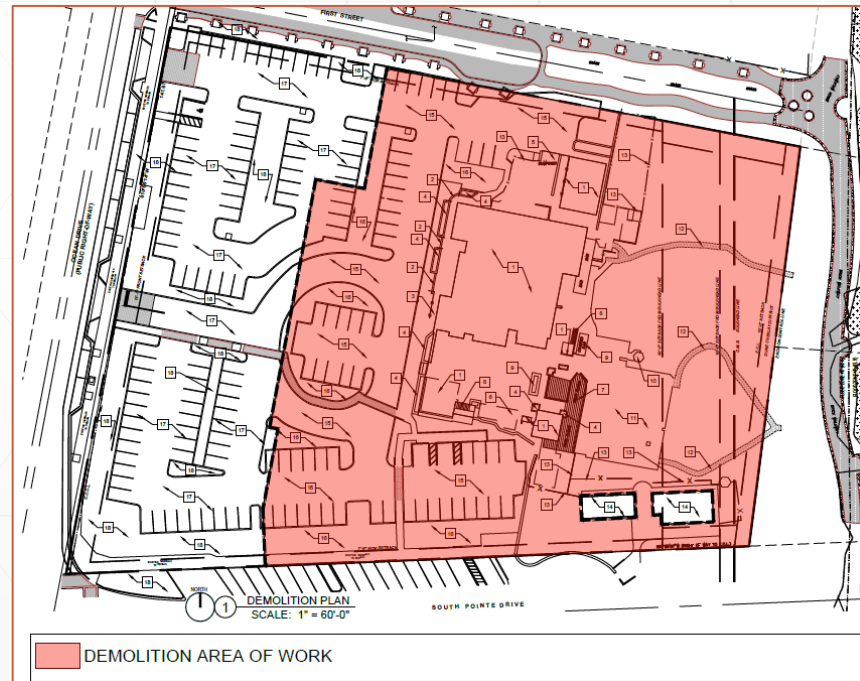
New Non-Conforming Application

- Demolition and closure of parking site for construction
 - 4x increase in traffic
 - Revised scope estimated to increase construction to 24-30 months
 - FAR (GFA) increase of 650 SF
-

Required: No Disruption in Parking

Request: Demolition and Closure of Parking

divided into two phases. At no point during the construction process will the city have less than the required 72 available parking spaces available for use.



Required: Traffic flow consistent with existing structure
Request: 4x increase in traffic

Table 3 - Trip Generation Estimates*

| Use | Size | Friday Morning Peak Hour | | | Friday Afternoon Peak Hour | | | Saturday Afternoon Peak Hour | | |
|----------------------|-----------|--------------------------|----------|-----------|----------------------------|-----------|------------|------------------------------|------------|------------|
| | | In | Out | Total | In | Out | Total | In | Out | Total |
| Existing Uses | | | | | | | | | | |
| Beach Club | 23,243 SF | 3 | 1 | 4 | 14 | 38 | 51 | 21 | 41 | 61 |
| Proposed Uses | | | | | | | | | | |
| Beach Club | 84,297 SF | 12 | 3 | 15 | 50 | 136 | 187 | 76 | 147 | 223 |
| Net New Trips | | 9 | 2 | 11 | 36 | 98 | 135 | 55 | 106 | 161 |

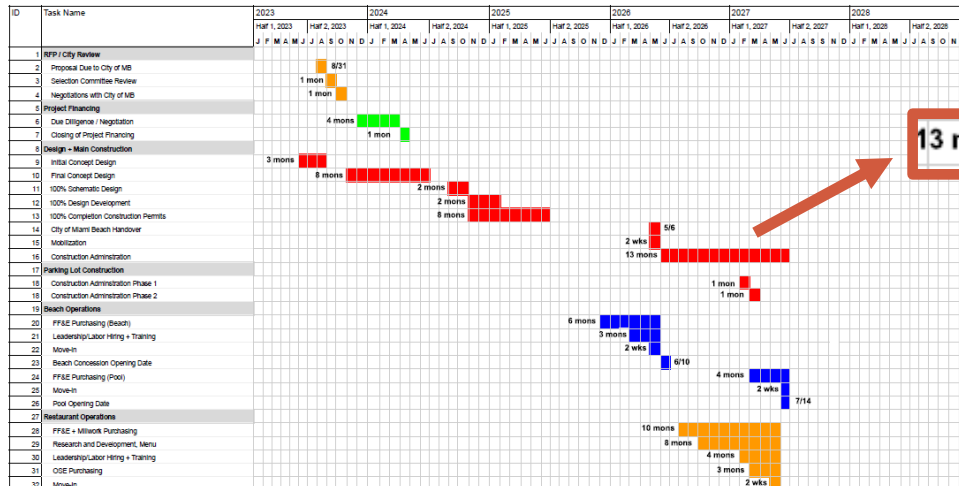
Required: 13 Month Construction Timeline

Request: 24-30 Month Construction Estimate

4.4

PROJECT TIMELINE

21000 15V



13 mons

19. Construction Timeline:

The construction timeline proposed under the original submittal was 13 months, excluding design and permitting. Given the expanded scope of work in the revised proposal, the construction duration would be substantially increased.

The proposed demolition and construction of the understory will require additional time, as will soil preparation for foundations and coordination of civil infrastructure improvements. These elements represent a significant schedule impact when compared to the previous proposal, which was more limited in scope and involved less vertical construction volume.

Based on the revised scope, a conservative estimate for the construction duration would be approximately 24 to 30 months.

property is zoned GU, the uses must be authorized by the City Commission. However, Section 7.2.16.3 of the LDRs specifies that no GU property may be used in a manner inconsistent with the Comprehensive Plan. Under policy RLU 1.1.19 of the 2040 Comprehensive Plan, the uses permitted in the ROS future land use classification are limited to recreation and open space facilities.

As the proposed uses are largely commercial in nature, an amendment to policy RLU 1.1.19 of the 2040 Comprehensive Plan will be required, prior to final action by the City Commission approving any of the proposed uses.

Comprehensive Plan Violation

Resiliency Code Sec. 7.2.16.3 specifies that no GU property may be used in a manner inconsistent with the City's Comprehensive Plan.

Staff Report *admits* that proposed uses violate Comprehensive Plan policy RLU 1.1.19.