BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 16 - 2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, GRANTING A CONDITIONAL USE APPROVAL TO NORTH STUART ACQUISITION AND DEVELOPMENT, LLC, OWNER OF PROPERTY LOCATED BETWEEN OLD DIXIE HIGHWAY AND THE FEC RAILROAD, NORTH OF THE ST. LUCIE RIVER, AS DESCRIBED WITHIN THE ATTACHED LEGAL DESCRIPTION; GRANTING APPROVAL FOR MIXED USE DEVELOPMENT OF A 27,300 SQUARE FOOT OFFICE BUILDING WITH 1,338 SQUARE FEET OF RETAIL SPACE, A 200 SEAT RESTAURANT AND A 18-SPACE PARKING GARAGE ON A 2.73-ACRE SITE; TO ALLOW FOR PARKING WITHIN THE BUILDING ENVELOPE, FOR A CONTINUOUS BUILDING FAÇADE OF MORE THAN 100 FEET IN WIDTH WITHOUT PROVIDING AN ADDITIONAL VISTA, FOR REDUCTION IN WIDTH OF THE SIDE VISTAS, FOR AN INCREASE IN ALLOWABLE BUILDING HEIGHT, FOR REDUCTION IN LANDSCAPE BUFFERSAND A REDUCTION OF SETBACKS; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR A TIMETABLE OF DEVELOPMENT; PROVIDING FOR CONDITIONS OF APPROVAL; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City Commission of Stuart, Florida, has adopted and administers Section 3.01.06 of the Land Development Code; and

WHEREAS, the Applicant, North Stuart Acquisitions and Development, LLC, is requesting a Major Urban Code Conditional Use approval to allow for development of a 27,300 square foot office building with 1,338 square feet of retail space, a 200 seat restaurant and a 18-space parking garage on 2.73 acres of land, and

WHEREAS, the Applicant has requested a relief from 1) a prohibition to parking within the building envelope, 2) an increase in the maximum height from 3 stories and 35 feet to 4 stories and 45 feet, 3) allowing a vista designated along the sides of the property, 4) allowing for a continuous building façade of more than 100 feet in width without providing an additional vista to the river, 5) a reduction of the 10' landscape buffer along the right of way, along the FEC railroad, and the 6' landscape area between parking rows, 6), reduction of the side setback to 5 feet instead of 10 feet along the FEC railroad side; and

WHEREAS, at the hearing the applicant showed by substantial competent evidence that the application does not create any detrimental effects on adjacent land uses, within three hundred (300) feet of the proposed location; and

WHEREAS, the Community Redevelopment Board held a properly noticed hearing at a regularly scheduled meeting to consider the application of the Petitioner and recommended approval of the Major Urban Code Conditional Use on February 5, 2019; and

WHEREAS, City Commission held a properly noticed hearing at a regularly scheduled City Commission meeting to consider the application of the Petitioner to approve the Major Urban Code Conditional Use on April 22, 2019.

WHEREAS, the conditional use approval shall run with the land; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: Subject to the conditions attached hereto, the City Commission hereby approves a Major Urban Code Conditional Use approval to North Stuart Acquisition and Development,

LLC, as owner of certain real property located at between Old Dixie Highway and the FEC Railroad tracks, north of the St. Lucie River, as detailed within the attached legal description.

SECTION 2: A legal description of the property is set forth in **"Exhibit A"** attached hereto and made a part hereof by reference.

SECTION 3: The applicants business shall operate in accordance with all conditions set forth in **"Exhibit B"**, as attached.

SECTION 4: The purpose of this Urban Waterfront Sub-district Conditional Use approval is to allow for the development of a 27,300 square foot office building with 1,338 square feet of retail space, a 200 seat restaurant and a 18 -space parking garage, varying from code requirements by allowing relief from 1) a prohibition to parking within the building envelope, 2) an increase in the maximum height from 3 stories and 35 feet to 4 stories and 45 feet, 3) allowing a vista designated along the sides of the property, 4) allowing for a continuous building façade of more than 100 feet in width without providing an additional vista to the river, 5) a reduction of the 10' landscape buffer along the right of way, along the FEC railroad, and the 6' landscape area between parking rows, 5 feet reduction of the side setback to 5 feet instead of 10 feet along the FEC railroad side.

SECTION 5: This resolution shall take effect immediately upon its adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

REBECCA S. BRUNER, MAYOR

YES	NO	ABSENT	ABSTAIN

EULA R. CLARKE, VICE MAYOR				
KELLI GLASS LEIGHTON, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED this ___ day of _____, 2019.

ATTEST:

_____ _____

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____

MICHAEL MORTELL
CITY ATTORNEY

ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE FOREGOING DEVELOPMENT ORDER, AND ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE FOREGOING RESOLUTION. IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES:

North Stuart Acquisitions and Development, LLC

Witness #1:

Applicant: Richard Geisinger

Print Name: _____

Print Name: _____

Signature: _____ Signature: _____

Witness #2:

Print Name: _____

Signature: _____

OWNERS ACKNOWLEDGMENT

The above Acceptance and Agreement was acknowledged before me this _____ day of

_____, 2019, by _____.

_____

Notary Public, State of Florida

My Commission Expires:

Notary Seal

Personally Known _____ OR Produced Identification _____Type of ID_____

Exhibit "A" Legal Description:

LEGAL DESCRIPTION

PARCEL 1

A PORTION OF GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 38 SOUTH, RANGE 41 EAST MARTIN COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCE AT THE NORTH ¼ CORNER OF SAID SECTION 5; THENCE S89°49'23"W ALONG THE NORTH LINE OF SAID SECTION 5 FOR 285.48 FEET TO THE POINT OF BEGINNING; SAID POINT BEING A POINT ON A CURVE CONCAVE TO THE NORTHEAST AND HAVING A TANGENT BEARING OF S12°41'38"E; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 922.81 FEET AND A CENTRAL ANGLE OF 19°52'01" FOR 319.68 FEET TO AN INTERSECTION WITH THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST AND HAVING A TANGENT BEARING OF S39°31'40"E; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 597.53 FEET AND A CENTRAL ANGLE OF 14°49'38" FOR 154.63 FEET TO A POINT OF TANGENCY; THENCE S54°21'18"E FOR 92.61 FEET TO A POINT OF INTERSECTION WITH THE MEAN HIGH WATER LINE OF THE ST. LUCIE RIVER; THENCE ALONG THE MEAN HIGH WATER LINE FOR THE FOLLOWING FOUR (4) COURSES: (1)N07°17'00"W FOR 81.26 FEET; (2) N00°25'23"W FOR 47.14 FEET; (3)N00°48'09"W FOR 41.70 FEET; (4)N06°07'37"W FOR 26.27 FEET TO AN INTERSECTION WITH A LINE BEING 50.00 FEET SOUTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES AND PARALLEL TO THE CENTERLINE OF RAILROAD TRACKS AS LAID OUT AND IN USE (12/12/02). THENCE NORTHWESTERLY ALONG SAID PARALLEL LINE FOR THE FOLLOWING TWO (2) COURSES: (1) N46°19'29"W FOR 129.38 FEET TO A POINT OF CURVATURE WITH THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 802.22 FEET AND A CENTRAL ANGLE OF 15°26'20" FOR 216.17 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED NORTH LINE OF SECTION 5; THENCE S89°49'23"W FOR 69.50 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 54,719 SQUARE FEET OR 1.256 ACRES MORE OR LESS

AND TOGETHER WITH

PARCEL 2

A PORTION OF GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 38 SOUTH, RANGE 41 EAST MARTIN COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGIN AT THE NORTH ¼ CORNER OF SAID SECTION 5; THENCE S89°49'23"W ALONG THE NORTH LINE OF SAID SECTION 5 FOR 96.59 FEET TO AN INTERSECTION WITH THE ARC OF A CIRCULAR CURVE BEING 50.00 FEET NORTHEASTERLY OF, AS MEASURED AT RIGHT ANGLES AND PARALLEL TO THE CENTERLINE OF RAILROAD TRACKS AS LAID OUT AND IN USE (12/12/02) AND HAVING A TANGENT BEARING OF S35°52'01"E; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID PARALLEL CURVE HAVING A RADIUS OF 702.22 FEET AND A CENTRAL ANGLE OF 10°27'28" FOR 128.17 FEET TO A POINT OF TANGENCY; THENCE S46°19'29"E FOR 16.33 FEET TO AN INTERSECTION WITH THE MEAN HIGH WATER LINE OF THE ST. LUCIE RIVER; THENCE MEANDER ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING FOUR (4) COURSES: (1)N08°26'25"E FOR 25.24 FEET; (2)N00°49'02"W FOR 22.74 FEET; (3) N05°58'57"E FOR 31.58 FEET; (4) N01°50'29"E FOR 28.95 FEET TO AN INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID SECTION 5; THENCE S89°49'23"W FOR 6.96 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 6,018 SQUARE FEET MORE OR LESS.

SAID PARCELS BEING SUBJECT TO ANY/ALL EASEMENTS, RESERVATIONS, RESTRICTIONS AND DEDICATIONS.

Exhibit "B" Conditions of Approval

1. The project shall adhere to the site plan prepared by CAPTEC Engineering, Inc., dated 4.10.19.

2. The project shall adhere to the architectural elevations, prepared by Robert Britt, Architect, Inc. dated 4.10.19, and shall be constructed pursuant to the City Building Code.

3. The project shall adhere to the landscape plan by Boggs, Planning and Landscape Architecture, dated 4.8.19.

4. Any modifications to the Final Site Plan, due to final engineering, that exceeds 10% of the approved building footprint, building setbacks; density; building location; parking size, location and number; drainage areas; signage location; and location of landscaping shall require further approval by the City Commission via a public hearing.

5. Except as provided herein, all development shall comply with City Code.

6. Any sidewalks damaged during construction shall be repaired and/or replaced by the applicant as per the City's specification.

7. Site lighting shall not negatively impact adjacent properties and shall not create a visual nuisance. Decorative exterior light fixtures shall be approved prior to the issuance of any building permits.

8. Erosion and dust control measures to be implemented during construction shall be provided on the civil engineering plans and submitted during final site plan review. Water trucks shall be provided by the applicant as necessary during construction in order to reduce dust generated on-site.

9. A Landscape Maintenance Agreement, executed in accordance with the City Land Development Regulations, shall be submitted for review and approval prior to the issuance of the Certificate of Completion.

10. All Landscape areas shall be provided with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.

11. The applicant shall provide six (6) bike racks, with a design acceptable to the City's Development Department.

12. Construction activity shall be limited to 7:00 am to 6:00 pm Monday thru Friday and 8 am to 6 pm Saturday and Sunday, unless otherwise approved by the City Manager.

13. Banners and any other sign or advertising device not in accordance with the City's Land Development Regulations are prohibited on the property.

14. Billboards are prohibited on the property.

15. The applicant shall provide a unified signage plan, which will take into account a monument sign, all wall signage, blade signs, directional signs and any other signs on the site. All free standing signs shall be limited to "monument" signs only that shall not exceed 8 feet in height and may be located closer to each other than the 300ft required by Code. In all other respects the signage shall comply with the Stuart Land Development Code.

16. The applicant shall construct and maintain the boardwalk as shown on the Site Plan prepared by Captec Engineering prior to Certificate of Completion; the boardwalk shall remain open without fee to the public.

17. The applicant shall construct, maintain and manage 52 public parking spaces as shown on the Site Plan by Captec Engineering prior to Certificate of Completion; the parking spaces shall remain open without fee to the public will be restricted to a time limit of three hour parking and will not be permitted to store RV, campers, boat trailers, or boat storage, unless allowed by special permit.

18. The applicant shall comply with all applicable Handicap Accessibility standards.

19. Final Development Plans and Construction Drawings shall be reviewed and approved by all necessary City departments prior to the issuance of any building permits.

20. Any and all regulatory agency permits, including but not limited to Martin County, the South Florida Water Management District, and Army Corp of Engineers, shall be obtained by the applicant and copies provided to the City prior to the issuance of a site permit.

21. Prior to issuance of a building permit, the applicant shall either contribute the required art fee of one percent of the vertical construction cost or provide work of art on the development pursuant to Section 3.01.08

22. Dock Facilities are for the expressed use of the public, the property owner and tenants of the property. Leasing of dock slips to entities other than guests or owners of the commercial tenants of the project is prohibited. Dock & slips are illustrative in nature and not final documents.

23. The applicant shall ensure that 40% of the boat slips are open, free of charge for public use specifically for the restaurant and shall be managed by the applicant.

24. All dock facilities and marine related bulkheads, hardened shorelines, etc. shall be maintained by the property owner, any new marine related improvements, modification, repairs and permitting associated with such facilities shall be accomplished by, and the responsibility of, the owner. There shall be no liveaboards permitted by definition of the Department of Environmental Protection. The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. Fueling facilities are also prohibited.

25. Sloping revetments and interlocking blocks shall be used in high energy areas to more effectively dissipate wave forces, boat wakes and reduce the effects of bottom scouring. Bulkheads and seawalls shall only be used to protect existing development and shall be located landward of riverine wetlands and their ecotones. Permits for replacement of deteriorating seawalls shall be granted only when alternative revetments and interlocking blocks are not feasible.

26. The applicant shall be entitled to a thirty percent (30) TIFF credit for a maximum of five consecutive years or until 2029, whichever occurs first upon the issuance of the first certificate of occupancy.

27. The applicant shall set aside the sum of $300,000 as construction surety, in a form acceptable to the City and the applicant. The applicant agrees that the $300,000 shall be reserved and not disbursed until such time as the Project is 80% complete, at which time the funds, and any interest accrued, may be released for use by the applicant.

28. The applicant shall submit a site and building permit application prior to December 31, 2022, and obtain a Certificate of Completion by December 31, 2023.

29. The applicant shall provide an amendment to this Resolution prior to December 31, 2022, which provides for the site plan, landscape plan and elevations for the second phase of development, located on the triangle parcel on the north side of the FEC railroad, to include at least the following: docks that would support a city water taxi stop, a pedestrian path/boardwalk for the width of the property with the initial phase of development, 16 parking spaces, and a restaurant/cafe.

30. The following uses shall be permitted:
    a. Retail
    b. Office, Professional
    c. Restuarant

Exhibit "C" Boundary Survey

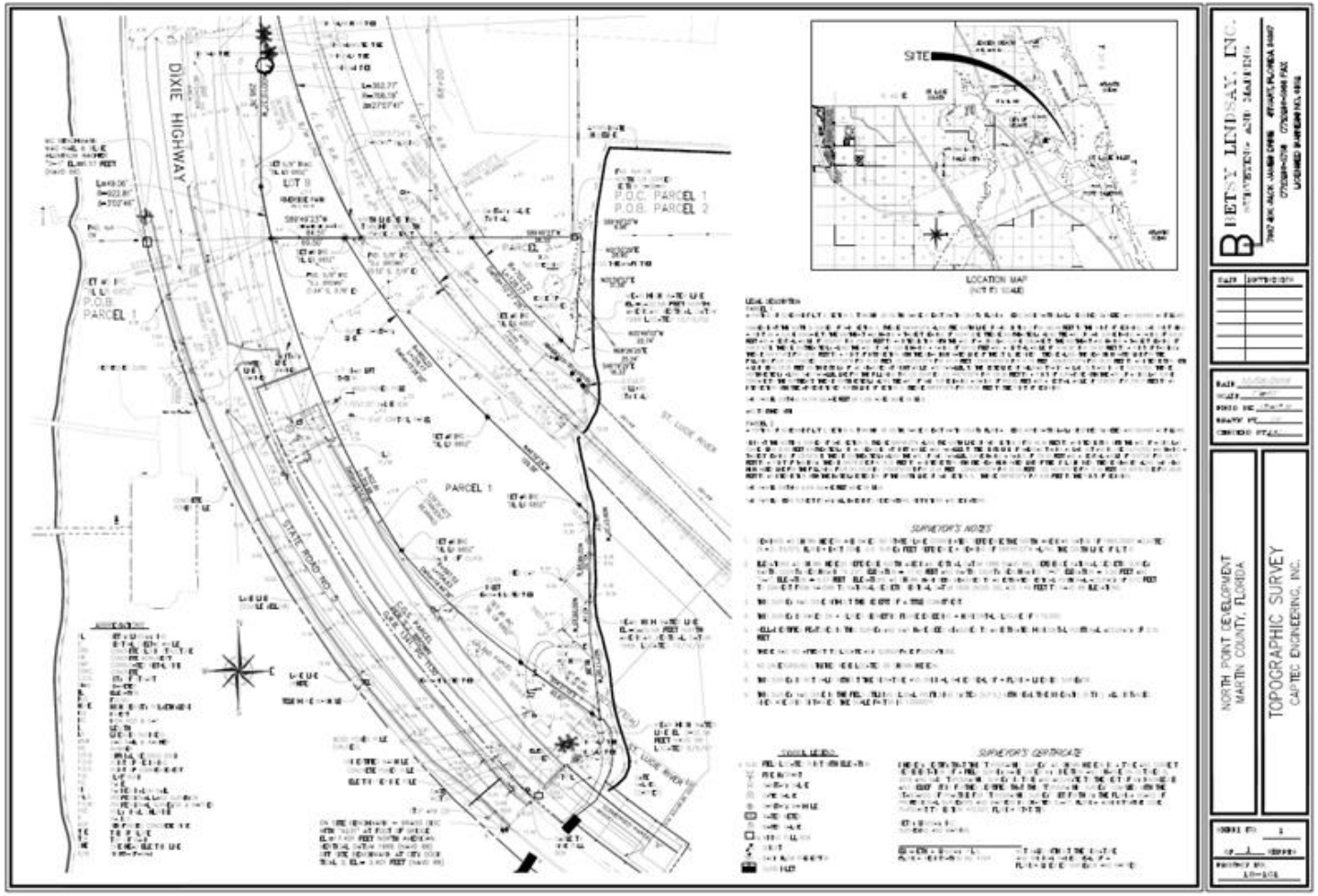


Exhibit "D" Site Plan

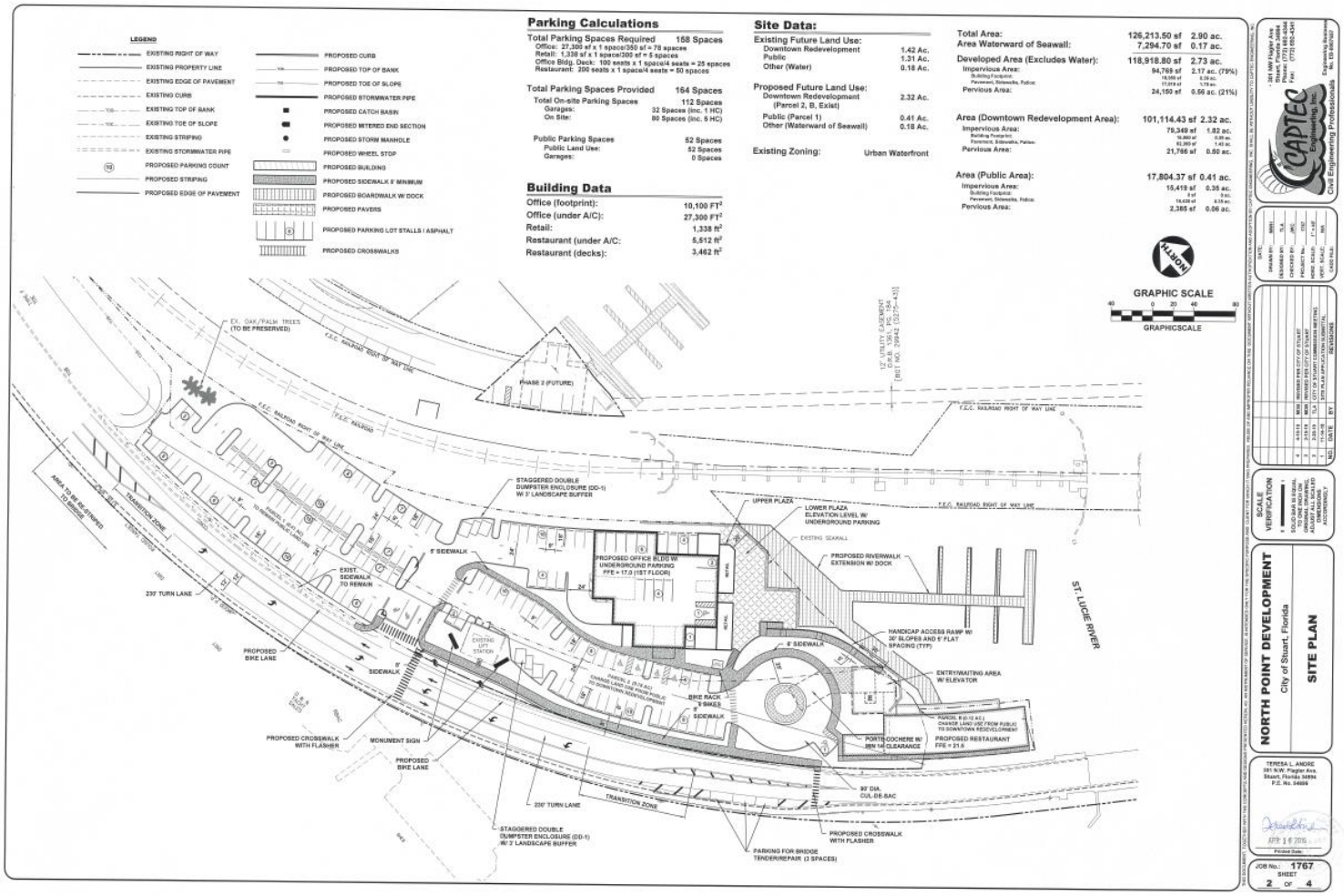


Exhibit "E" Landscape Plan

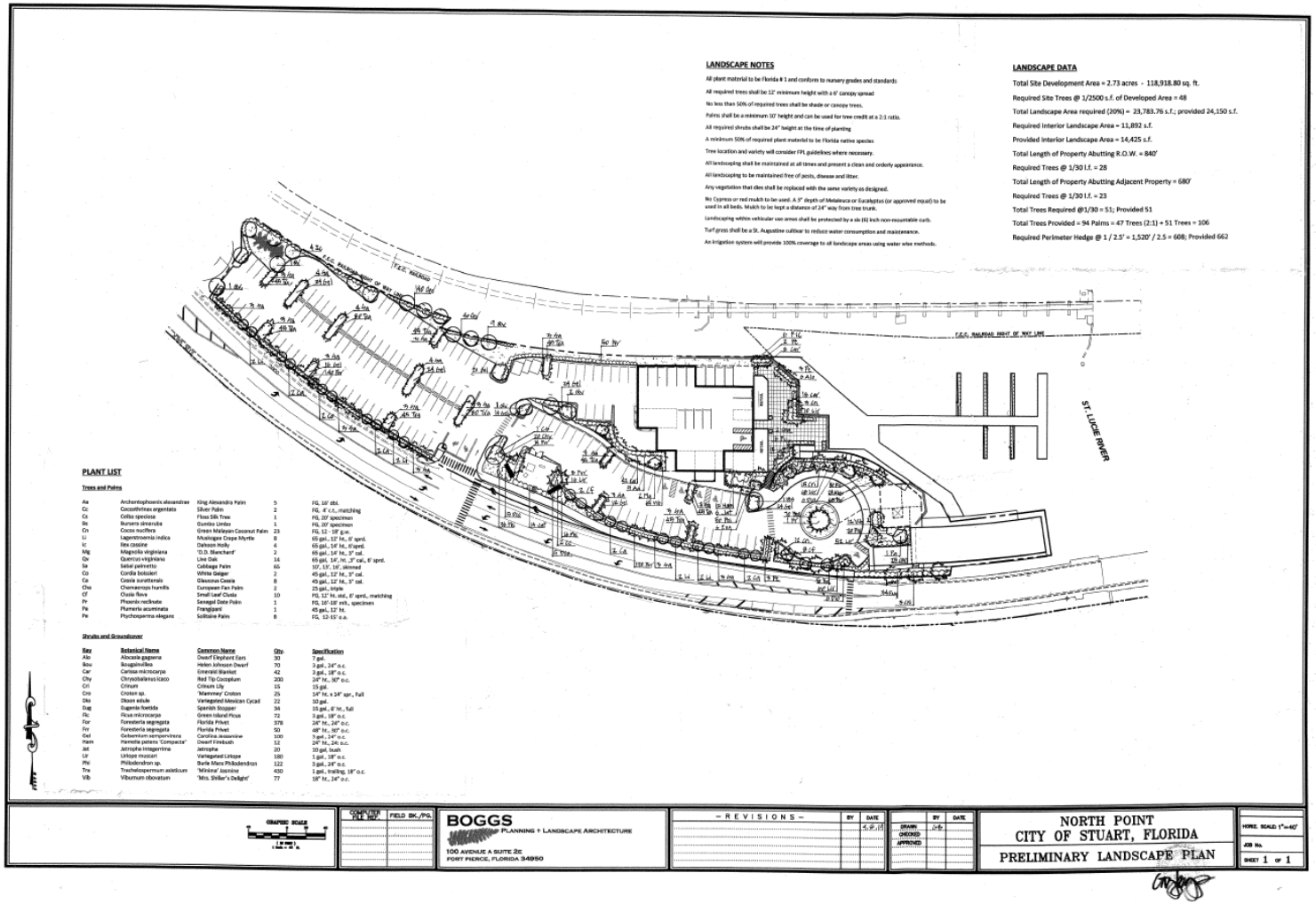


Exhibit "F" Elevations (1)

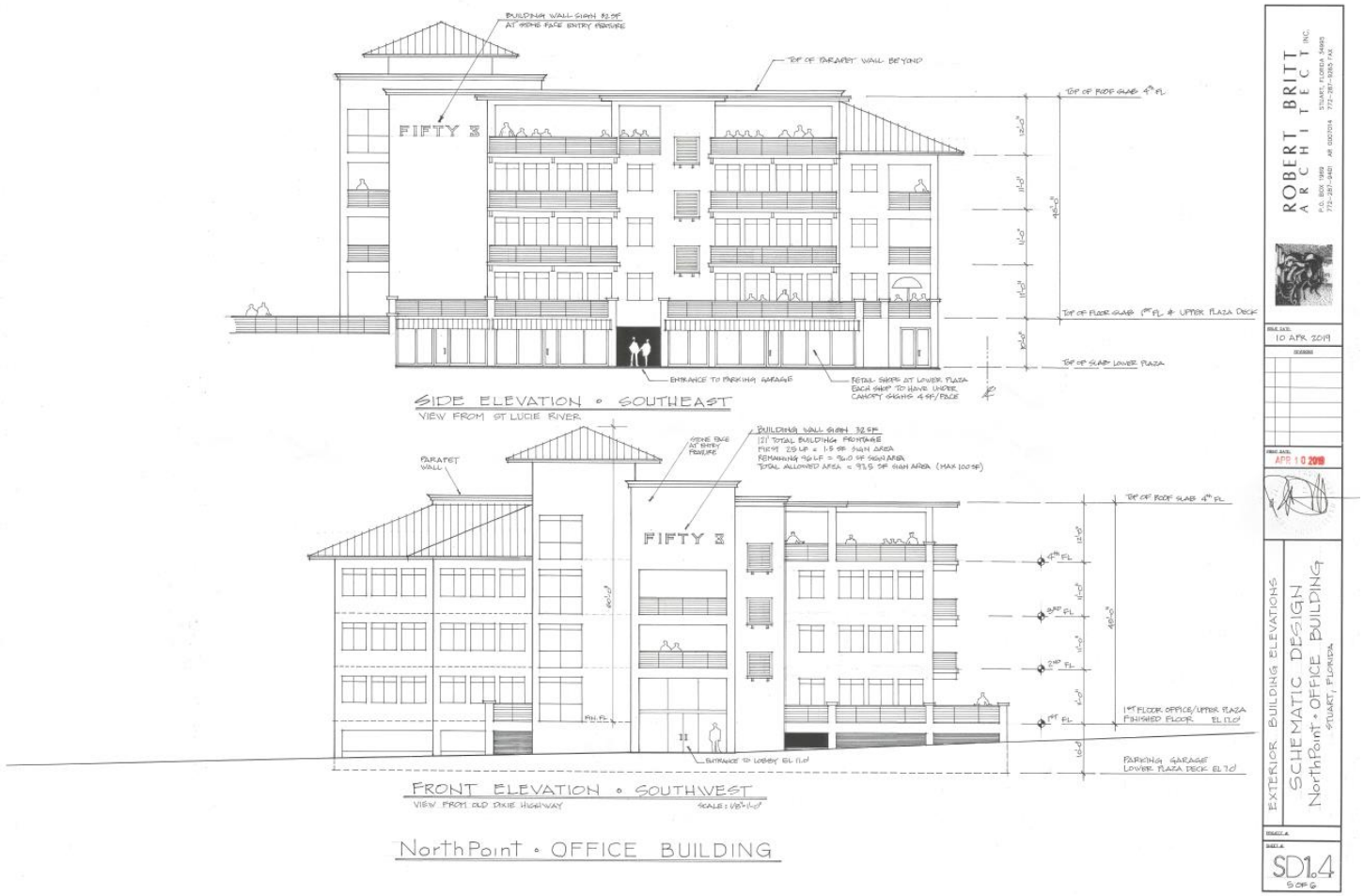


Exhibit "F" Elevations (2)

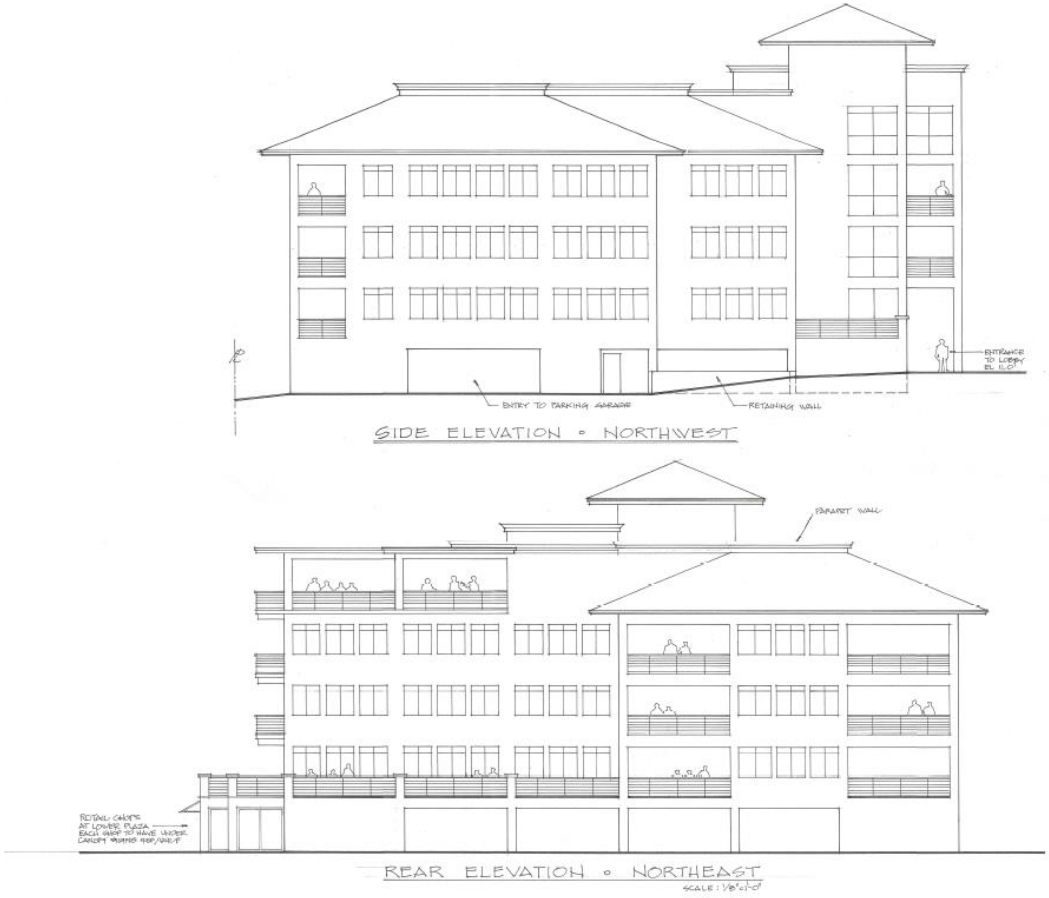




Exhibit "F" Elevations (3)

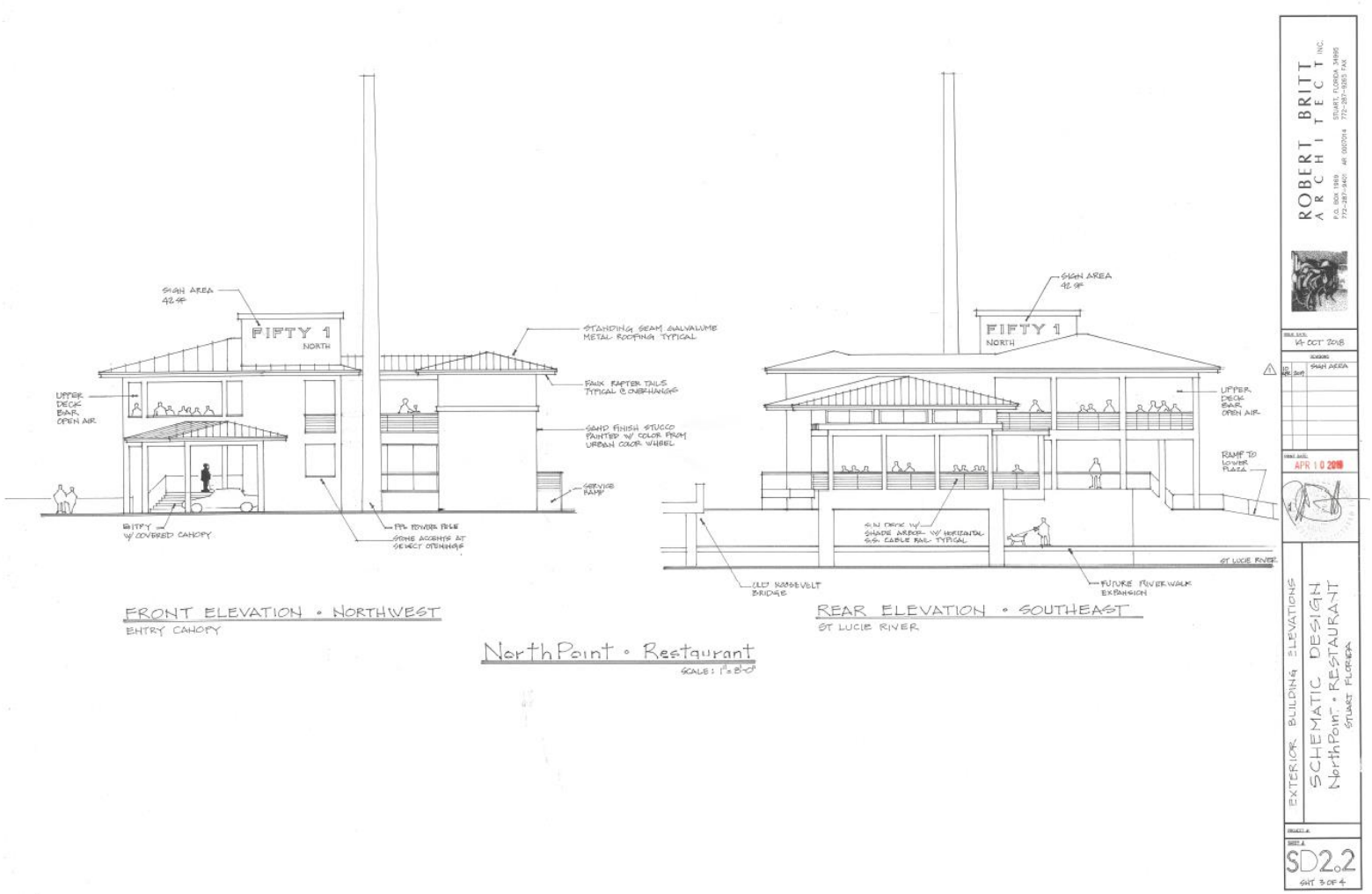


Exhibit "F" Elevations (4)

