LAW OFFICES OF

VACCARELLA

VINCENT F. VACCARELLA, P.A.

September 15, 2016

VIA EMAIL AND HAND DELIVERY

Mr. Thomas Mooney, Director
Planning & Zoning Department
City of Miami Beach
1700 Convention Center Drive
Miami Beach FL 33139

Re: Appeal of Planning Director's August 31, 2016 Administrative Determination re Normandy Living, LLC's Application for Modification of a Conditional Use Permit to Operate an Adult Congregate Living Facility (ACLF) File No. PB-0516-0018
Property Address: 1904 Marseilles Dr., 7100 Rue Granville, 1950 Normandy Dr.

Dear Mr. Mooney:

The undersigned law firm represents Normandy Living, LLC. Please accept this correspondence as Normandy Living's appeal to the Planning Board, pursuant to Sections 118-9(b)(1)(A) and 118-9(b)(2)(A)(i) of the Code of the City of Miami Beach (the "Code") regarding the Planning Director's decision on a conditional use application published on August 31, 2016 in respect to the captioned property.[1]

Section 118-9(b)(1)(A) of the Code provides specifically that "[a]n eligible party may appeal a decision of the planning director to the planning board regarding a decision reached on a conditional use application," and is then entitled to a public hearing before the Planning Board. This appeal concerns the decision reached by the Planning Director on Normandy Living's conditional use application (File No. PB-0516-0018) referenced in correspondence from the City Attorney dated August 31, 2016, that the facility Normandy Living seeks to operate as detailed in its application is not an Adult Congregate Living Facility ("ACLF") (the "Determination Letter"), which decision is within the appellate jurisdiction of the Planning Board. A copy of the Determination Letter with attachments is enclosed as Exhibit 2. We reserve the right to supplement this appeal notice with additional evidence, including the live testimony of a consultant retained by Normandy Living at a public hearing, and to cross-examine the consultant whose report serves as the basis of the Planning Director's decision at said hearing, in accordance with the procedures set forth in Section 118-6 of the Code.

The Planning Director has determined, based on the conclusions contained in the report

[1] The initial application and accompanying documents are enclosed as Exhibit 1.

of a consultant hired by the planning department without Normandy Living's knowledge, that the facility to be operated by Normandy Living is not an ACLF, because the planned use of the property does not exclusively involve providing housing that allows the elderly to age in place. In so opining, the Determination Letter loosely cites an AHCA report setting forth the concerns of the legislature and the City of Miami Beach in enacting assisted living facility laws, which the Determination Letter characterizes as: to ensure the long term availability of housing for the elderly. However, the AHCA report clearly indicates that the legislators' concerns were broader than that in passing ACLF laws, the report stating in full that assisted living facility laws, including the corresponding City of Miami Beach code provisions, are designed to "promote the availability of services for elderly persons **and adults with disabilities**..."

Neither the consultant's report nor the Determination Letter itself takes any issue with the manner in which the planned use will be carried out. The report in fact states that the facility would meet or exceed the standards for detoxification facilities. Further, there is no technical issue taken with the application that would prevent the applicant from operating an ACLF at the property. Instead, the Determination Letter opines (without any indication as to the Planning Director's or the consultant's qualifications to do so or authority for the statement) that "in fact, drug and alcohol addiction is a behavioral health condition." In *actual* fact, drug addiction and alcohol addiction are **disabilities** and are treated as such. See, e.g. Preamble to Regulations, 28 C.F.R. Pt. 35 at 455 (**Addiction is a disability**, and addicts are individuals with disabilities protected by the Act);[2] 28 C.F.R. § 41.31(b)(1) (**handicap includes drug addiction and alcoholism**) (emphasis added). "Substance use disorder" is a specific diagnosis in *The Diagnostic and Statistical Manual of Mental Disorders*, and therefore a person with a substance use disorder fits the definition of an "individual with a disability" under Section 413.08(1)(b), Florida Statutes. A consultant, qualified to discuss the medical status of addiction as a disability, would have been presented to the Planning Board in order to testify for the Planning Board exactly how the facility will, to quote the AHCA report again, 'promote the availability of services for adults with disabilities,' but the Determination Letter arbitrarily and capriciously denies Normandy Living this opportunity, in violation of due process and of the benefit to a hearing called for in the Code. This consultant will testify as such in this appeal as a supplement to this appeal notice as allowed by the City Attorney and as required by the Code.

More importantly, however, the planned use is unquestionably an ACLF under the Code.[3]

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[2] Consequently, the refusal to allow a facility related to drug addiction to operate as an ACLF may constitute actionable discrimination against people with disabilities, a cause of action which an applicant under the land use ordinance has standing to enforce in court. See Jeffrey O. v. City of Boca Raton, 511 F. Supp. 2d 1339 (S.D. Fla. 2007). For this reason alone, the Planning Director's decision contained in the Determination Letter cannot stand. See Dep't of Legal Affairs v. Rogers, 329 So. 2d 257, 265 (Fla. 1976) ("Generally, the legislature is presumed to have intended to enact a valid and constitutional law and [courts] will construe a statute, if possible, in such a manner as will be conducive to its constitutionality.").

[3] We note here that it was the Planning Director himself who suggested that the application submitted by Normandy Living be an application for a conditional use as an ACLF, and that Normandy Living was given cause to believe that if the application was so formatted, the Planning Director and City Attorney would agree that the matter would be presented to the Planning Board for consideration as conditional use applications are supposed to be. See Exhibit 3, an email from the Planning Director stating as such. Based on this fact, the Planning Director no longer has the ability to issue a legal opinion that removes the matter from Planning Board determination, under the doctrine of estoppel. See N. Miami v. Margulies, 289 So. 2d 424 (Fla. 3d DCA 1974).

the City of Miami Beach has a specific definition of ACLF, and this definition does not limit itself to facilities for the elderly or provide that a facility must allow its occupants to age in place for any extended period of time in order to fit the definition. Section 114-1 states,

> Adult congregate living facility means **any** state licensed **institution, building, residence, private home, boarding home**, home for the aged, **or other place** whether operated for profit or not, which undertakes through its ownership or management to provide **for a period exceeding 24 hours**, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services.

(Emphasis added). There is absolutely no ambiguity to that Code provision, and therefore no discretion of the Planning Director to interpret that provision in a manner that prejudices an applicant or to conclude that a facility that meets that definition is anything but an ACLF. See Nicoll v. Baker, 668 So. 2d 989 (Fla. 1996) (stating that the plain meaning of legislation precludes any construction to the contrary). The Planning Director and the consultant apparently concede as much, basing their opinions on the vague (incorrect construction of the legislative intent behind ACLF laws (and incorrectly-stated) intent of the ACLF laws rather than on this text. No consultant is necessary to interpret this provision, and the Planning Director's decision to rely on a consultant to construe this unambiguous section in a manner that is not consistent with its plain meaning is clearly erroneous, and once again arbitrary and capricious. Nevertheless, Normandy Living reserves the right to, and indeed intends to, present proof positive by testimony and documentary evidence that a detoxification facility of the kind proposed by Normandy Living is in fact analyzed under the framework of ACLFs. Some such evidence is included in Exhibit 3 hereto.

There is also no way to conclude that the planned use of the property falls outside this definition. The ordinance clearly indicates that a home for the aged is only one of many types of ACLFs, and that because the planned facility involves in excess of three occupants who will be housed at the facility for a period in excess of 24 hours for the purposes of allowing them to receive [substance abuse rehabilitation, *i.e.* disability-related] services, it is, both literally and legislatively, an adult congregate living facility (ACLF). As we intend to prove to the Planning Board through consultant testimony, the facility proposed by Normandy Living is an ACLF. Additionally, we are aware that the City has approved ACLFs that provide similar services to the ones planned.

In addition to taking issue with the erroneous legal conclusion of the Planning Director, Normandy Living also takes issue with the manner in which the Planning Director's decision in the Determination Letter is being imposed upon Normandy Living. It is for the Planning Board, and not the Planning Director or the City Attorney, to determine, after the procedures pertaining to the hiring of consultants and the cross-examination rights and rebuttal rights pertaining thereto are followed by the City, whether Normandy Living is proposing a facility that meets the definition of an ACLF. See Section 118.51(9), empowering the Planning Board:

(9) To consider applications pertaining to conditional use permits, amendments to these land development regulations, change of zoning district boundaries and comprehensive plan amendments and future land use map changes.

The Planning Director may make a recommendation, and the Planning Board is free to follow that recommendation after due process and adequate consideration are given to Normandy Living in front of the Planning Board, but there is no Code provision that authorizes the Planning Director to make a final substantive determination. Likewise, the City Attorney may make a determination that the application is not complete and ready for presentation to the Planning Board, but for him to make a substantive determination on an application would be to usurp the Planning Board's powers and to make Normandy Living's right to a public hearing and the procedures that come with it contained in the Code illusory. Such a construction of the Code is explicitly prohibited. See Hialeah v. Willey, 189 So. 2d 194 (Fla. 3d DCA 1966).

Normandy Living is confident that if the procedures called for in the Code for the consideration of conditional use applications were followed in this instance, *i.e.* if a full hearing on the matter were provided to Normandy Living, the Planning Board would have rejected the Planning director's recommendation and determined that the proposed use discussed in the application indeed fits squarely within the City's broad written definition of an ACLF, would serve the purposes of AHCA and the City in regulating ACLFs in general, and would constitute a significant benefit to the City and its residents.[4]

Based on the foregoing, Normandy Living demands a public hearing before the Planning Board on its appeal, and reserves all rights with respect thereto, including those contained in Section 118-6 of the Code and those attendant to the fundamental principals of fairness. Please consider all information previously provided to the planning department as part of this appeal, as all of it pertains to the Planning Director's determination that the planned use is not an ACLF.

The Planning Board, as the board authorized by the Code to hear this appeal, has the authority to issue the determination that the Planning Director should have made, See Section 118-9(b)(4) ("The applicable land use board may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken."); and the Planning Board also has the authority to consider all issues pertaining to Normandy Living's application at the same time or on the current schedule rather than allow the Determination Letter to stall the application procedure. See Section 118-9(b)(5)(B) ("If the appeal arises from an application for a quasi-judicial public hearing before a land use board, the hearing before the board to which application was made may proceed, provided any approval does not vest.").[5] We demand that the Planning

[4] Numerous studies exist to show that in general drug treatment centers do not negatively affect crime rates or property values, and indeed can constitute good neighbors. Normandy Living is confident that if it had the opportunity to present such studies and to rebut certain evidence attempting to suggest otherwise, the Planning Board would agree. This appeal exists in large part because Normandy Living was arbitrarily denied that right contained in the Code.

[5] If a statue says that a thing may be done by the legislature, and that thing is for the public benefit or for the purposes of justice, then the statute is to be construed to mean that the thing must be done. Mitchell v. Duncan, 7 Fla. 13 (1857); Woodland v. Lindsey, 586 So. 2d 1255 (Fla. 4th DCA 1991).

Board be allowed to consider the matter of Normandy Living's application at the September public hearing as initially scheduled, in order to avoid further prejudice to Normandy Living in the form of delay, or that said application be considered in full at the time of the public hearing on this appeal.

Normandy Living, LLC reserves the right to supplement this appeal with additional information, as well as all other rights under the Code and applicable law.

Sincerely,

Craig Lewis
clewis@v-law.net

CL/lss
cc: Eve Boutsis, Chief Deputy City Attorney, EveBoutsis@miamibeachfl.gov (via email)
Encls.

MIAMIBEACH
LAND USE BOARDS

PROPERTY:
1904 Marseille Dr., 7100 Rue Granville and 1915 Normandy Dr.

FILE NO.
PB 0516-0018 f/k/a file No. 2281

APPLICANT:
Normandy Living, LLC.

MEETING DATE:
9/27/2016

LEGAL DESCRIPTION:
ISLE OF NORMANDY MIAMI VIEW SEC
PART 3 PB 40-33
LOT 12 BLK 35
OR 16109-1674 1093 1
COC 23094-1230 02 2005 1
ISLE OF NORMANDY MIAMI VIEW SEC
PART 3 PB 40-33
LOT 13 BLK 35
LOT SIZE 60.000 X 125
OR 13258-4109 & 13261-0679 0487 1
ISLE OF NORMANDY MIAMI VIEW SEC
PART 3 PB 40-33
LOT 14 BLK 35
LOT SIZE 50.000 X 125
OR 18925-0007 1199 1

IN RE:
Conditional Use Permit

PRIOR ORDER NUMBER:
2281

ATTACHMENTS:

	Description	Type
🗋	APPLICATION DOCUMENTS	Memo
🗋	SUPPLEMENTAL DOCUMENTS 1	Memo
🗋	SUPPLEMENTAL DOCUMENTS 2	Memo
🗋	SUPPLEMENTAL DOCUMENTS 3	Memo
🗋	EXISTING CONDITIONS AND PROPOSED PROJECT 1	Memo
🗋	EXISTING CONDITIONS AND PROPOSED PROJECT 2	Memo
🗋	EXISTING CONDITIONS AND PROPOSED PROJECT 3	Memo
🗋	EXISTING CONDITIONS AND PROPOSED PROJECT 4	Memo
🗋	LANDSCAPE PLANS	Memo

MIAMI BEACH

PLANNING DEPARTMENT, 1700 CONVENTION CENTER DRIVE, 2ND FLOOR
MIAMI BEACH, FLORIDA 33139, WWW.MIAMIBEACHFL.GOV
305-673-7550

LAND USE BOARD HEARING APPLICATION

THE FOLLOWING APPLICATION IS SUBMITTED FOR REVIEW AND CONSIDERATION OF THE PROJECT DESCRIBED HEREIN BY THE LAND USE BOARD SELECTED BELOW. A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH BOARD REVIEWING THE PROPOSED PROJECT.

- ☐ BOARD OF ADJUSTMENT
  - ☐ VARIANCE FROM A PROVISION OF THE LAND DEVELOPMENT REGULATIONS
  - ☐ APPEAL OF AN ADMINISTRATIVE DECISION
- ☐ DESIGN REVIEW BOARD
  - ☐ DESIGN REVIEW APPROVAL
  - ☐ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY DRB.
- ☐ HISTORIC PRESERVATION BOARD
  - ☐ CERTIFICATE OF APPROPRIATENESS FOR DESIGN
  - ☐ CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
  - ☐ HISTORIC DISTRICT / SITE DESIGNATION
  - ☐ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY HPB.
- ☒ PLANNING BOARD
  - ☒ CONDITIONAL USE PERMIT
  - ☐ LOT SPLIT APPROVAL
  - ☐ AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS OR ZONING MAP
  - ☐ AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP
- ☐ FLOOD PLAIN MANAGEMENT BOARD
  - ☐ FLOOD PLAIN WAIVER
- ☐ OTHER _____

SUBJECT PROPERTY ADDRESS: 1904 Marseille Drive; 7100 Rue Granville; and 1915 Normandy Drive

LEGAL DESCRIPTION: PLEASE ATTACH LEGAL DESCRIPTION AS "EXHIBIT A"

FOLIO NUMBER (S) 02-3210-011-0270; 02-3210-011-0280; 02-3210-011-0290

1. APPLICANT: ☐ OWNER OF THE SUBJECT PROPERTY ☐ TENANT ☐ ARCHITECT ☐ LANDSCAPE ARCHITECT ☐ ENGINEER ☐ CONTRACTOR X OTHER Contract Purchaser/Future Operator

NAME Normandy Living, LLC
ADDRESS 101 20th Street, Suite 2706, Miami, FL 33139
BUSINESS PHONE (310) 867-0321 CELL PHONE
E-MAIL ADDRESS

OWNER IF DIFFERENT THAN APPLICANT: 1904 Marseille Drive & 7100 Rue Granville

NAME Better Living Investment, LLC
ADDRESS 3325 S. University Drive #202, Fort Lauderdale, FL 33328
BUSINESS PHONE CELL PHONE
E-MAIL ADDRESS

2. AUTHORIZED REPRESENTATIVE(S):

X ATTORNEY:
NAME Michael W. Larkin & Matthew Amster, Bercow Radell & Fernandez, PLLC
ADDRESS 200 S. Biscayne Blvd, Suite 850, Miami, FL 33131
BUSINESS PHONE (305) 374-5300 CELL PHONE
E-MAIL ADDRESS mlarkin@brzoninglaw.com & jkarr@brzoninglaw.com

☐ ~~X~~AGENT: OWNER IF DIFFERENT FROM APPLICATION: 1915 Normandy Drive.
NAME Kyrah N. Rodriguez
ADDRESS 1915 Normandy Drive, Miami Beach, FL 33141
BUSINESS PHONE CELL PHONE
E-MAIL ADDRESS

☐ CONTACT:
NAME
ADDRESS
BUSINESS PHONE CELL PHONE
E-MAIL ADDRESS

3. PARTY RESPONSIBLE FOR PROJECT DESIGN:

☐ ARCHITECT ☐ LANDSCAPE ARCHITECT ☐ ENGINEER ☐ CONTRACTOR ☐ OTHER:
NAME Jose Gomez, Beilinson & Gomez Architects
ADDRESS 8101 Biscayne Blvd, Suite 309, Miami, FL 33138
BUSINESS PHONE CELL PHONE (786) 507-1937
E-MAIL ADDRESS jg@beilinsonarchitectspa.com

FILE NO.

4. SUMMARY OF APPLICATION – PROVIDE BRIEF SCOPE OF PROJECT:

Amendment of a conditional use permit to change owner and operator to Normandy Living, LLC and to increase the permitted number of beds at the ACLF. See letter of intent and operations plans for more details.

4A. IS THERE AN EXISTING BUILDING(S) ON THE SITE ☒ YES ☐ NO

4B. DOES THE PROJECT INCLUDE INTERIOR OR EXTERIOR DEMOLITION ☒ YES ☐ NO

4C. PROVIDE THE TOTAL FLOOR AREA OF THE NEW BUILDING (IF APPLICABLE)_____SQ. FT.

4D. PROVIDE THE TOTAL GROSS FLOOR AREA OF THE NEW BUILDING (INCLUDING REQUIRED PARKING AND ALL USEABLE FLOOR SPACE)_____SQ. FT.

5. APPLICATION FEE (TO BE COMPLETED BY PLANNING STAFF) $_____

- A SEPARATE DISCLOSURE OF INTEREST FORM MUST BE SUBMITTED WITH THIS APPLICATION IF THE APPLICANT OR OWNER IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR TRUSTEE.
- ALL APPLICABLE AFFIDAVITS MUST BE COMPLETED AND THE PROPERTY OWNER MUST COMPLETE AND SIGN THE "POWER OF ATTORNEY" PORTION OF THE AFFIDAVIT IF THEY WILL NOT BE PRESENT AT THE HEARING, OR IF OTHER PERSONS ARE SPEAKING ON THEIR BEHALF.
- TO REQUEST THIS MATERIAL IN ALTERNATE FORMAT, SIGN LANGUAGE INTERPRETER (FIVE-DAY NOTICE IS REQUIRED), INFORMATION ON ACCESS FOR PERSONS WITH DISABILITIES, AND ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDINGS, CALL 305.604.2489 AND SELECT (1) FOR ENGLISH OR (2) FOR SPANISH, THEN OPTION 6; TTY USERS MAY CALL VIA 711 (FLORIDA RELAY SERVICE).

PLEASE READ THE FOLLOWING AND ACKNOWLEDGE BELOW:

- APPLICATIONS FOR ANY BOARD HEARING(S) WILL NOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO THE "CITY OF MIAMI BEACH".
- PUBLIC RECORDS NOTICE – ALL DOCUMENTATION, SUBMITTED FOR THIS APPLICATION IS CONSIDERED A PUBLIC RECORD SUBJECT TO CHAPTER 119 OF THE FLORIDA STATUTES AND SHALL BE DISCLOSED UPON REQUEST.
- IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2-482 OF THE CODE OF THE CITY OF MIAMI BEACH, ANY INDIVIDUAL OR GROUP THAT WILL BE COMPENSATED TO SPEAK OR REFRAIN FROM SPEAKING IN FAVOR OR AGAINST A PROJECT BEING PRESENTED BEFORE ANY OF THE CITY'S LAND USE BOARDS, SHALL FULLY DISCLOSE, PRIOR TO THE PUBLIC HEARING, THAT THEY HAVE BEEN, OR WILL BE COMPENSATED. SUCH PARTIES INCLUDE: ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS, OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVES ATTORNEYS OR AGENTS AND CONTACT PERSONS WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY; SUCH INDIVIDUALS MUST REGISTER WITH THE CITY CLERK PRIOR TO THE HEARING.

FILE NO._____

- IN ACCORDANCE WITH SEC 118-31. – DISCLOSURE REQUIREMENT. EACH PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION FROM THE PLANNING BOARD, DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD (INCLUDING THE JOINT DESIGN REVIEW BOARD/HISTORIC PRESERVATION BOARD) OR THE BOARD OF ADJUSTMENT SHALL DISCLOSE, AT THE COMMENCEMENT (OR CONTINUANCE) OF THE PUBLIC HEARING(S), ANY CONSIDERATION PROVIDED OR COMMITTED, DIRECTLY OR ON ITS BEHALF, FOR AN AGREEMENT TO SUPPORT OR WITHHOLD OBJECTION TO THE REQUESTED APPROVAL, RELIEF OR ACTION, EXCLUDING FROM THIS REQUIREMENT CONSIDERATION FOR LEGAL OR DESIGN PROFESSIONAL SERVICES RENDERED OR TO BE RENDERED. THE DISCLOSURE SHALL: (I) BE IN WRITING, (II) INDICATE TO WHOM THE CONSIDERATION HAS BEEN PROVIDED OR COMMITTED, (III) GENERALLY DESCRIBE THE NATURE OF THE CONSIDERATION, AND (IV) BE READ INTO THE RECORD BY THE REQUESTING PERSON OR ENTITY PRIOR TO SUBMISSION TO THE SECRETARY/CLERK OF THE RESPECTIVE BOARD. UPON DETERMINATION BY THE APPLICABLE BOARD THAT THE FOREGOING DISCLOSURE REQUIREMENT WAS NOT TIMELY SATISFIED BY THE PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION AS PROVIDED ABOVE, THEN (I) THE APPLICATION OR ORDER, AS APPLICABLE, SHALL IMMEDIATELY BE DEEMED NULL AND VOID WITHOUT FURTHER FORCE OR EFFECT, AND (II) NO APPLICATION FROM SAID PERSON OR ENTITY FOR THE SUBJECT PROPERTY SHALL BE REVIEWED OR CONSIDERED BY THE APPLICABLE BOARD(S) UNTIL EXPIRATION OF A PERIOD OF ONE YEAR AFTER THE NULLIFICATION OF THE APPLICATION OR ORDER. IT SHALL BE UNLAWFUL TO EMPLOY ANY DEVICE, SCHEME OR ARTIFICE TO CIRCUMVENT THE DISCLOSURE REQUIREMENTS OF THIS SECTION AND SUCH CIRCUMVENTION SHALL BE DEEMED A VIOLATION OF THE DISCLOSURE REQUIREMENTS OF THIS SECTION.
- WHEN THE APPLICABLE BOARD REACHES A DECISION A FINAL ORDER WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. THE FINAL ORDER WILL BE RECORDED WITH THE MIAMI-DADE CLERK OF COURTS. THE ORIGINAL BOARD ORDER SHALL REMAIN ON FILE WITH THE CITY OF MIAMI BEACH PLANNING DEPARTMENT. UNDER NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE RECORDED FINAL ORDER BEING INCLUDED AND MADE A PART OF THE PLANS SUBMITTED FOR A BUILDING PERMIT.

THE AFOREMENTIONED IS ACKNOWLEDGED BY X OWNER OF THE SUBJECT PROPERTY
AUTHORIZED REPRESENTATIVE

SIGNATURE X _____

PRINT NAME Craig Alvarez

FILE NO. _____

- IN ACCORDANCE WITH SEC.118-31. - DISCLOSURE REQUIREMENT. EACH PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION FROM THE PLANNING BOARD, DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD (INCLUDING THE JOINT DESIGN REVIEW BOARD/HISTORIC PRESERVATION BOARD), OR THE BOARD OF ADJUSTMENT SHALL DISCLOSE, AT THE COMMENCEMENT (OR CONTINUANCE) OF THE PUBLIC HEARING(S), ANY CONSIDERATION PROVIDED OR COMMITTED, DIRECTLY OR ON ITS BEHALF, FOR AN AGREEMENT TO SUPPORT OR WITHHOLD OBJECTION TO THE REQUESTED APPROVAL, RELIEF OR ACTION, EXCLUDING FROM THIS REQUIREMENT CONSIDERATION FOR LEGAL OR DESIGN PROFESSIONAL SERVICES RENDERED OR TO BE RENDERED. THE DISCLOSURE SHALL: (I) BE IN WRITING, (II) INDICATE TO WHOM THE CONSIDERATION HAS BEEN PROVIDED OR COMMITTED, (III) GENERALLY DESCRIBE THE NATURE OF THE CONSIDERATION, AND (IV) BE READ INTO THE RECORD BY THE REQUESTING PERSON OR ENTITY PRIOR TO SUBMISSION TO THE SECRETARY/CLERK OF THE RESPECTIVE BOARD. UPON DETERMINATION BY THE APPLICABLE BOARD THAT THE FOREGOING DISCLOSURE REQUIREMENT WAS NOT TIMELY SATISFIED BY THE PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION AS PROVIDED ABOVE, THEN (I) THE APPLICATION OR ORDER, AS APPLICABLE, SHALL IMMEDIATELY BE DEEMED NULL AND VOID WITHOUT FURTHER FORCE OR EFFECT, AND (II) NO APPLICATION FROM SAID PERSON OR ENTITY FOR THE SUBJECT PROPERTY SHALL BE REVIEWED OR CONSIDERED BY THE APPLICABLE BOARD(S) UNTIL EXPIRATION OF A PERIOD OF ONE YEAR AFTER THE NULLIFICATION OF THE APPLICATION OR ORDER. IT SHALL BE UNLAWFUL TO EMPLOY ANY DEVICE, SCHEME OR ARTIFICE TO CIRCUMVENT THE DISCLOSURE REQUIREMENTS OF THIS SECTION AND SUCH CIRCUMVENTION SHALL BE DEEMED A VIOLATION OF THE DISCLOSURE REQUIREMENTS OF THIS SECTION.
- WHEN THE APPLICABLE BOARD REACHES A DECISION A FINAL ORDER WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. THE FINAL ORDER WILL BE RECORDED WITH THE MIAMI-DADE CLERK OF COURTS. THE ORIGINAL BOARD ORDER SHALL REMAIN ON FILE WITH THE CITY OF MIAMI BEACH PLANNING DEPARTMENT. UNDER NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE RECORDED FINAL ORDER BEING INCLUDED AND MADE A PART OF THE PLANS SUBMITTED FOR A BUILDING PERMIT.

THE AFOREMENTIONED IS ACKNOWLEDGED BY: ☒ OWNER OF THE SUBJECT PROPERTY – 1915 Normandy Dr.
☐ AUTHORIZED REPRESENTATIVE

SIGNATURE: _____

PRINT NAME: Kyrah N. Rodriguez

FILE NO. _____

OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF

COUNTY OF

I, N/A, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for removing this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this ____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires:

PRINT NAME

ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY

(Circle one)

STATE OF Florida

COUNTY OF

I, Gian John Alvarez, being duly sworn, depose and certify as follows: (1) I am the Owner (print title) of Better Living Investment, LLC (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner or tenant of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (7) I am responsible for removing this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this 30 day of March, 2016. The foregoing instrument was acknowledged before me by Gian John Alvarez of _____, on behalf of such entity, who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP:

Notary Public State of Florida
Vanessa Altamirano
My Commission FF 914375
Expires 08/31/2019

NOTARY PUBLIC

My Commission Expires:

Vanessa Altamirano

PRINT NAME

FILE NO. _____

OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF Massachusetts
COUNTY OF Suffolk

I, Kyrah N. Rodriguez, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for removing this notice after the date of the hearing.

Kyrah

SIGNATURE

Sworn to and subscribed before me this 27th day of April, 2018. The foregoing instrument was acknowledged before me by Kyrah N. Rodriguez who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP:

LOMBARDO A. IRAHETA
Notary Public, Commonwealth of Massachusetts
My Commission Expires August 7, 2020

Lombardo A. Iraheta

NOTARY PUBLIC

My Commission Expires:

Lombardo A. Iraheta

PRINT NAME

ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY

(Circle one)

STATE OF Florida

COUNTY OF

I, _____, being duly sworn, depose and certify as follows: (1) I am the _____ (print title) of _____ (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner or tenant of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (7) I am responsible for removing this notice after the date of the hearing.

_____

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, _____ of _____, on behalf of such entity, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP:

_____

NOTARY PUBLIC

My Commission Expires:

_____

PRINT NAME

FILE NO. _____

POWER OF ATTORNEY AFFIDAVIT

STATE OF Florida

COUNTY OF

I Gary J. Alvarez being duly sworn and deposed, certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application.(2) I hereby authorize Michael W. Larkin & Justin Karr, BRF to be my representative before the Planning Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

Gary John Alvarez
PRINT NAME (and Title, if applicable)

SIGNATURE

Sworn to and subscribed before me this 20 day of March, 2018. The foregoing instrument was acknowledged before me by Gary John Alvarez of who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires

Notary Public State of Florida
Vanessa Altamirano
My Commission FF 914375
Expires 08/31/2019

Vanessa Altamirano
PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.*

NAME	DATE OF CONTRACT
NAME, ADDRESS, AND OFFICE	% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

FILE NO.

POWER OF ATTORNEY AFFIDAVIT

STATE OF ~~Florida~~ Massachusetts
COUNTY OF Suffolk

I, Kyrah Rodriguez, being duly sworn and deposed, certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application.(2) I hereby authorize Michael W. Larkin & Matthew Amster, BRF to be my representative before the Planning Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

Kyrah N. Rodriguez
PRINT NAME (and Title, if applicable)

Kyrah
SIGNATURE

Sworn to and subscribed before me this 27 day of April, 2016. The foregoing instrument was acknowledged before me by Kyrah N. Rodriguez of Miami Beach who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

RACHELLE R. COOPER
Notary Public Commonwealth of Massachusetts
My Commission Expires July 27, 2018

My Commission Expires:

NOTARY PUBLIC

R. Cooper
PRINT NAME

CONTRACT FOR PURC

If the applicant is not the ow[illegible]he property, but the [illegible] is a party to a contract to purchase the property, whether or not such c[illegible]s contingent on this [illegible]tion, the applicant shall list the names of the contract purchasers below, includ[illegible]nd all principal[illegible], stockholders, beneficiaries, or partners. If any of the contract purchasers are cor[illegible], partnersh[illegible]ed liability companies, trusts, or other corporate entities, the applicant shall further di[illegible]e identi[illegible] individual(s) (natural persons) having the ultimate ownership interest in the entity. If an[illegible]agen[illegible]e or contract terms involve additional individuals, corporations, partnerships, limited liabilit[illegible]s, or other corporate entities, list all individuals and/or corporate entities.*

Normandy Living, LLC
NAME

March 2016
DATE OF CONTRACT

NAME, ADDRESS, AND OF[illegible]

% OF STOCK

Rick Yung & Ch[illegible]opher Cuomo — 50% / 50%
101 20th Street [illegible]706
Miami, FL 33139

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

REVISED - SEE NEXT PAGE

FILE NO._____

POWER OF ATTORNEY AFFIDAVIT

STATE OF

COUNTY OF

I, Richard Yun, being duly sworn and deposed, certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application.(2) I hereby authorize Michael Larkin & Matthew Amster to be my representative before the DRB Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

Richard Yun, Manager, Normandy Living, LLC
PRINT NAME (and Title, if applicable)

SIGNATURE

Sworn to and subscribed before me this_____day of_____, 20_____. The foregoing instrument was acknowledged before me by_____of_____who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires

PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.*

Normandy Living, LLC	March 2016
NAME	DATE OF CONTRACT
NAME, ADDRESS, AND OFFICE	% OF STOCK
101 20th Street, Suite 2706	
Miami, FL 33139	
Richard Yun	80%
Mark Epley	20%

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

FILE NO._____

POWER OF ATTORNEY AFFIDAVIT

STATE OF Florida
COUNTY OF

I, Richard Yune, being duly sworn and deposed, certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application.(2) I hereby authorize Michael W. Larkin & Justin Karr, BRF to be my representative before the Planning Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

Richard Yune
PRINT NAME (and Title, if applicable)

SIGNATURE

Sworn to and subscribed before me this 13 day of April, 2016. The foregoing instrument was acknowledged before me by Richard Yune of _____ who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

Notary Public State of Florida
Vanessa Altamirano
My Commission FF 914375
Expires 08/31/2019

NOTARY PUBLIC

My Commission Expires

Vanessa Altamirano
PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities. *

NAME	DATE OF CONTRACT
NAME, ADDRESS, AND OFFICE	% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

FILE NO._____

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

1. CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY

If the property that is the subject of the application is owned or leased by a corporation, partnership, or limited liability company, list ALL of the owners, shareholders, partners, managers, and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

Better Living Investment, LLC

NAME OF CORPORATE ENTITY

NAME AND ADDRESS	% OF OWNERSHIP
See Exhibit B	

NAME OF CORPORATE ENTITY

NAME AND ADDRESS	% OF OWNERSHIP
Normandy Living, LLC See Exhibit B	

IF THERE ARE ADDITIONAL CORPORATE OWNERS, LIST ALL SUCH OWNERS, INCLUNG CORPORATE NAMES AND THE NAME, ADDRESS, AND PERCENTAGE OF OWNERSHIP OF EACH ADDITIONAL OWNER, ON A SEPARATE PAGE.

NOTE: Notarized signature required on page 9

FILE NO._____

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION
DISCLOSURE OF INTEREST

2. TRUSTEE

If the property that is the subject of this application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

N/A

TRUST NAME

NAME AND ADDRESS	% INTEREST

NOTE: Notarized signature required on page 9

FILE NO._____

3. COMPENSATED LOBBYIST:

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

	NAME	ADDRESS	PHONE #
a.	Michael W. Larkin	200 S. Biscayne Blvd. Suite 850, Miami, FL	(305) 374-5300
b.	Justin Karr & Matthew Amster	200 S. Biscayne Blvd. Suite 850, Miami, FL	(305) 374-5300
c.	Jose Gomez	8101 Biscayne Blvd. Suite 309, Miami, FL	(786) 507-1937

Additional names can be placed on a separate page attached to this form.

*Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership or other entity, consisting of more than 5,000 separate interests, where no one person or entity holds more than a total of 5% of the ownership interests in the entity.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) ANY APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE, AND FEDERAL LAWS.

APPLICANT AFFIDAVIT

STATE OF

COUNTY OF

I, Richard Yue, being first duly sworn, depose and certify as follows: (1) I am the applicant, or the representative of the applicant. (2) This application and all information submitted in support of this application, including disclosures, sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

SIGNATURE

Sworn to and subscribed before me this 13 day of April, 2016. The foregoing instrument was acknowledged before me by, who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

Vanessa Altamirano

PRINT NAME

My Commission Expires:

FILE NO.

EXHIBIT A

LEGAL DESCRIPTIONS

1904 MARSEILLE DRIVE / 02-3210-011-0270

Lot 12, Block 35, MIAMI VIEW SECTION THREE, ISLE OF NORMANDY, according to the Plat thereof, as recorded in Plat Book 40, Page 33 of the Public Records of Miami-Dade County Florida

7100 RUE GRANVILLE / 02-3210-011-0280

Lot 13, Block 35, MIAMI VIEW SECTION PART 3 ISLES OF NORMANDY, according to the Plat thereof, as recorded in Plat Book 40, at Page 33 of the Public Record of Miami-Dade County, Florida.

1915 NORMANDY DRIVE / 02-3210-011-0290

Lot 14, Block 35, of MIAMI VIEW SECTION, PART THREE, CITY OF MIAMI BEACH, according to the Plat thereof, as recorded in Plat Book 40, at Page 33, of the Public Records of Miami-Dade County, Florida.
Subject to easements, restrictions and reservations of record and to taxes for the year 1999 and thereafter.

EXHIBIT B

Normandy Living, LLC

101 20th Street
Suite 2706
Miami, FL 33139

Richard Yun	80%
Mark Epley	20%

Better Living Investments, LLC

3420 NE 164th Street
North Miami Beach, FL 33160

Stanley Gary	25%
Gary John Alvarez	75%

BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

DIRECT LINE: (305) 377-6231
E-Mail: MLarkin@BRZoningLaw.com

VIA HAND DELIVERY

May 4, 2016

Thomas Mooney, Planning Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Request for Modification of Conditional Use Permit Approval for the Properties located at 1904 Marseille Drive, 7100 Rue Granville, and 1915 Normandy Drive

Dear Tom:

This firm represents Normandy Living, LLC (the "Applicant"), the contract-purchaser of the properties located at 1904 Marseille Drive, 7100 Rue Granville, and 1915 Normandy Drive (collectively, the "Property"). Please consider this the Applicant's letter of intent in support of a request to amend an existing Conditional Use Permit ("CUP") for an Adult Congregate Living Facility ("ACLF"), in order to change the owner/operator to Normandy Living, LLC and to increase the total permitted beds.

Description of the Property. The Property is located on the west side of Rue Granville between Marseille Drive in the north and Normandy Drive in the south. 1904 Marseille Drive at the north of the Property contains a 1-story, multifamily residential building with four apartment units. 7100 Rue Granville, immediately to the south, has operated as an ACLF since 1982. It currently operates as Better Living Investment, LLC (a.k.a. Normandy Estates), a 12-bed ACLF licensed and in operation for many years.[1] 1915 Normandy Drive located to the west contains a small, 1-story single-family home.

The Property is zoned Residential Multifamily, Low Density (RM-1) under the City's land development regulations. Pursuant to Section 142-153(a), the RM-1 zoning district permits ACLFs and nursing homes as conditional uses.

[1] Previously licensed as Douglas Gardens Community Mental Health Center.

Development Approval History. City records indicate that multiple operators have operated various formats of ACLFs at 7100 Rue Granville since at least 1982. Board of Adjustment File No. 1524 approved a parking variance for that parcel and further indicates that the City Commission granted approval for ACLF operation in 1982 (pursuant to City Commission Memo 537-82 dated August 18, 1982). See attached Final Order for Board of Adjustment File No. 1524 dated September 23, 1986.

In 2013, the current owner of 7100 Rue Granville and 1904 Marseille Drive, Gary Alvarez/Better Living Investment, LLC, obtained a CUP to expand the existing 12-bed facility at 7100 Rue Granville onto the adjacent property to the north at 1904 Marseille Drive. See attached Final Order for Planning Board File No. 2141 dated November 13, 2013. The plans approved with the 2013 CUP contemplated the conversion of the existing 4-unit multifamily building on Marseille Drive into an ACLF with 21 beds that would operate in the same fashion as the facility at 7100 Rue Granville. The plans proposed connecting the building at 1904 Marseille Drive to the 7100 Rue Granville facility through a raised wooden deck with a canopy cover. The 12 beds were to remain at the 7100 Rue Granville building.

The current owner did not obtain a building permit within the allotted time limitation on the order and subsequently reapplied for the CUP. In October 2015, the Planning Board re-approved the expired CUP for the expansion of the existing use onto the Marseille Drive property. See attached Final Order for Planning Board File No. 2281 dated October 9, 2015. The plans approved with the application depicted only 19 beds rather than the 21 beds initially approved with the 2013 CUP. The approved plans retained the existing 12 beds at 7100 Rue Granville.

Under both CUPs obtained by the current operator in 2013 and 2015, the proposed expansion on Marseille Drive would be contained within the shell of the existing 1-story multifamily structure and involved only nonstructural interior demolition. Therefore, any requirement for off-street parking triggered by the increase in intensity could be satisfied through a fee in lieu of providing on-site parking.

Description of Proposed Development. The Applicant will become the new owner/operator of the facility. The Applicant has reevaluated the previous site plan for expansion onto 1904 Marseille Drive and proposes a second floor addition above the existing multifamily structure to increase from the approved 19 to 44 beds; each floor will contain 22 beds. The 7100 Rue Granville facility will continue to operate as it does today with 12 beds. The Applicant will submit an application for design review approval of the proposed building addition to the Design Review Board in the near future.

The expansion onto 1904 Marseille Drive proposes an addition atop the existing structure with 22 beds. Therefore, the additional floor area triggers an off-street parking requirement of 11 spaces that cannot be satisfied through the fee-in-lieu program. In order to provide this parking, the Applicant is acquiring the 1915 Normandy Drive property for conversion into an open-air, surface parking lot with 11 parking spaces. The secured parking lot will serve only employees and guests of the residents of the facility and may not be used by the public. Residents at the facility will not be driving vehicles and will not utilize this parking area.

Conditional Use Criteria. Every conditional use application requires the Planning Board to determine an application's consistency with seven (7) criteria. Those criteria, codified in Section 118-192(a), follow below, accompanied with a description of the application's consistency with each.

(1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

The project is consistent with the Comprehensive Plan, as the use is permissible within the Low Density Multifamily Residential Category (RM-1) Future Land Use designation as a Conditional Use. The project is also consistent with Housing Element Objective 4 which encourages that there be adequate sites for group homes, at approximately 20% of the City's land area.

(2) The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

The proposed project is not anticipated to exceed the Level of Service (LOS) for the surrounding area. Despite the increase in intensity, the facility will be self-contained with 11 parking spaces where none existed before, and will not impose great impact on traffic, infrastructure, or services.

(3) Structures and uses associated with the request are consistent with these land development regulations.

The proposed use is an Adult Congregate Living Facility, as defined by Section 114-1 of the City Code, which is allowed in the underlying zoning district as a conditional use. The use has existed at this location for decades and any physical improvements must undergo the design review approval process pursuant to the Code.

(4) The public health, safety, morals, and general welfare will not be adversely affected.

The proposed facility will have no impact on the public's health, safety, or welfare. The current facility and prior operations have operated at 7100 Rue Granville for over three decades. The Applicant's proposal responds to a large, underserved demand for such services citywide.

(5) Adequate off-street parking facilities will be provided.

The development plan proposes to construct sufficient parking to adequately serve the expanded use of the building. Notwithstanding satisfaction of parking requirements, it is important to note that residents of the facility will not be driving vehicles and the facility will have a transportation vehicle to transport residents to off-site appointments.

(6) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

Thoughtful management and operation by the Applicant's licensed and experienced staff will help ensure a quality facility providing important services needed in the City. With proper controls and safeguards, this use will not have any detrimental impact on the surrounding properties or neighborhood values. Notably, only limited medical services, such as monitoring of vitals and administering medications, will occur at the facility. These services are akin to those provided at assisted living facilities (ALF) and nursing homes, and are already provided by the existing ALF at the Property.

(7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

There exist no other ACLFs in the immediate vicinity. The Applicant merely seeks to expand an approved facility. The staff recommendation less than a year ago for the October 2015 CUP noted that the existing facility is run professionally, enjoys a favorable reputation in the community, and received no complaints from neighbors. Not only has the use existed at this location over 30 years, but demand has grown in the community.

Conclusion. The Applicant proposes a thoughtful expansion of an already approved ACLF. We look forward to your favorable recommendation on our application. If you have any questions or comments, please call me at 305-377-6231.

Sincerely,

Michael W. Larkin

Attachments

cc: Rick Yune
Matthew Amster, Esq.

1986 OCT 14 AM 10:25 86R352063

REC. 13048 PG 1660

BEFORE THE ZONING BOARD OF ADJUSTMENT
OF THE CITY OF MIAMI BEACH, FLORIDA

IN RE: The application of JAY AND JACQUELINE WELLS

CASE NO: 1772

O R D E R

On the 4th day of September, 1986, the applicant, JAY AND JACQUELINE WELLS filed an application with the Director of the Development Services Division for an appeal from an administrative decision that the subject property does not qualify as a non-conforming 16 bed A.C.L.F. facility. Said Building obtained a conditional use approval from the City Commission on August 18, 1982 for a maximum of 12 beds; and also, a variance was granted on November 5, 1982 under File #1524 for the operation of said facility with 12 residents.

Lot 13, Block 35
Isle of Normandy
Miami View Section Part 3
recorded in Plat Book 40
at Page 33 of the Public Records
of Dade County, Florida.

Notice of the request for appeal was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made. The Board finds that the property in question is located in the RS-4 Zoning District. The Board further finds:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district, to wit:

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

IT IS THEREFORE ORDERED, by the Board, that a variance(s) as requested and set forth above be granted subject to:

RELIEF REQUESTED IS GRANTED. APPLICANT HAS A NON-CONFORMING ADULT CONGREGATE LIVING FACILITY WITH 16 BEDS UNDER THE CONDITION THAT APPLICANT COMPLY WITH ALL OTHER APPLICABLE CODES.

PROVIDED, the applicant shall take all necessary steps to have permit issued by the Director of the Development Services Division within a period of two (2) years from the date hereof, otherwise this Order shall become null and void, unless the issuance of such permit is stayed by an appeal to the appropriate court. This Order does not constitute a permit, but upon presentation of this Order to the Director of the Development Services Department, a permit shall be issued in accordance and pursuant to the ordinances of the City of Miami Beach.

Dated this 23rd day of September, 1986.

ZONING BOARD OF ADJUSTMENT OF THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
RUSSELL GALBUT
CHAIRMAN

STATE OF FLORIDA)
)SS
COUNTY OF DADE)

BEFORE ME personally appeared RUSSELL GALBUT to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purpose therein expressed.

WITNESS my hand and official seal, this 23rd day of September A.D. 1986.

_____
NOTARY PUBLIC
STATE OF FLORIDA

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. FEB. 5,1988
BONDED THRU GENERAL INS. UND.

My commission expires _____

Frank Aymonin, Public Works Director (X)
Jud Kurlancheek, Planning Director (X)

RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA.
RECORD VERIFIED
RICHARD P. BRINKER
CLERK CIRCUIT COURT

CFN 2014R0016336
OR Bk 28981 Pgs 2170 - 2172i (3pgs)
RECORDED 01/08/2014 13:38:04
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 1904 Marseille Drive

FILE NO. 2141

IN RE: The application by Gary Alvarez, Better Living Investment, LLC, requesting a Conditional Use Permit, pursuant to Article V Section 142, of the Miami Beach City Code, to expand an existing Assisted Living Facility into the adjacent property to the north.

LEGAL DESCRIPTION: Lot 12 Block 35 Isle of Normandy Miami View Section Part 3, according to the plat thereof, recorded in Plat Book 40 Page 33 of the public records of Miami Dade-County Florida.

MEETING DATE: November 19, 2013

CONDITIONAL USE PERMIT

The applicant, Gary Alvarez, Better Living Investment, LLC, filed an application with the Planning Director requesting Conditional Use approval pursuant to Article V Section 142, of the Miami Beach City Code, to expand an existing Assisted Living Facility into the adjacent property to the north.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the RM-1 Single Family Residential Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter,

and the staff report and analysis, which is adopted herein, including staff recommendations, as modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

1. This Conditional Use Permit is issued to Gary John Alvarez/Better Living Investment, LLC, for the expansion of the existing Assisted Living Facility. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or the equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein and to obtain a Modification to this Conditional Use Permit.

2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

3. The applicant shall receive all necessary approvals and licenses from all pertinent local, regional and state government agencies for this facility prior to the issuance of a Certificate of Occupancy or Certificate of Use/Business Tax Receipt, whichever may occur first.

4. The applicant shall pay to the City a yearly fee-in-lieu of providing parking of $2,800.00. The first payment shall be due before the issuance of the Certificate of Use or Business Tax Receipt, whichever comes first.

5. The applicant shall provide to staff either a Unity of Title or a Covenant in Lieu of Unity of Title before the issuance of a TCO or CO in order to be able to connect the two properties through a hallway, as proposed.

6. A fence shall be required on the North side of the property and plans for it shall be submitted to staff for review and approval prior to the issuance of a building permit.

7. The hours of operation of the ALF shall be as requested by the applicant, 24 hours a day, seven days a week.

8. The number of beds in the expanded facility shall not exceed 21.

9. Any exterior business identification signs shall be submitted to staff for review and approval prior to approval of a building permit.

10. ALF staff shall ensure that patient behavior (noise or loitering) does not become a nuisance to surrounding property owners or tenants.

11. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and all the areas adjacent to and around the property, in a clean manner and clear of trash.

12. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Certificate of Use/Business Tax Receipt.

13. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.

14. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, applicant shall record it in the Public Records of Miami-Dade County applicant's expense and then return the recorded instrument to the Planning Department. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.

15. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

16. The establishment and operation of this modified Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

17. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

Dated this 16th day of December, 2013

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Richard G. Lorber, AICP, LEED AP
Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 18th day of December 2013, by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

_____
Notary:
Print Name: Teresa Maria
Notary Public, State of Florida
My Commission Expires: 10-2-17
Commission Number: FF042188

[NOTARIAL SEAL]

TERESA MARIA
MY COMMISSION # FF 042188
EXPIRES: December 2, 2017
Bonded Thru Budget Notary Services

Approved As To Form:
Legal Department (Filed 12-18-13)

Filed with the Clerk of the Planning Board on (12/19/13) _____

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CFN: 20160235617 BOOK 30046 PAGE 4619
DATE:04/21/2016 01:03:54 PM
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY:	1904 Marseille Drive
FILE NO.	2281
IN RE:	The request for a Conditional Use Permit for the expansion of an existing Assisted Living Facility located at 7100 Rue Granville, pursuant to Section 142, Article V.
LEGAL DESCRIPTION:	Lot 12 Block 35 Isle of Normandy Miami View Section Part 3, according to the plat thereof, recorded in Plat Book 40 Page 33 of the public records of Miami Dade-County Florida.
MEETING DATE:	October 9, 2015

CONDITIONAL USE PERMIT

The applicant, Better Living Investments LLC, requested a Conditional Use Permit for the expansion of an existing Assisted Living Facility located at 7100 Rue Granville, pursuant to Section 142, Article V.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the RM-1, Residential Multifamily Low Intensity Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. This Conditional Use Permit is issued to Better Living Investment, LLC, for the expansion of an existing Assisted Living Facility. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein and to obtain a Modification to this Conditional Use Permit.

2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

3. The applicant shall receive all necessary approvals and licenses from all pertinent local, regional and state government agencies for this facility prior to the issuance of a Certificate of Occupancy or Certificate of Use/Business Tax Receipt, whichever may occur first.

4. The applicant shall pay to the City the applicable yearly fee-in-lieu of providing parking. The first payment shall be due before the issuance of the Certificate of Use or Business Tax Receipt, whichever comes first.

5. The applicant shall pay to the City all applicable Concurrency Mitigation Fees prior to obtaining a Building Permit or the issuance of the Certificate of Use or Business Tax Receipt, whichever comes first.

6. The applicant shall provide either a Unity of Title or a Covenant in Lieu of Unity of Title before the issuance of a TCO or CO in order to be able to connect the two properties through a hallway, as proposed.

7. The hours of operation of the ALF shall be as requested by the applicant, 24 hours a day, seven days a week.

8. The maximum number of beds in the expanded facility shall be limited to 19, as proposed by the applicant.

9. Any exterior business identification signs shall be submitted to staff for review and approval prior to approval of a Building Permit.

10. ALF staff shall ensure that patient behavior (noise or loitering) does not become a nuisance to surrounding property owners or tenants.

11. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and all the areas adjacent to and around the property, in a clean manner and clear of trash.

12. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Certificate of Use/Business Tax Receipt.

13. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida at the expense of the applicant.

14. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

15. The establishment and operation of this modified Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

16. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

Dated this 20th day of APRIL, 2016.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush

Michael Belush, Planning and Zoning Manager
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 20TH day of APRIL 2016, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

ANTOINETTE STOHL
MY COMMISSION #FF956782
EXPIRES: FEB 09, 2020
Bonded through 1st State Insurance

Notary: Antoinette Stohl
Print Name ANTOINETTE STOHL
Notary Public, State of Florida
My Commission Expires:
Commission Number:

[NOTARIAL SEAL]

Approved As To Form:
Legal Department)

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NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

OPERATIONAL PLAN

Executive Summary

NORMANDY LIVING, LLC offers a residential facility licensed by the State of Florida. Normandy Living will focus on providing restorative stabilization in a social setting environment. Our philosophy is that of a compassionate and professional source of healing, hope, and transformation for anyone in need of care. Our staff of certified professionals will deliver the highest standard of care. We believe in providing our individuals with compassion, dignity, and respect. Our holistic approach uses evidence-based practices for the body, mind and spirit to meet individual outcomes.

Resident Programming

Operational Hours

The facility will operate 24 hours per day, 7 days per week, and 365 days per year.

Admittance

Individuals qualified are adults aged 18 and over, both male and female, who have been assessed by health care. **Individuals who are medically compromised and/or have been diagnosed with significant mental or health issues will be referred to Mount Sinai Hospital.** Normandy Living does not discriminate based on sex, race, color, religion, creed, or sexual orientation.

Programming Activities

Those admitted will receive an orientation and introduction to educational and self-help programs. Individuals will be required to participate in daily holistic programs that include physical wellness, educational programs, and mentoring on their next steps to ensure positive stays.

At intake each resident will meet with Staff and Resident Director to assess Individual Resident Protocols ("IDP") received from their Medical Director, whose commercial office is not located at the facility. Medical director will comply with Department of Children and Families residential detoxification standards. The IDP and residential detoxification services will include support for daily living and hygiene, checking of vitals, monitoring medications, progress assessments, health consciousness, mental health and positive mind set awareness. Staff and Resident Director will monitor resident IDP progress. Check-ups for progress monitoring will be supported for outcome reports.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

OPERATIONAL PLAN

Close attention will be paid to compliance with substance abuse treatment, medical care, psychiatric care, mental health treatment. Level of service will be consistent with RM-1 Zoning District. **Hospitals services will not be offered on-site**. Medical and commercial offices will not be on site.

In addition to personal development, residents will also participate in a variety of recreational and social activities. These services include but are not limited to exercise programs, yoga, meditation, reiki, arts and crafts programs, music appreciation, etc. Individuals will have access to television, internet, email, and phone usage. The social program will take place in the common use rooms designed into the facility.

The Residential Director and staff will monitor daily activity schedule. When leaving Normandy Living, individuals will be referred to future substance abuse treatment, rehabilitation, medical services, mental health services, and counseling services if needed as offered by commercial offices not located at the facility. **This will be a secured facility. Residents are not allowed to go out of the facility. If a resident wants to terminate services the facility will provide transportation to his/her destination outside of the neighborhood and RM-1 Zoning District.**

Housing

Each bedroom is designed to house no more than two residents, with a private bathroom in each bedroom. Normandy Living will foster peer support for community-based interaction. Each resident will have his/her own single-sized bed, desk, chair, lamp, dresser, mirror, and a secure area to lock personal belongings.

Dining & Nutrition

Most residents have not only neglected their physical, spiritual, and mental health, but also their nutritional health. A nutritious meal plan will include three healthy, well balanced meals each day. These meals will be delivered to the property by an off-site food service vendor. In addition, fresh, healthy snacks and beverages will be available 24 hours a day.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

OPERATIONAL PLAN

Dining Hours

Daily meals will be served as follows:

Breakfast	8:00 AM – 8:30 AM
Lunch	12:00PM – 1:00 PM
Dinner	5:00 PM – 6:00 PM
Snacks and Beverages	Available 24/7

Typical Schedule of Daily Activities

6:00 to 8:00 am	wake-up, personal hygiene, administration, clean room
8:00 to 8:30 am	breakfast
8:30 to 9:00 am	morning meetings
9:15 to 10:30 am	group activity
10:45 to 11:45 am	men's workshops / women's recreation
12:00 to 1:00 pm	lunch
1:15 to 2:15 pm	educational programming
2:30 to 3:30 pm	educational programming
3:45 to 4:45 pm	men's recreation / women's workshops
5:00 to 6:00 pm	dinner
6:15 to 7:15 pm	evening workshop
7:30 to 8:45 pm	group activities / exercise options
9:00 to 11:00 pm	individual and group evening residential activities
11:00 pm	lights out

Facility Operations

Staffing

Professional staff will be available Monday through Saturday. Support staff will be present 24/7.

Every employee will have the prerequisite qualifications and credentials as required by the scope of their service. Security Guards will hold a Florida Security license. All staff will be trained as required by regulations, including in the following areas:

- Universal Precautions
- Exposure Control

- HIV
- CPR
- First Aid
- De-escalation techniques

Staffing Levels

Professional Staff: Approximately 15 full-time staff, with additional part-time and after hours support staff as needed.

Security Guards: Security is staffed 24 hours a day, 7 days a week, 365 days a year. There will be a minimum of 2 security staff at night time and 3 during the day time to assist with admissions.

Housekeeping staff: 2 per shift

The employees will work in shifts as follows:

Facility Staff:	6:00 AM – 4:00 PM
	4:00 PM – 12:00 AM
	7:00 PM – 7:00 AM
Professional Staff	8:00 AM – 5:00 PM
	1:00 PM – 10:00 PM
Security Guards	6:00 AM – 4:00 PM
	4:00 PM – 12:00 AM
	7:00 PM – 7:00 AM

Housekeeping, Maintenance, Deliveries and Collections

All linens, towels, and laundry will be maintained by the facility. Rooms and building will be will be cleaned daily.

Deliveries and significant maintenance will be done during normal business hours.

Garbage pickup will occur daily as needed. Recycling of all paper and plastic goods will be mandatory.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

OPERATIONAL PLAN

Transportation / Offsite Programs & Services

Transportation to off-site services will be provided by the program as necessary.

Onsite Parking

The parking plan will be as designed on the proposed site plan. Residents will not be permitted to bring their vehicles. The onsite parking facility will only be utilized by employees and guests of residents.

Safety and Security

Access will be through the main lobby to the receptionist. All guests will be required to sign in and show identification.

No Loitering Policy – once admitted, residents will not be permitted to loiter outside the property.

Card Reader System – electronic card readers will be located at all access points and access cards will be necessary in order to gain entry into and out of the facility.

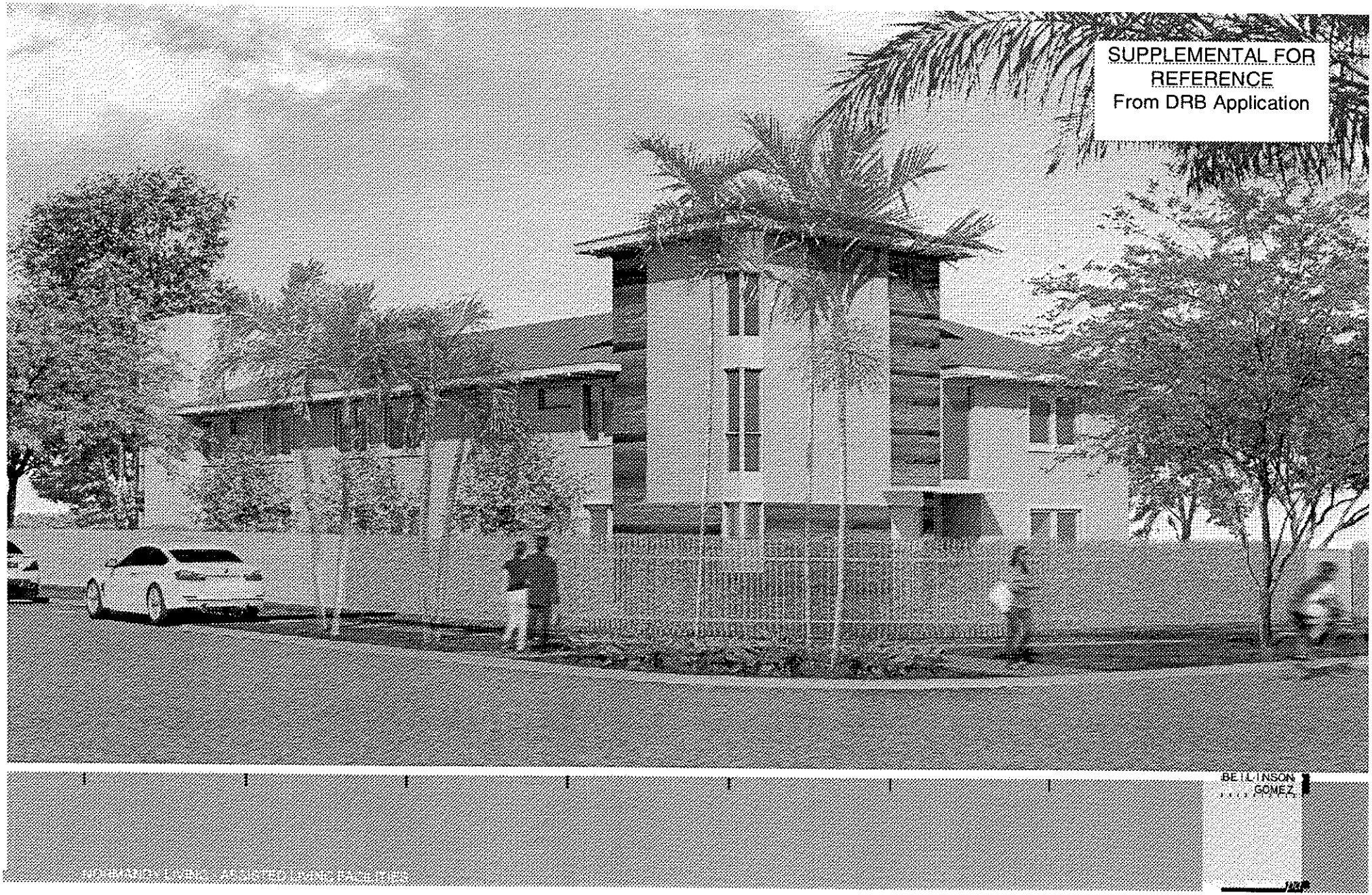
Security cameras – security monitoring cameras will be installed throughout the property including in the hallways.

A fire alarm system will be installed throughout the property and all fire safety requirements will comply with state and local law.

Security guards are present 24 hours a day, 7 days a week, with a minimum of 2 security staff at nighttime and 3 guards present during the day. Security guard responsibilities include securing and monitoring the property, assisting with resident admissions, performing routine patrols of the property, monitoring the parking area, and responding to specific requests for assistance.

Regulatory Compliance

Normandy Living, LLC and its staff will attain all required State and City licensing necessary to provide its services and will comply with all governmental occupational regulations and codes.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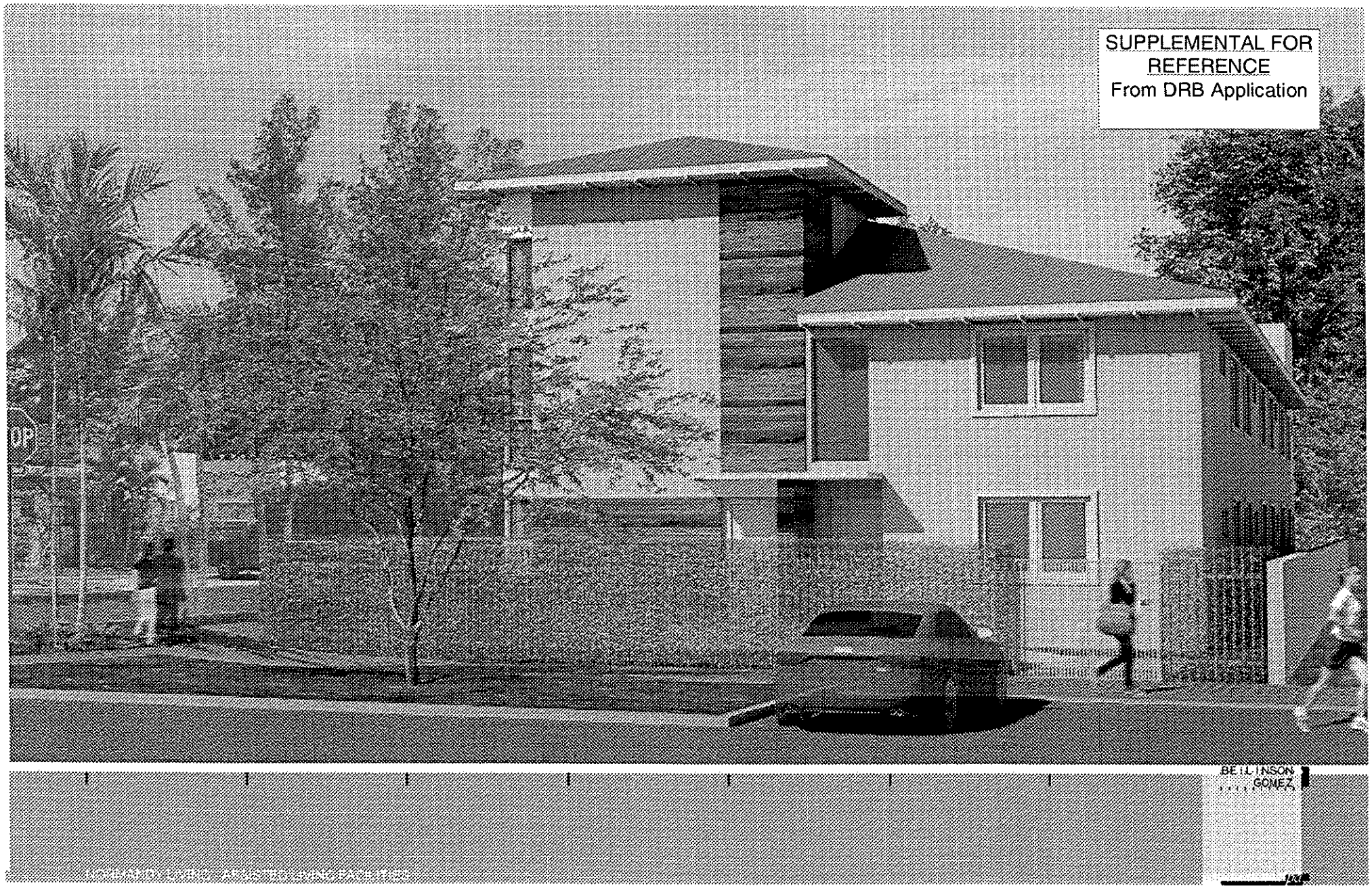
REFERENCE
From DRB Application
BELLINSON
GOMEZ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From DRB Application
BEIL INSON
GOMEZ


SUPPLEMENTAL FOR
REFERENCE
From DRB Application
BEILINSON
GOMEZ

SUPPLEMENTAL FOR
REFERENCE
From DRB Application

EAST ELEVATION

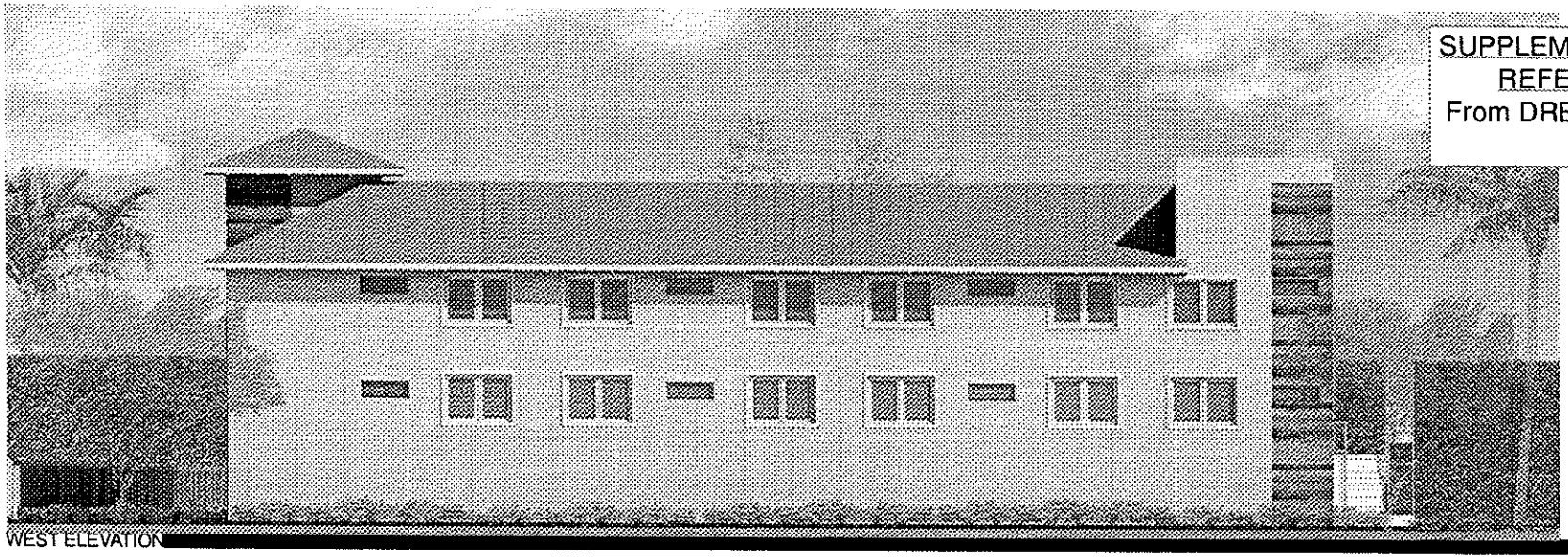
NORTH ELEVATION

BUILDING ELEVATIONS

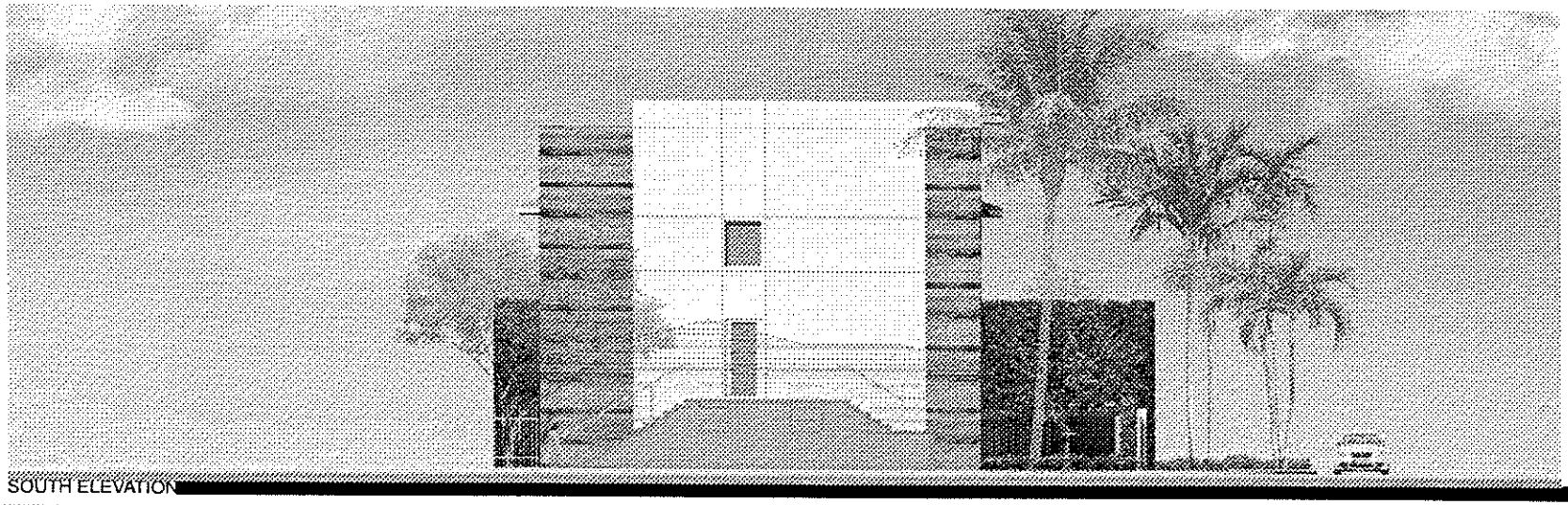
NORTHLAND LIVING - ARCHITECTURAL FACTORS

BETTINSON GOMEZ

SUPPLEMENTAL FOR
REFERENCE
From DRB Application



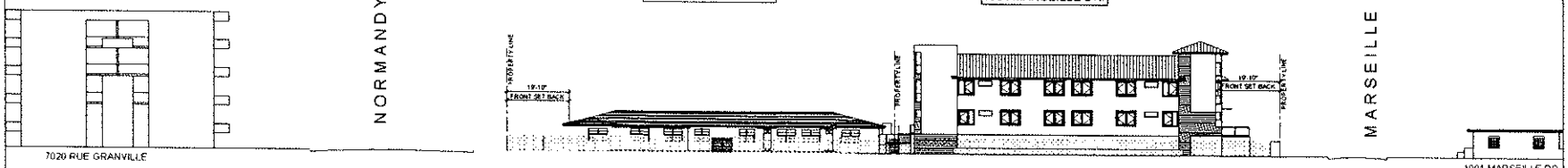
WEST ELEVATION



SOUTH ELEVATION

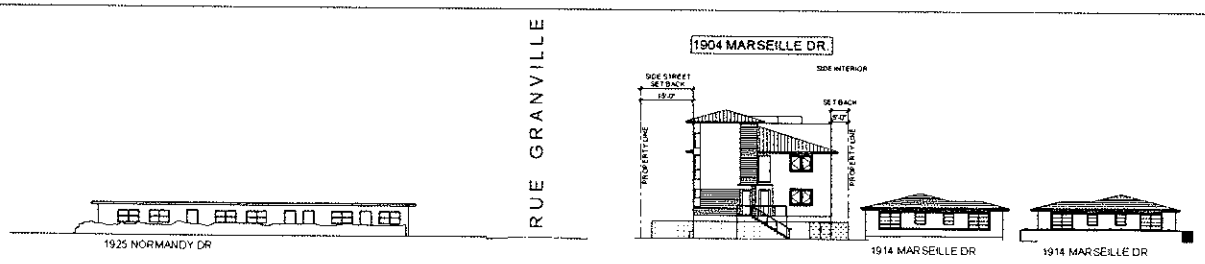
BETLINSON
GOMEZ

SUPPLEMENTAL FOR REFERENCE
From DRB Application



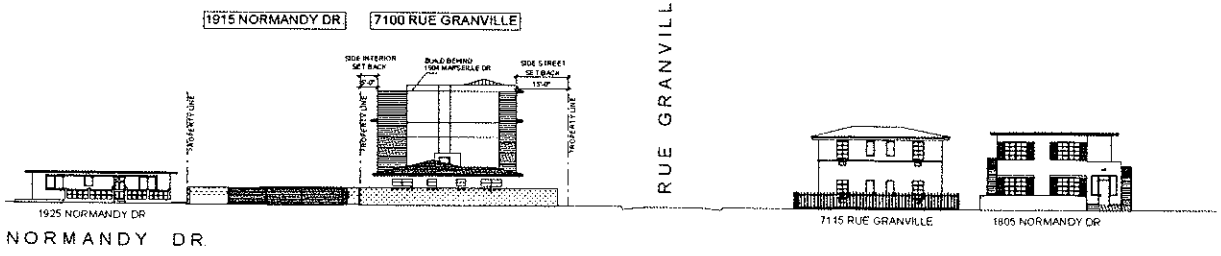
C1 RUE GRANVILLE ELEVATION

SCALE 1/16"=1'-0"



B1 MARSEILLE DR ELEVATION

SCALE 1/16"=1'-0"



A1 NORMANDY DR ELEVATION

SCALE 1/16"=1'-0"

NORMANDY LIVING

DATE REVISION

DWG TITLE
PROPOSED CONTEXTUAL ELEVATIONS

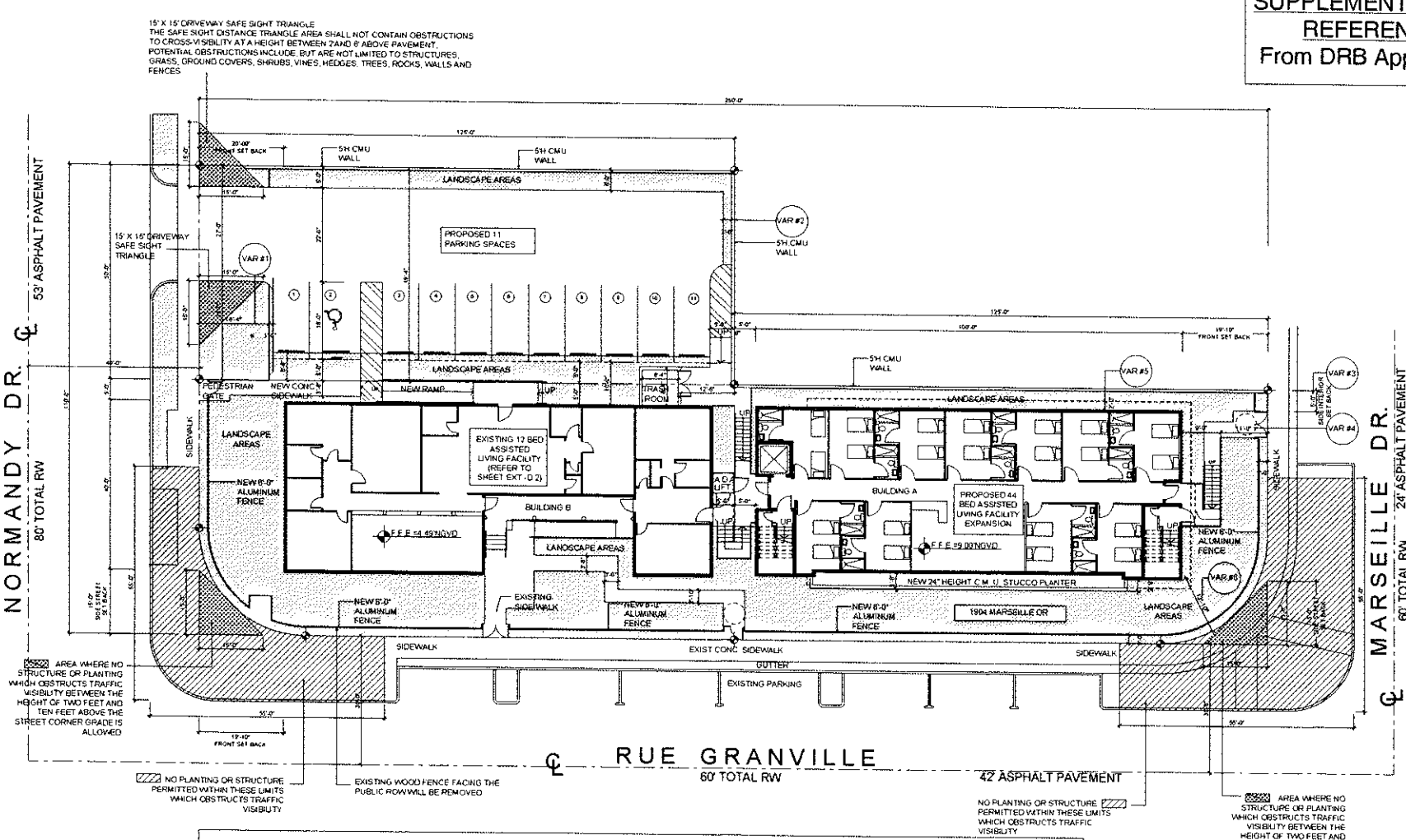
SCALE

PROJECT NO

DATE

SHEET NUMBER
A-201-A

SUPPLEMENTAL FOR REFERENCE
From DRB Application



VARIANCES :

- VARIANCE #1 = 3'-8" FROM THE REQUIRED FRONT YARD SETBACK (PARKING LOT)
- VARIANCE #2 = 3'-0" FROM THE REQUIRED REAR YARD SETBACK (PARKING LOT)
- VARIANCE #3 = 2'-6" FROM THE REQUIRED INTERIOR SIDE YARD SETBACK (MARSEILLE BUILDING.)
- VARIANCE #4 = 9'-0"FROM THE REQUIRED FRONTYARD SETBACK (MARSEILLE BUILDING)
- VARIANCE #5 = 1½ "ENCROACHMENT FOR PROJECTING ROOF OVERHANG INTO SIDE YARD SETBACK REQUIREMENT (MARSEILLE BUILDING)
- VARIANCE #6 = 1'-2" FROM THE CORNER VISIBILITY REQUIREMENTS FOR CORNER LOTS (MARSEILLE BUILDING)

NORMANDY LIVING
ASSISTED LIVING FACILITIES
1915 NORMANDY DR., MIAMI BEACH, FL. 33141
1901 NORMANDY DR., MIAMI BEACH, FL. 33141
1904 MARSEILLE DR., MIAMI BEACH, FL. 33141
1ST SUBMITTAL FOR PLANNING BOARD

DATE REVISION
DWG TITLE VARIANCES PLAN
SCALE
PROJECT NO
DATE
SHEET NUMBER SP-102

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

ADDENDUM

Table of Contents

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: NURSING ADMISSION

POLICY: It is the policy of NORMANDY LIVING to have all the clients assessed by the nurse.

PURPOSE: To verify client's appropriateness for admission by taking medical history and psychiatric history, substance abuse history, treatment history, and develop a nursing diagnoses and with a tentative admission diagnoses.

PROCEDURE:

1. Once the Admissions Department completes their portions of the admission process, the client is brought to the admitting nurse.
2. The nurse explains consent forms and has client sign a consent for services and a consent for photographs.
3. The client is give written explanation and copy of the Advance Directive Health Care Proxy and a copy of The Patient Bill of Rights.
4. A kardex is completed noting the following: allergies, date of birth, age, marital status, last drink, last drug, BAC and GAF.
5. The client's vital signs are taken which are noted on the flow sheet and admission sheet.
6. Nurse interviews client following the nursing assessment.
7. Nurse then institutes appropriate care plans and reviews these with the client and has client sign them
8. The nurse reviews all prescriptions brought in by the client. The identity of prescriptions brought by clients must be verified and expiration dates confirmed.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: TRIAGE SHEET

POLICY: It is the policy of NORMANDY LIVING to have a means for obtained pertinent medical information on all clients.

PURPOSE: To ensure accurate and efficient assessment of all clients.

PROCEDURES:

1. Triage nurse begins triage sheet on each new client upon arrival to facility. Vital signs, medical history, substance usage history is obtained to determine admission to facility.
2. Admitting nurse will utilize all information obtained on the Triage Sheet for admission documentation purposes, i.e. Prioritized Assessed needs, Care Plan, ASAM.
3. Nurse Practitioner will utilize all the information on Triage Sheet during admission History & Physical to determine client diagnoses.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: ADMITTING PROCESS

POLICY: It is the policy of NORMANDY LIVING to admit clients through the rear (north) entrance of the building.

PURPOSE: To provide an admissions process that protects client confidentiality and treats clients with dignity and respect.

PROCEDURE:

1. The transportation driver will make an attempt to stagger his arrival time to avoid arrival at Normandy Living during lunch period or scheduled client break periods

2. Transportation driver will notify the Admissions Department approximately (5) minutes before arrival at Normandy Living with schedule admission.

3. Admission Representative will immediately proceed to the Admissions Department.

4. Transportation driver will bring client to rear lobby entrance where Admission Rep will be waiting.

5. Transportation driver will remain in full view of the van at all times and be available to move the vehicle in the event of an emergency.

6. The vehicle will be removed from the area immediately on completion of dropping off the client(s).

7. Admission Representative will do pre-admission paperwork in the Admission Room.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: TRANSFER OF CLIENT TO ALTERNATIVE LEVEL OF CARE

POLICY: It is the policy of NORMANDY LIVING to arrange for or provide transportation efficiently and safely to an alternative level of care when deemed necessary.

PURPOSE: To ensure the most efficient and timely transfer from Normandy Living to alternative level of care when deemed necessary.

PROCEDURE:

1. Client is deemed, by physician, inappropriate for admission or during treatment requires alternative level of care.

2. Department which makes recommendations will notify Admissions of need for alternative level of care.

3. In emergency situations see Policy & Procedure - Transfer of Client for Emergency Treatment.

4. If medically unstable, the nurse will remain with client until transported. Transportation will be arranged at earliest possible time.

5. If Normandy Living driver transports client and client is deemed intoxicated, a staff member shall accompany in transfer.

6. Medical Director/Executive Director is to be notified of all transports to alternative level of care.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: TRANSFER OF CLIENT TO ALTERNATIVE ACUTE LEVEL OF CARE

POLICY: It is the policy of NORMANDY LIVING to arrange for or provide transportation efficiently and safely to a hospital when deemed necessary for medical or psychiatric care.

PURPOSE: To ensure the most efficient and timely transfer from Normandy Living to hospital when deemed necessary.

PROCEDURE:

1. Client is assessed by nursing staff to be inappropriate for treatment at Normandy Living for their acute medical and psychiatric need.

2. In emergencies, see Policy & Procedure - Transfer of Client for Emergency Treatment.

3. If medically unstable, the nurse will remain with client until transported. Transportation will be arranged at earliest possible time.

4. If Normandy Living driver transports client and client is unstable, a staff member shall accompany in transfer.

5. Medical Director/Executive Director is to be notified of all transports to hospital.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: TRANSFER OF CLIENT FOR EMERGENCY TREATMENT

POLICY: It is the policy of NORMANDY LIVING to provide expeditious and efficient transportation in the event of a medical emergency.

PURPOSE: To ensure that the client is transported in the most efficient manner to the hospital for emergency treatment.

PROCEDURES:

1. When a medical emergency presents itself nursing is contacted.

2. The nurse assesses the situation and determines if there is a need for an ambulance. The nurse/staff calls the front desk or aide and requests that an ambulance be called.

   MIAMI BEACH POLICE 911 FOR AMBULANCE!!!

3. When the nurse/staff calls for the ambulance, reception(ist) must find out how old the client is, male or female, what is the nature of the emergency and anything else that might be helpful for the ambulance.

4. The front desk or aide will notify either maintenance or security to have the side gate opened to allow access for the ambulance.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: VIOLENCE PREVENTION

POLICY: It is the policy of NORMANDY LIVING to prevent and provide appropriate response to incidents of potential violence.

PURPOSE: To provide an environment of care which minimizes the potential for violence and creates a safe and secure setting for clients, staff and the surrounding neighborhood.

PROCEDURES:

1. Scheduled trainings/in-services on violence prevention and response will be given to all staff members. Upon hiring, all staff will receive in-service training as part of orientation.
2. Careful assessment, and possible denial of admission, will be done on the following:
    a) Clients with a history of violent crime including murder, rape, sexual assault, and crimes involving weapons and arson.
    b) Clients with psychiatric conditions whose symptoms indicate violent or potentially violent behavior.
    c) Clients whose behavior or statements indicate the threat of violent behavior.
3. A written statement will be signed by each client on admission declaring that the client is not in possession of contraband which includes alcohol, drugs, drug paraphernalia, weapons, or instruments to be used as weapons and filed in client's clinical record.
4. Clients who are assessed to be a threat to the safety of other clients, staff or the surrounding neighborhood will be discharged immediately and transported out of the facility and surrounding neighborhood to an appropriate facility or care of a party responsible for the client, such as a family member.
5. A prudent number of staff members - to be determined by clinical supervisor on duty - will be in attendance with a client who is being discharged at staff request (ASR) until the client is no longer on Normandy Living property or surrounding neighborhood.

NORMANDY LIVING, LLC
1904 Marseille Drive / 7100 Rue Granville / 1915 Normandy Drive

SUBJECT: ROOM SEARCHES

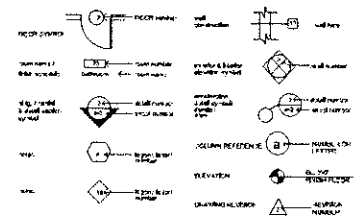
POLICY: It is the policy of NORMANDY LIVING to conduct routine room searches at various times or as indicated by client behavior.

PURPOSE: To maintain an alcohol and drug free environment and surrounding neighborhood, and to protect the therapeutic integrity of the facility for clients who truly wish to remain abstinent from chemicals. Also for infection control purposes, Normandy Living needs to ensure that no food items are stored that may spoil or attract insects and rodents.

PROCEDURE:

1. Room searches will be conducted on an ongoing basis randomly every week. Room searches may occur no more than every 30 minutes throughout the week.
2. Room searches will always be conducted by two (2) designated Normandy Living employees.
3. Designated employees will be instructed which rooms to search by Executive Director.
4. Designated employees will thoroughly search rooms (i.e., closets, drawers, bathrooms, all applicable areas)
5. When contraband is found in any inconspicuous area Security must be notified.
6. All contraband found will be given to Security or Nurse Staff.
7. Departments will take appropriate action depending upon type of contraband found to include counseling or when applicable management team will become involved.
8. Any food found will be discarded.
9. Any personal items such as radios and books will be confiscated and given back at the time of discharge.

ACOUS.	ACOUSTICAL
A.C.	AIR CONDITIONING
A.D.	AREA DRAIN
ADJ.	ADJUSTABLE
AGGR.	AGGREGATE
AL.	ALUMINUM
APPROX.	APPROXIMATE
ARCH.	ARCHITECTURAL
ASB.	ASBESTOS
ASPH.	ASPHALT
BD.	BOARD
BITUM.	BITUMINOUS
BLDG.	BUILDING
BLK.	BLOCK
BLKG.	BLOCKING
BLKHD.	BULKHEAD
BM.	BEAM
BOT.	BOTTOM
CAB.	CABINET
CARP.	CARPET
C.B.	CATCH BASIN
CEM.	CEMENT
CER.	CERAMIC
C.I.	CAST IRON
C.G.	CORNER GUARD
CLG.	CEILING
CLKG.	CAULKING
CLO.	CLOSET
CLR.	CLEAR
C.M.U.	CONCRETE MASONRY UNIT
C.O.	CASED OPENING
COL.	COLUMN
CONC.	CONCRETE
CONN.	CONNECTION
CONSTR.	CONSTRUCTION
CONT.	CONTINUOUS
CORR.	CORRIDOR
CTSK.	COUNTERSUNK
CNTR.	COUNTER
C.T.	CERAMIC TILE
CTR.	CENTER
DBL.	DOUBLE
DEPT.	DEPARTMENT
D.F.	DRINKING FOUNTAIN
DET.	DETAIL
DIA.	DIAMETER
DIM.	DIMENSION
DISP.	DISPENSER
DN.	DOWN
D.O.	DOOR OPENING
DR.	DOOR
DWR.	DRAWER
D.S.	DOWN SPOUT
D.S.P.	DRY STANDPIPE
DWG.	DRAWING
E.	EAST
EA.	EACH
E.J.	EXPANSION JOINT
EL.	ELEVATION
ELEC.	ELECTRICAL
ELEV.	ELEVATOR
EMER.	EMERGENCY
ENCL.	ENCLOSURE
E.P.	ELECTRICAL PANEL BOARD
EQ.	EQUAL
EQPT.	EQUIPMENT
E.S.	EMERGENCY OVERFLOW SCUPPER
E.W.C.	ELECTRIC WATER COOLER
EXST.	EXISTING
EXPO.	EXPOSED
EXP.	EXPANSION
EXT.	EXTERIOR
F.A.	FIRE ALARM
F.B.	FLAT BAR
F.D.	FLOOR DRAIN
FDN.	FOUNDATION
F.E.	FIRE EXTINGUISHER
F.E.C.	FIRE EXTINGUISHER CAB.
F.H.C.	FIRE HOSE CABINET
FIN.	FINISH
FL.	FLOOR
FLASH.	FLASHING
FLUOR.	FLUORESCENT
F.O.C.	FACE OF CONCRETE
F.O.F.	FACE OF FINISH
F.O.S.	FACE OF STUDS
FPRF.	FIREPROOF
F.S.	FULL SIZE
FT.	FOOT OR FEET
FTG.	FOOTING
FURR.	FURRING
FUT.	FUTURE
F.V.	FIELD VERIFY
F.V.C.	FIRE VALVE CABINET
GA.	GAUGE
GALV.	GALVANIZED
G.B.	GRAB BAR
G.C.	GENERAL CONTRACTOR
GL.	GLASS
GND.	GROUND
GR.	GRADE
GYP.	GYPSUM
G.W.B.	GYPSUM WALLBOARD
H.B.	HOSE BIB
H.C.	HOLLOW CORE
HDWD.	HARD WOOD
HDWE.	HARDWARE
H.M.	HOLLOW METAL
HORIZ.	HORIZONTAL
HR.	HOUR
HGT.	HEIGHT
I.D.	INSIDE DIAMETER (DIM.)
IN.	INCH
INSUL.	INSULATION
INT.	INTERIOR
INV.	INVERT
JAN.	JANITOR
JST.	JOIST
JT.	JOINT
KIT.	KITCHEN
LAB.	LABORATORY
LAM.	LAMINATE
LAV.	LAVATORY
L.F.	LINEAR FEET
LKR.	LOCKER
LT.	LIGHT
LTG.	LIGHTING
LTWT.	LIGHT WEIGHT
MAX.	MAXIMUM
M.C.	MEDICINE CABINET
MACH.	MACHINE
MECH.	MECHANICAL
MEMB.	MEMBRANE
MET.	METAL
MFR.	MANUFACTURER
MH.	MANHOLE
MIN.	MINIMUM
MR.	MIRROR
MISC.	MISCELLANEOUS
M.L.	MATCH LINE
M.O.	MASONRY OPENING
MTD.	MOUNTED
MUL.	MULLION
N.	NORTH
N.I.C.	NOT IN CONTRACT
NO. OR #	NUMBER
NOM.	NOMINAL
N.T.S.	NOT TO SCALE
O.A.	OVERALL
OBS.	OBSCURE
O.C.	ON CENTER
O.D.	OUTSIDE DIMENSION
OFF.	OFFICE
OPNG.	OPENING
OP. HD.	OPPOSITE HAND
OPP.	OPPOSITE
PRCST.	PRE-CAST
P.L.	PROPERTY LINE
P.T.	PRESSURE TREATED
PL.	PLATE
PLAM.	PLASTIC LAMINATE
PLAS.	PLASTER
PLYWD.	PLYWOOD
POL.	POLISHED
PR.	PAIR
PT.	POINT
P.T.D.	PAPER TOWEL DISPENSER
PTN.	PARTITION
PTR.	PAPER TOWEL RECEPTACLE
Q.T.	QUARRY TILE
R.	RISER
RAD.	RADIUS
R.D.	ROOF DRAIN
REF.	REFERENCE
REFL.	REFLECTED
REFR.	REFRIGERATOR
RF.	ROOF
RGTR.	REGISTER
REINF.	REINFORCED
REQ.	REQUIRED
RESIL.	RESILIENT
RM.	ROOM
R.O.	ROUGH OPENING
RWD.	REDWOOD
R.W.L.	RAIN WATER LEADER
S.	SOUTH
SABF	SOUND ATTENUATION FIRE BLANKETS
S.C.	SOLID CORE
S.C.D.	SEAT COVER DISPENSER
SCHED.	SCHEDULE
S.D.	SOAP DISPENSER
SECT.	SECTION
SH.	SHELF
SHR.	SHOWER
SHT.	SHEET
SIM.	SIMILAR
S.N.D.	SANITARY NAPKIN DISPENSER
S.N.R.	SANITARY NAPKIN RECEPTACLE
SPEC.	SPECIFICATION
SQ.	SQUARE
S.ST.	STAINLESS STEEL
S.SK.	SERVICE SINK
STA.	STATION
STD.	STANDARD
STL.	STEEL
STOR.	STORAGE
STRL.	STRUCTURAL
SUSP.	SUSPEND
SYM.	SYMMETRICAL
TRD.	TREAD
T.B.	TOWEL BAR
T.C.	TOP OF CURB
TEL.	TELEPHONE
TEMP.	TEMPERED
T.&G.	TONGUE AND GROOVE
THK.	THICK
TOIL.	TOILET
T.P.	TOP OF PAVEMENT
T.P.D.	TOILET PAPER DISPENSER
T.V.	TELEVISION
T.W.	TOP OF WALL
TYP.	TYPICAL
T.O.B.	TOP OF BEAM
T.O.C.	TOP OF CONCRETE
T.O.S.	TOP OF SLAB
UNF.	UNFINISHED
U.O.N.	UNLESS OTHERWISE NOTED
UR.	URINAL
UL	UNDERWRITERS LAB
V.I.F.	VERIFY IN FIELD
VERT.	VERTICAL
V.T.	VINYL TILE
VEST.	VESTIBULE
V.B.	VAPOR BARRIER



OWNER:	NORMANDY LIVING LLC [illegible] MIAMI BEACH, FL [illegible]
PROJECT ARCHITECT:	BELLINSON GOMEZ ARCHITECTS PA JOSE L. GOMEZ AR[illegible] 3101 BISCAYNE BLVD. SUITE [illegible] MIAMI, FL [illegible] TEL. [illegible] FAX. [illegible]
LANDSCAPE ARCHITECT:	[illegible] DESIGN STUDIO [illegible] MIAMI, FL [illegible] TEL. [illegible]
GOVERNING ZONING CODE:	MIAMI BEACH, FLORIDA CODE OF ORDINANCE
RESIDENTIAL CODE:	FLORIDA RESIDENTIAL CODE, 2017
EXISTING BUILDING:	FLORIDA BUILDING CODE - EXISTING BUILDING CODE, 2017
STRUCTURAL:	FLORIDA BUILDING CODE 2017
PLUMBING:	FLORIDA BUILDING CODE 2017 - PLUMBING
MECHANICAL:	FLORIDA BUILDING CODE 2017 - MECHANICAL
ELECTRICAL:	FLORIDA BUILDING CODE - 2017 EDITION
ACCESSIBILITY:	FLORIDA BUILDING CODE 2017
FIRE PROTECTION:	FLORIDA FIRE PREVENTION CODE - 2017 EDITION

ARCHITECTURAL

A-000	COVER PAGE
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A-003	SITE IMAGES
A-004	SITE IMAGES
A-005	SITE IMAGES
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EXIST. 1-1	EXISTING FLOOR PLANS BUILDING A
EXIST. 1-2	EXISTING FLOOR PLANS BUILDING B
EXIST. 3-1	EXISTING ELEVATIONS BUILDING A
[illegible]	SITE PLAN
F.A.R.	F.A.R. CALCULATIONS
A-101	GROUND FLOOR PLAN BUILDING A
A-102	SECOND FLOOR PLAN BUILDING A
A-103	ROOF LEVEL PLAN BUILDING A
A-104	GROUND FLOOR PLAN BUILDING B
A-200-A	CONTEXTUAL ELEVATIONS
A-201	NORTH & EAST ELEVATIONS
A-202	SOUTH & WEST ELEVATIONS
A-301	SECTIONS 1 & 2

LANDSCAPE

L-1	TREE MANAGEMENT PLAN
L-2	PLANTING PLAN
L-3	PLANTING DETAIL

SCOPE OF WORK

REMODELING AND EXPANSION OF EXISTING MULTIFAMILY RESIDENTIAL BUILDING: DEMOLITION OF INTERIOR PARTITIONS; PARTIAL DEMOLITION OF EXTERIOR WALL; ADDITION OF NEW SECOND FLOOR (1904 MARSEILLE DR.); DEMOLITION OF EXISTING BUILDING - 1915 NORMANDY DR.; NEW 12 SPACES PARKING LOT

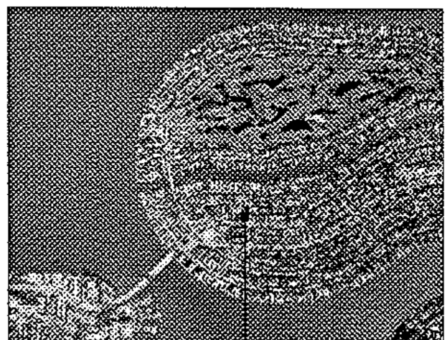
LEGAL DESCRIPTION

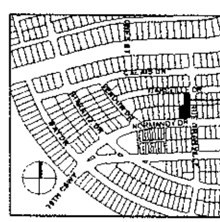
[illegible]

LOTS [illegible], BLOCK [illegible], ISLE OF NORMANDY MIAMI VIEW SECTION PART [illegible], according to the plat thereof as recorded in Plat Book [illegible], Page [illegible], of the Public Records of Miami-Dade County, Florida.

LOT [illegible], BLOCK [illegible], ISLE OF NORMANDY MIAMI VIEW SECTION [illegible], according to the plat thereof as recorded in Plat Book [illegible], Page [illegible], of the Public Records of Miami-Dade County, Florida.

ZONING SUMMARY





1904 MARSEILLE DR, MIAMI BEACH, FL 33141
7100 RUE GRANVILLE, MIAMI BEACH, FL 33141
1915 NORMANDY DR, MIAMI BEACH, FL 33141

Item	Zoning Information				
1	Address:	1915 NORMANDY DRIVE MIAMI BEACH, FL 33141-4405, 7100 RUE GRANVILLE, MIAMI BEACH, FL 33141-3507, 1904 MARSEILLE DR, MIAMI BEACH, 33141-3422			
2	Folio number(s):	02-3210-011-0290, 02-3210-011-0280, 02-3210-011-0270			
3	Board and file numbers:				
4	Year built:	1940, 1946, 1953	Zoning District:	RM-1	
5	Based Flood Elevation:	+8.00'	Grade Value in NGVD:		
6	Adjusted grade (Flood +Grade/2):		Free board:		
7	Lot Area:	21,250.00	(per survey dated: XX/XX/XX)		
8	Lot Width:	150'-0"	Lot Depth:	250'-0"	
9	Max FAR:	1.25	Proposed FAR:	0.59	
10	Minimum lot area	5600	Lot Area	21,150.00	
11	Minimum Lot Width	50'-0"	Lot Width:	230'-0"	
12	Minimum Unit Size	400 SF	Propose Unit Size	13461.36	
13	Maximum Number of Stories	5	Proposed Number of Stories	2	
14					

		Required	Existing	Proposed	Deficiencies
15	Height:	50'	13'-3"	27'-0"	NONE
16	Setbacks:				
17	Front First Level:	20'-0"	18'-10"	18'-10"	EXISTING TO REMAIN
18	Side 1 (interior, 8% of 60'-0")	4'-10"	5'-0"	5'-0"	EXISTING TO REMAIN
19	Side 2 (facing street, 8% of 60'-0")	4'-10"	15'-0"	15'-0"	EXISTING TO REMAIN
20	Sum of the Sides	9'-7"	20'-0"	20'-0"	EXISTING TO REMAIN
21	Rear	0'-0"	5'-0"	5'-0"	EXISTING TO REMAIN
22	Parking Spaces (for 12 Beds)	11	0	11	NONE
23	Located within a Local Historic District?		Yes or (No)		
24	Designated as an Individual Historic Single Family Residence Site?		Yes or (No)		
25	Determined to be Architecturally Significant?		Yes or (No)		

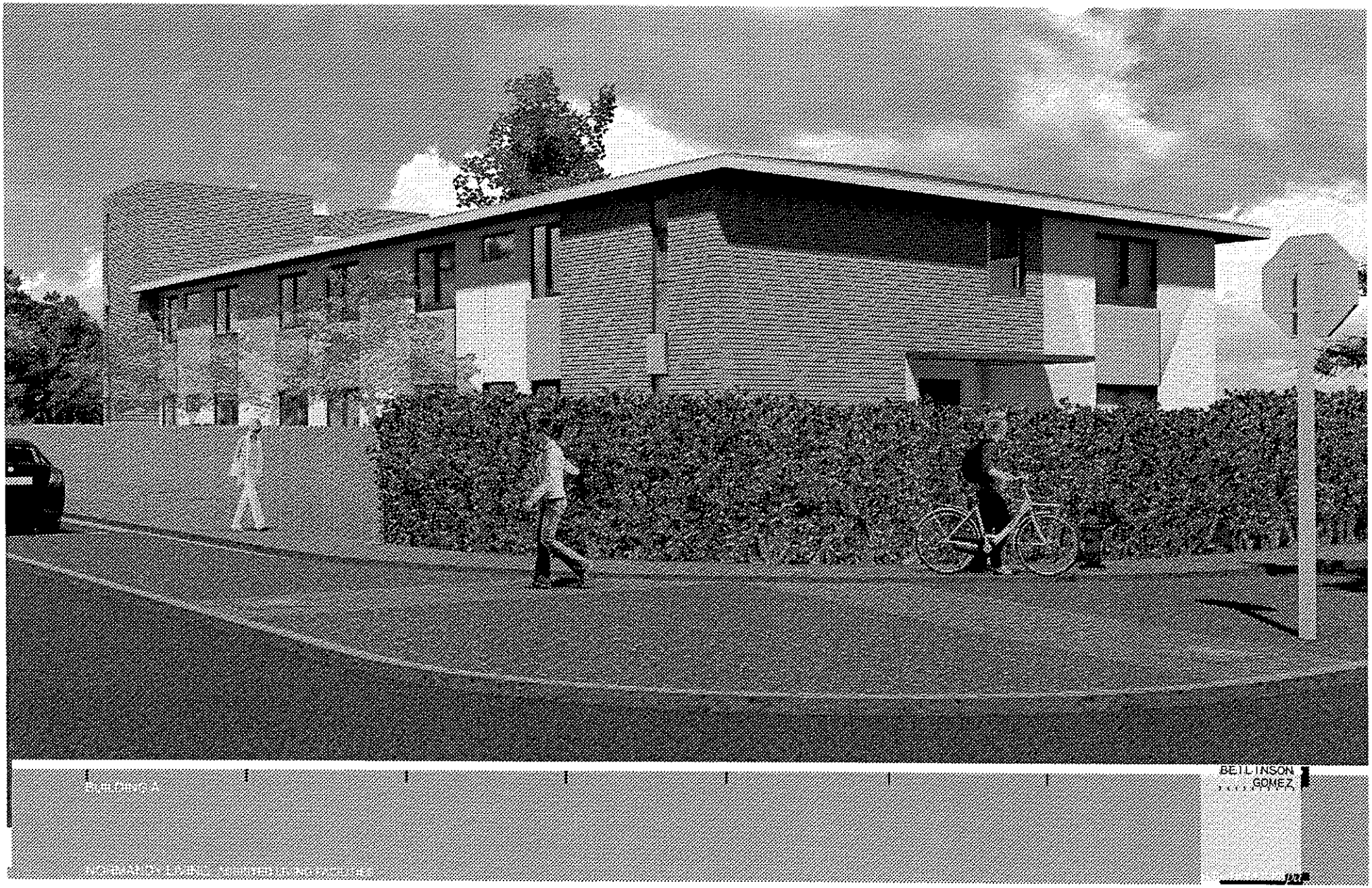
BELLINSON GOMEZ
ARCHITECTS LIMITED AA[illegible]
JOSE L. GOMEZ AR[illegible]
3101 BISCAYNE BLVD. SUITE 304
MIAMI FL 33137
TEL. (305) 53[illegible]
FAX. (305) 53[illegible]

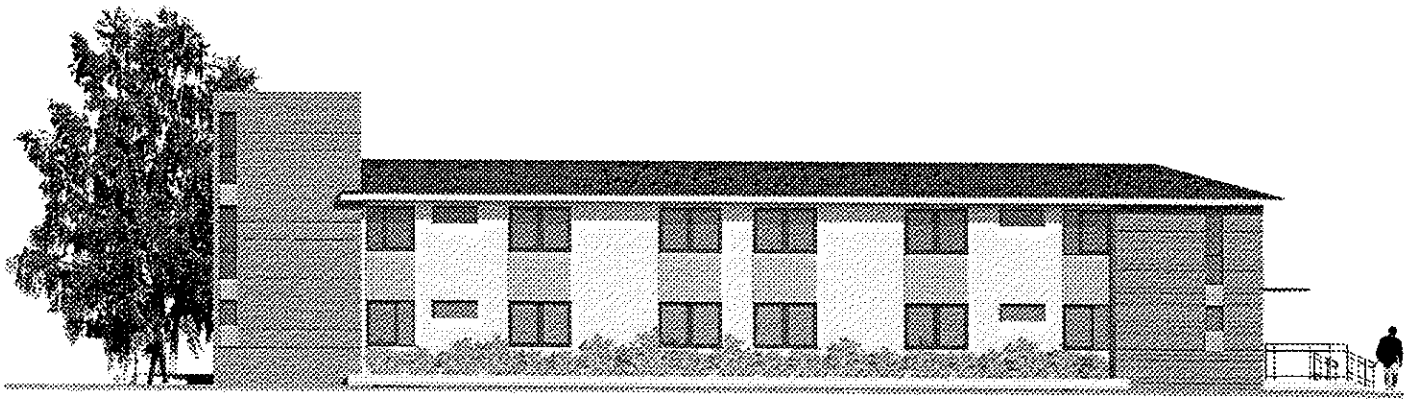
NORMANDY LIVING

ASSISTED LIVING FACILITIES
1915 NORMANDY DR., MIAMI BEACH, FL 33141
7100 RUE GRANVILLE, MIAMI BEACH, FL 33141
1904 MARSEILLE DR., MIAMI BEACH, FL 33141
FIRST SUBMITTAL FOR PLANNING BOARD.

DATE	REVISION
DWG. TITLE	ZONING INFORMATION & DRAWING INDEX
SCALE	AS SHOWN
PROJECT NO.	2318-10
DATE	05-[illegible]-18
SHEET NUMBER	A-001

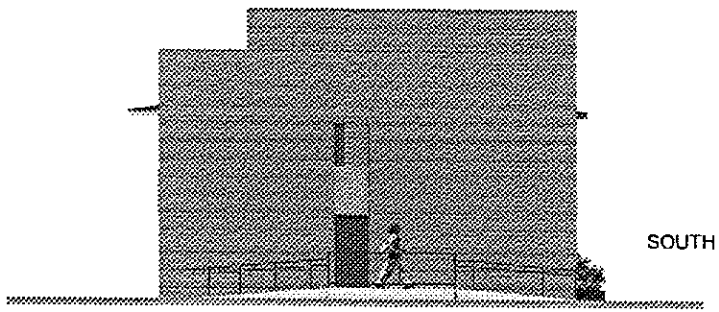

BEILINSON
GOMEZ


BEIL INSON
GOMEZ

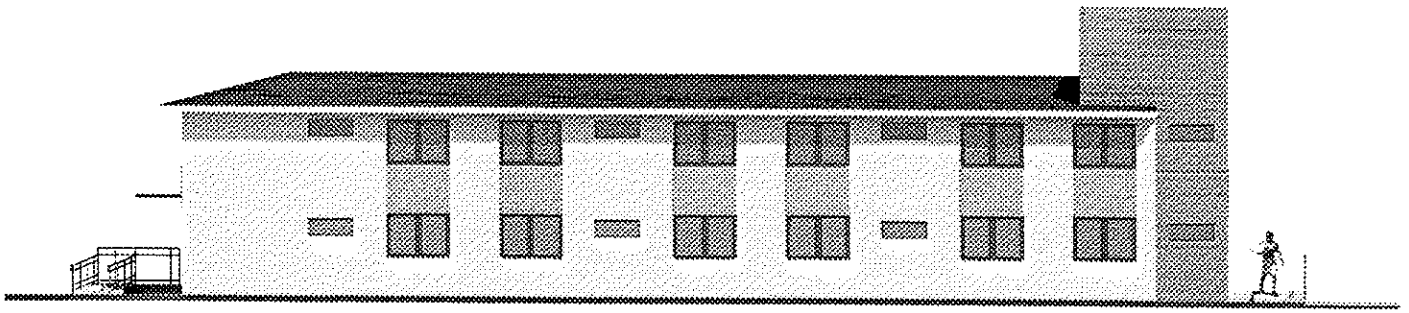


EAST ELEVATION

NORTH ELEVATION



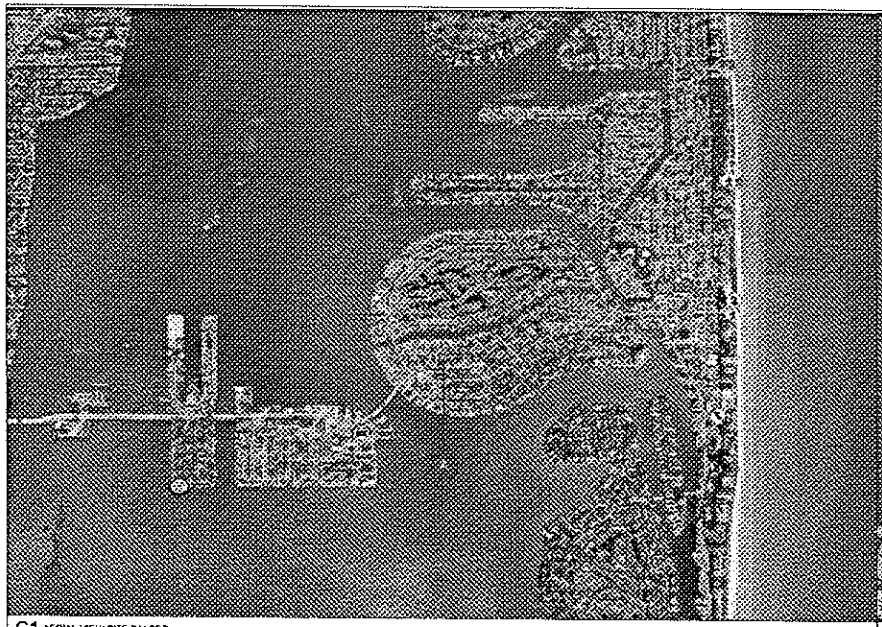
SOUTH ELEVATION



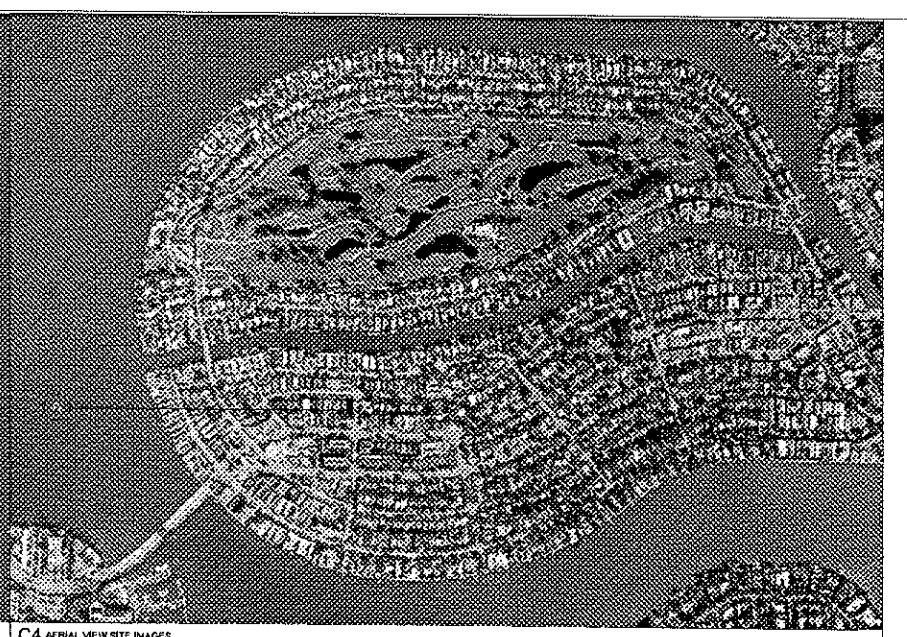
WEST ELEVATION

BUILDING ELEVATIONS

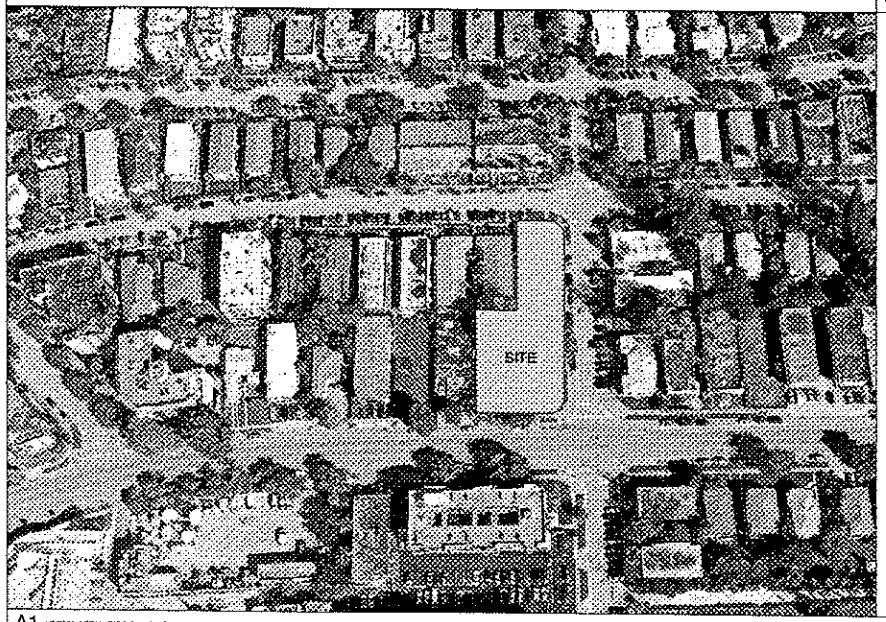
BELLINSON GOMEZ



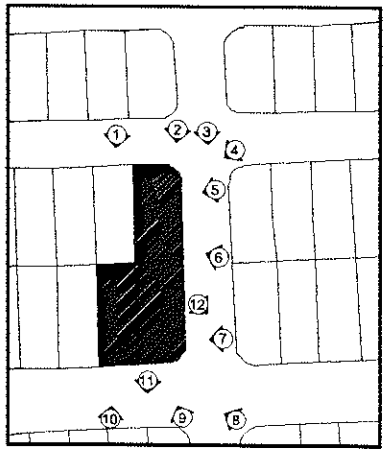
C1 AERIAL VIEW SITE IMAGES



C4 AERIAL VIEW SITE IMAGES



A1 AERIAL VIEW SITE IMAGES



KEY PLAN

(A) : 1915 NORMANDY DR., MIAMI, FL. 33141
: 7100 RUE GRANVILLE MIAMI, FL. 33141
: 1904 MARSEILLE DR., MIAMI, FL. 33141

AERIAL SITE IMAGES

N.T.S.

NORMANDY LIVING

DATE REVISION

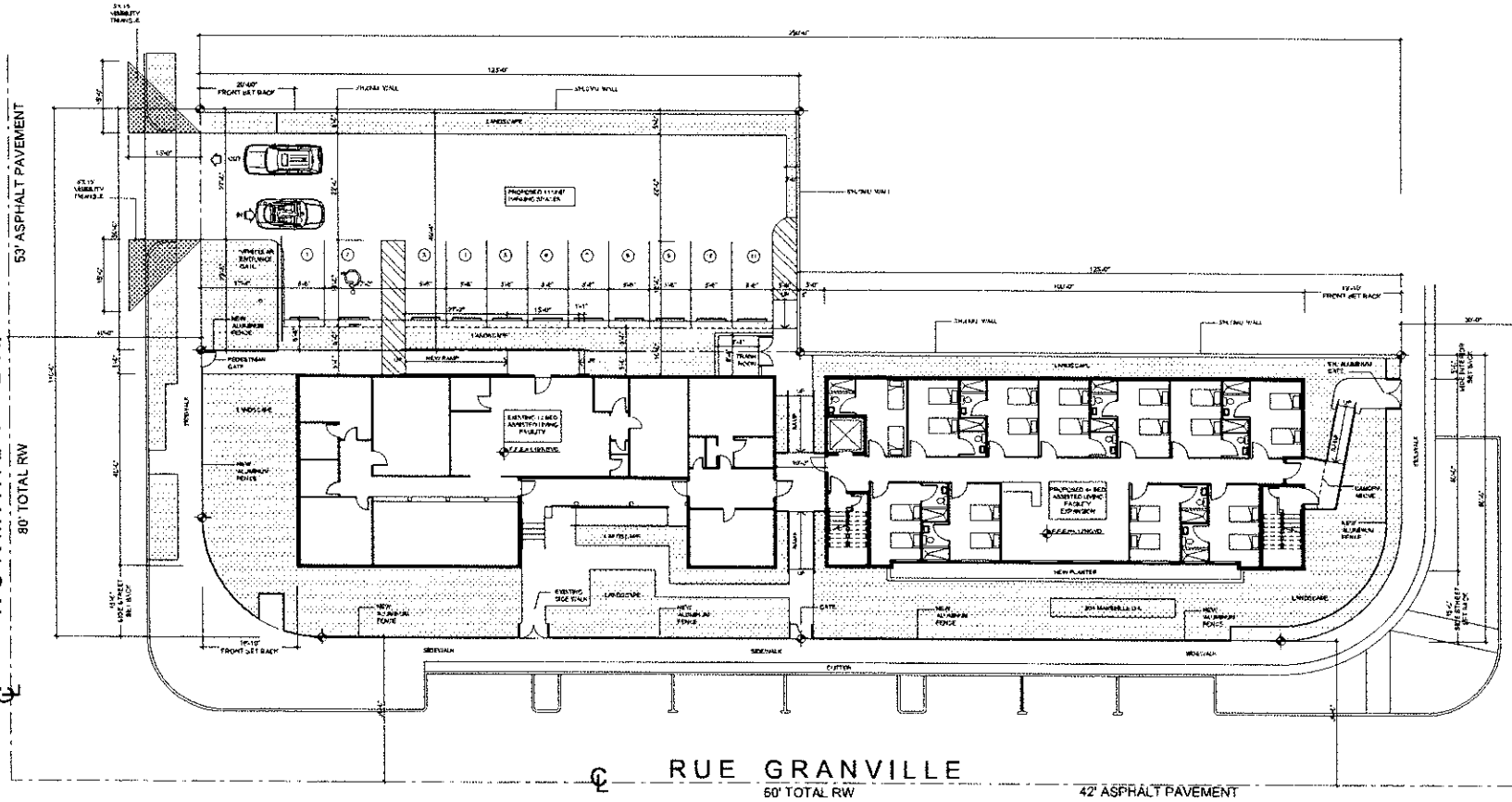
DWG. TITLE
AERIAL VIEW SITE IMAGES

SCALE
N.T.S.

PROJECT NO.
2015-12

DATE
06.04.16

SHEET NUMBER
A-002



BELLINSON, GOMEZ

NORMANDY LIVING

△	DATE	REVISION

FINAL TITLE: SITE PLAN

SCALE:

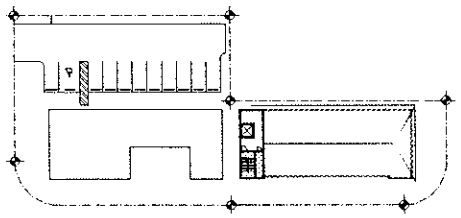
PROJECT NO.

DATE: 06.04.16

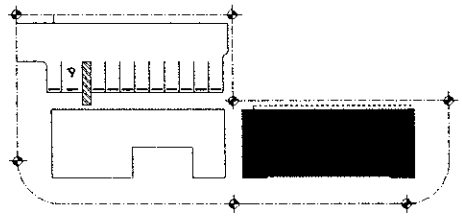
SHEET NUMBER: SP-101

A1 SITE PLAN

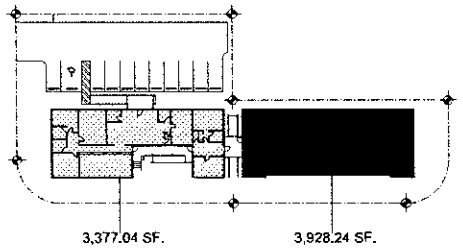
SCALE: 3/32"=1'-0"



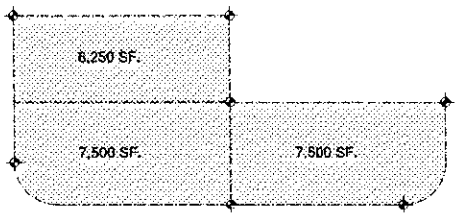
ROOF LEVEL
TOTAL AREA = 227.84 SF



SECOND FLOOR
TOTAL AREA = 3,928.24 SF



GROUND FLOOR
TOTAL AREA = 7,305.28 SF



6,250 SF.
7,500 SF.
+ 7,500 SF.

TOTAL LOT AREA = 21,250 SF

TOTAL BUILDING AREA =11,461.36 SF
TOTAL LOT AREA =21,250 SF

F.A.R. REQUIRED.....1.25
F.A.R PROPOSED = TOTAL BLG. AREA/ TOTAL LOT AREA
F.A.R PROPOSED = 11,461.36 SF. / 21,250 SF.
F.A.R PROPOSED =..... 0.54

NORMANDY LIVING

DWG. TITLE
F.A.R. CALCULATIONS PLAN

SCALE
1/16"=1'

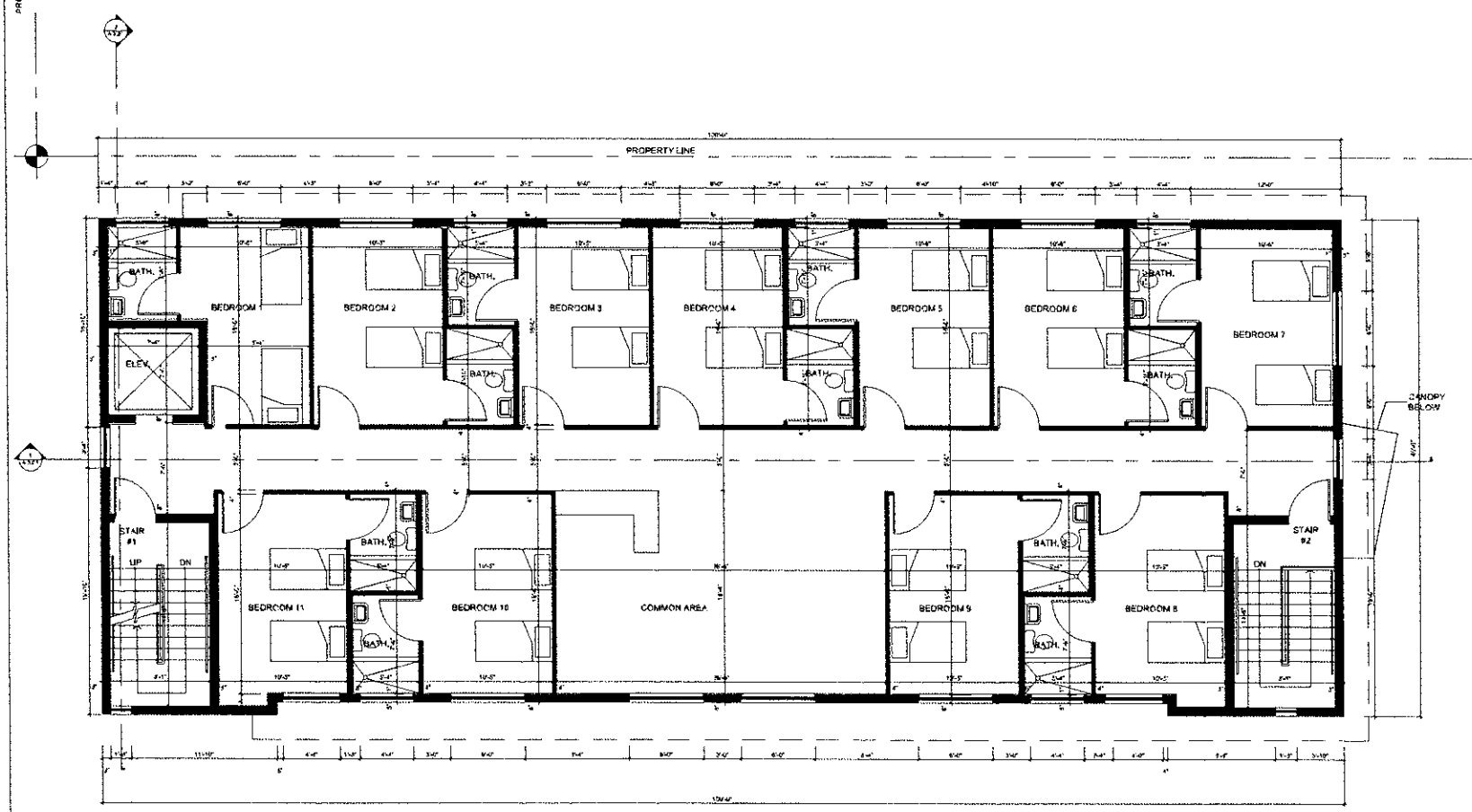
PROJECT NO.
2015-12

DATE
05-24-16

SHEET NUMBER
F.A.R.

A1 F.A.R. CALCULATIONS

NTS



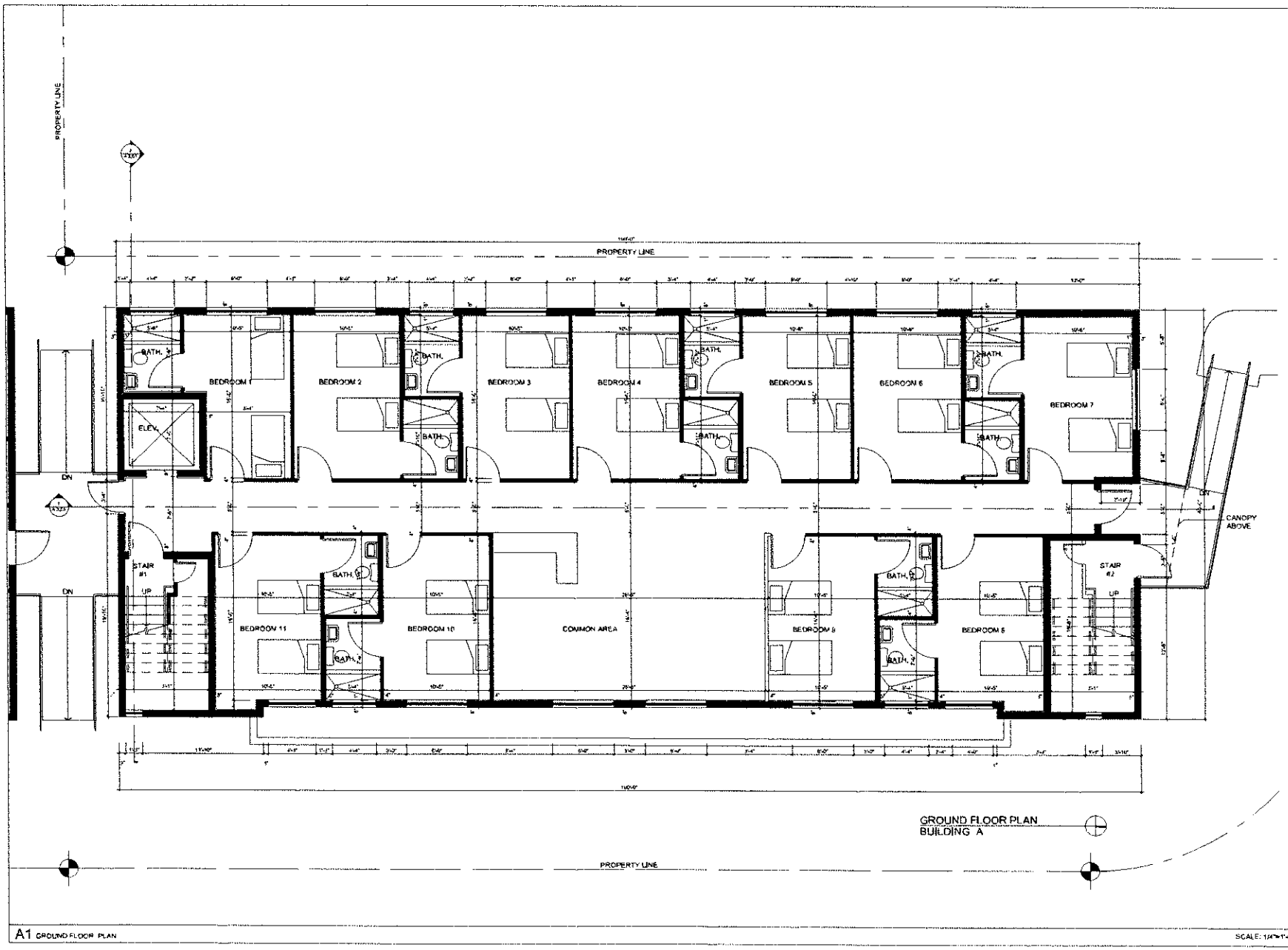
SECOND FLOOR PLAN
BUILDING A

NORMANDY LIVING

A1 SECOND FLOOR PLAN

SCALE: 1/4"=1'-0"

A-102



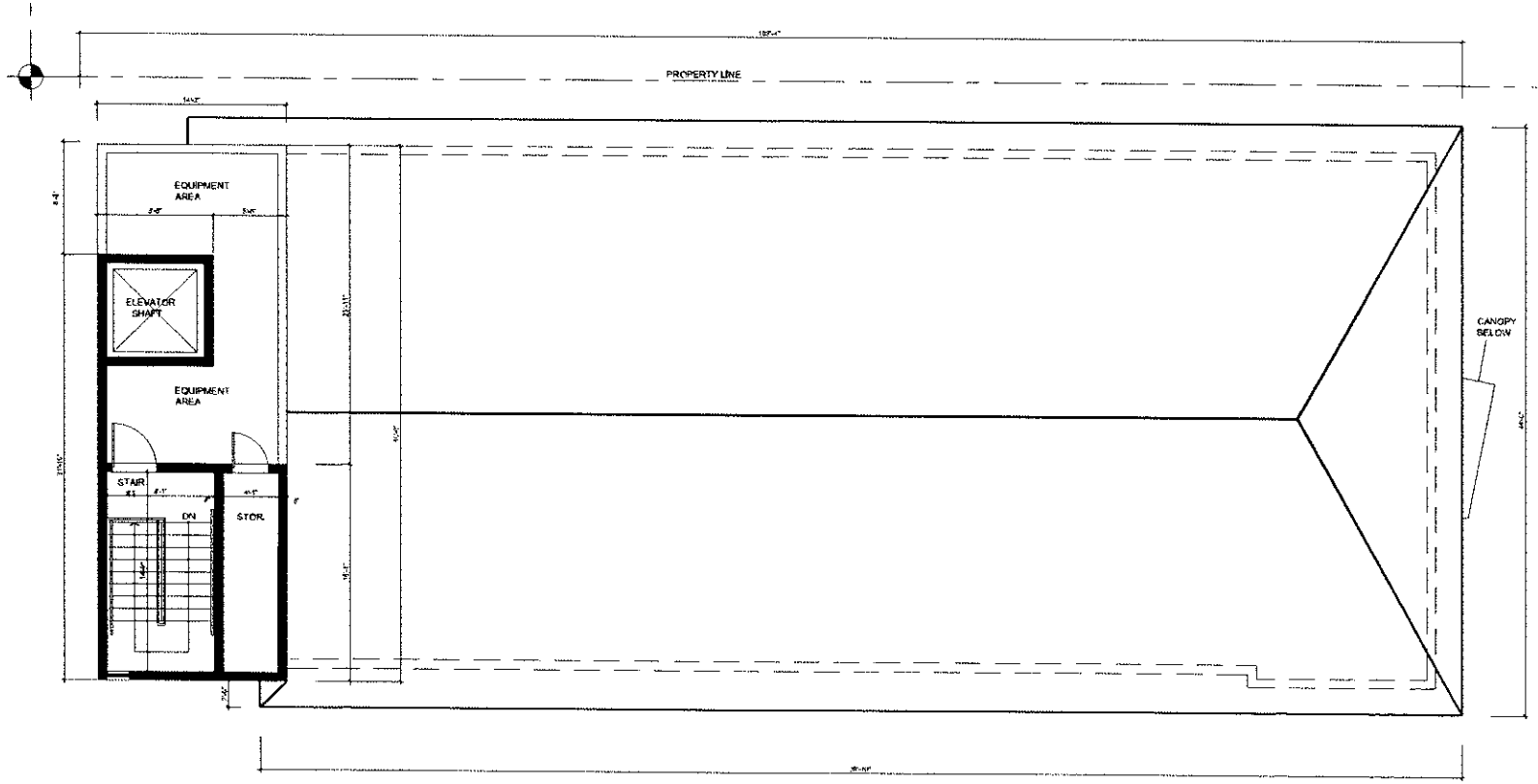
GROUND FLOOR PLAN
BUILDING A

NORMANDY LIVING

A1 GROUND FLOOR PLAN

SCALE: 1/4"=1'-0"

A-101



ROOF LEVEL PLAN
BUILDING A

A1 ROOF LEVEL FLOOR PLAN

SCALE: 1/4"=1'-0"

NORMANDY LIVING
ASSISTED LIVING FACILITIES

DATE REVISION

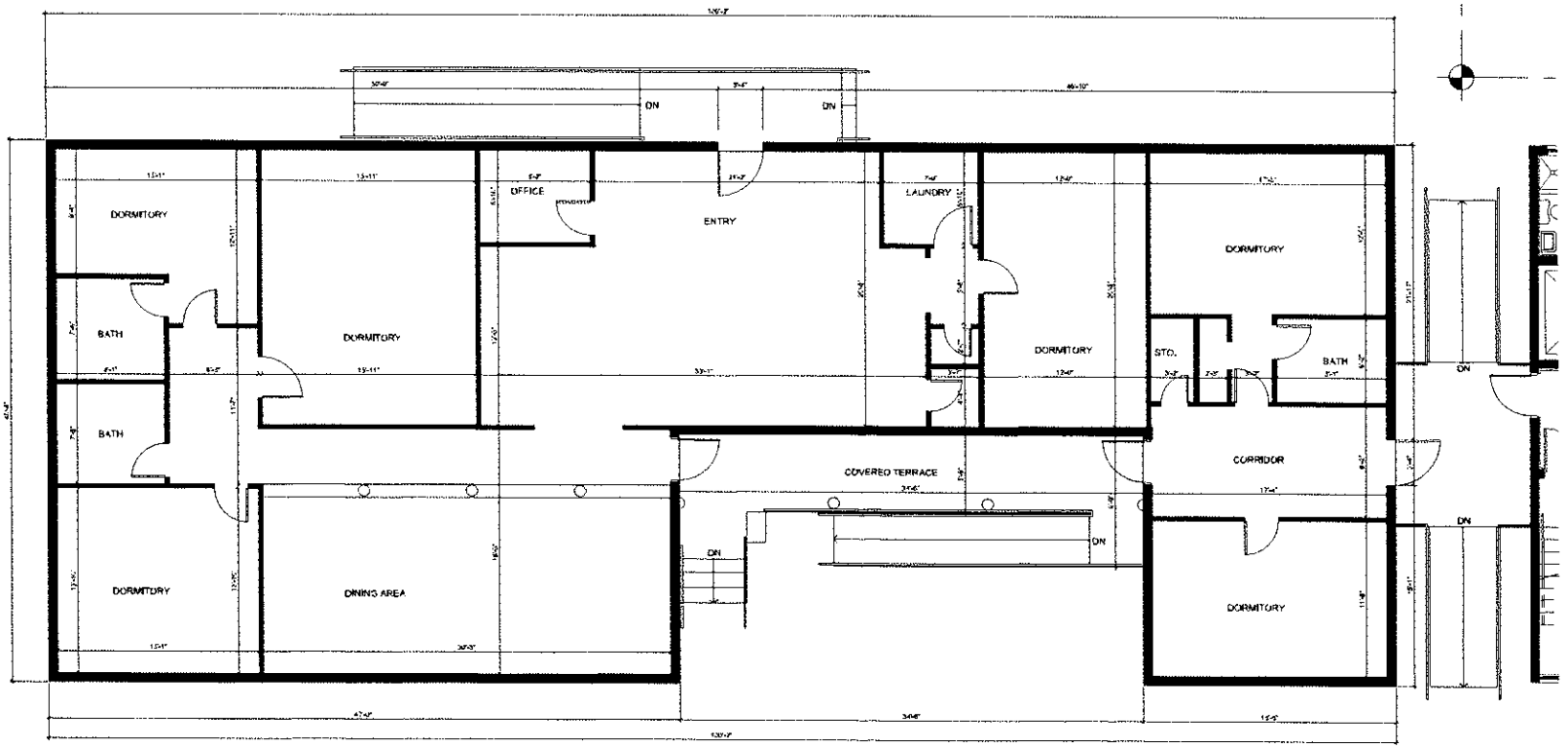
DWG. TITLE
ROOF LEVEL FLOOR PLAN BUILDING A

SCALE

PROJECT NO.

DATE

SHEET NUMBER
A-103



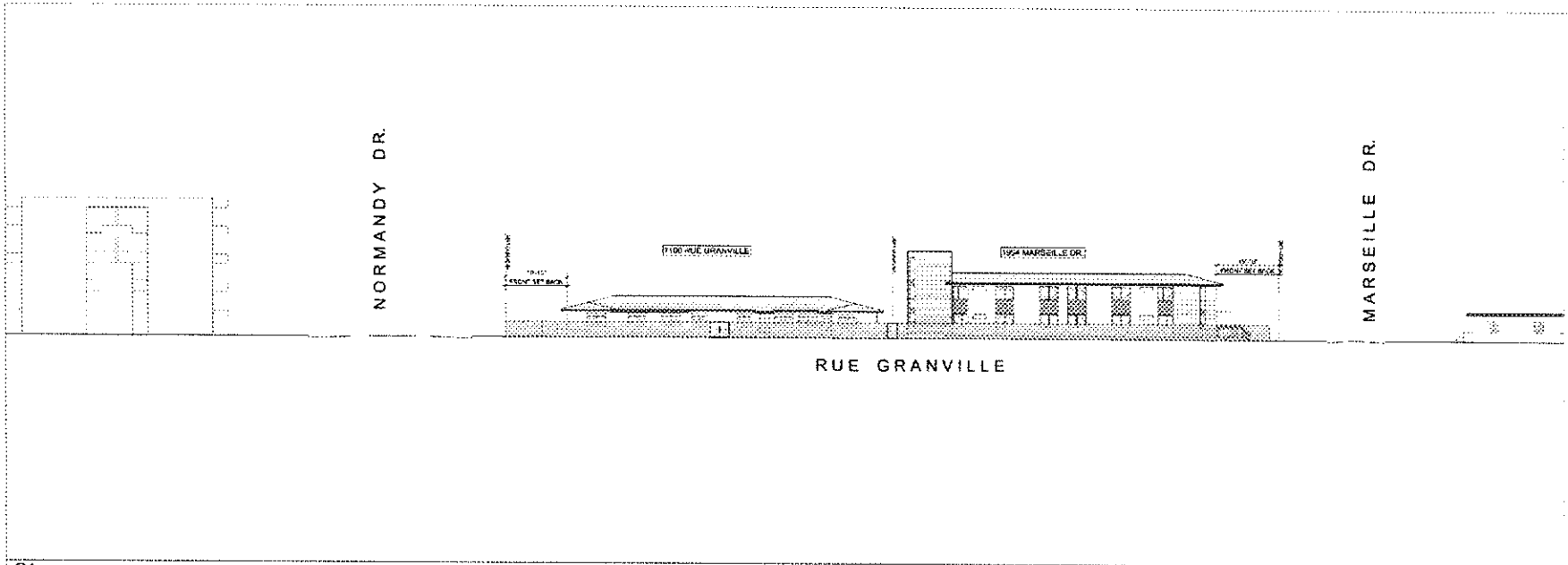
GROUND FLOOR PLAN
BUILDING B

A1 GROUND FLOOR PLAN

SCALE: 1/4"=1'-0"

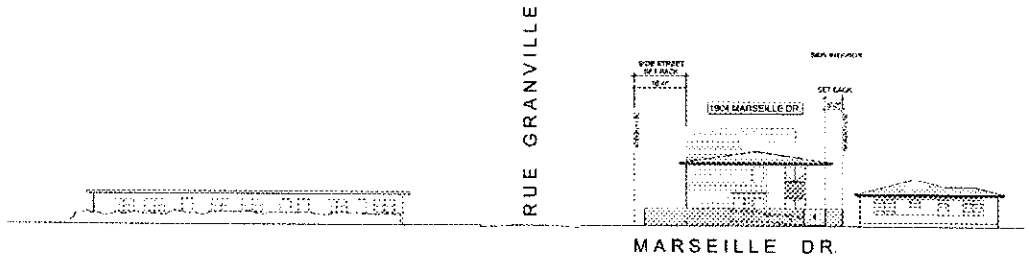
NORMANDY LIVING

A-104



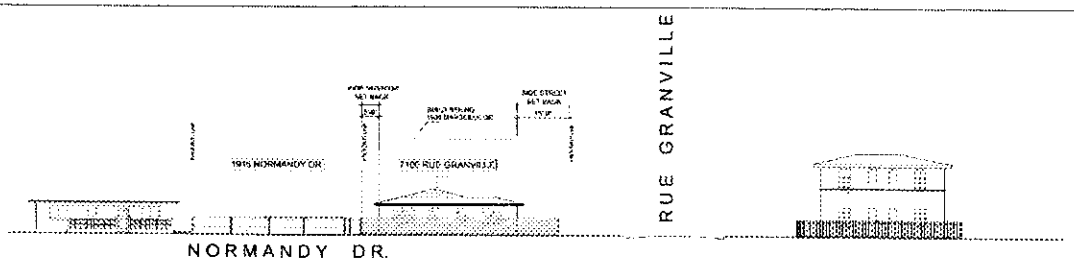
C1 RUE GRANVILLE ELEVATION

SCALE: 1/16"=1'-0"



B1 MARSEILLE DR. ELEVATION

SCALE: 1/16"=1'-0"



A1 NORMANDY DR. ELEVATION

SCALE: 1/16"=1'-0"

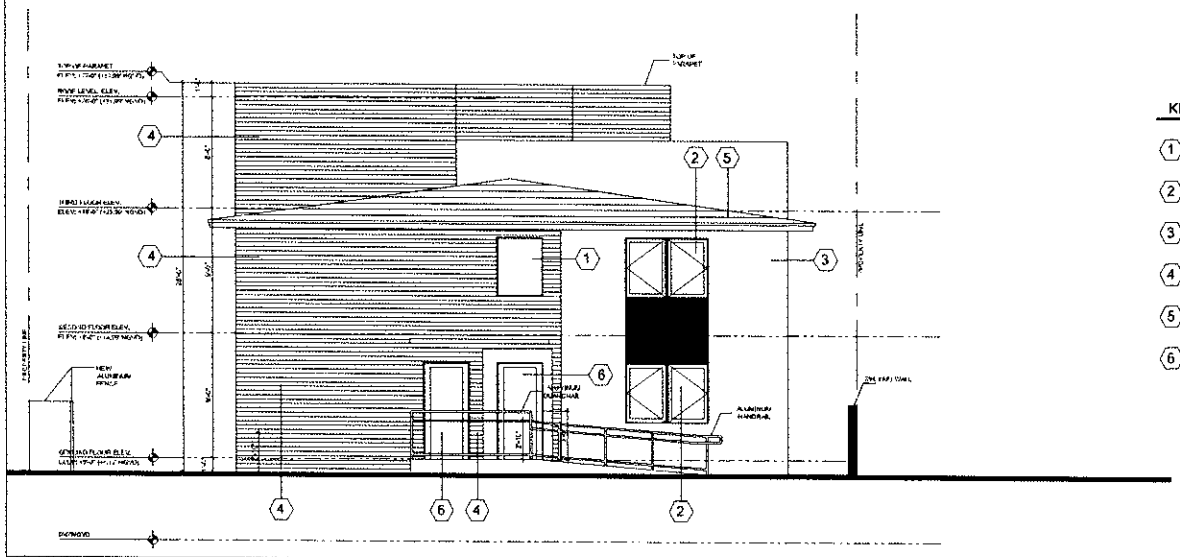
BELLINSON

NORMANDY LIVING

DATE REVISION

PROPOSED CONTEXTUAL ELEVATIONS

A-203

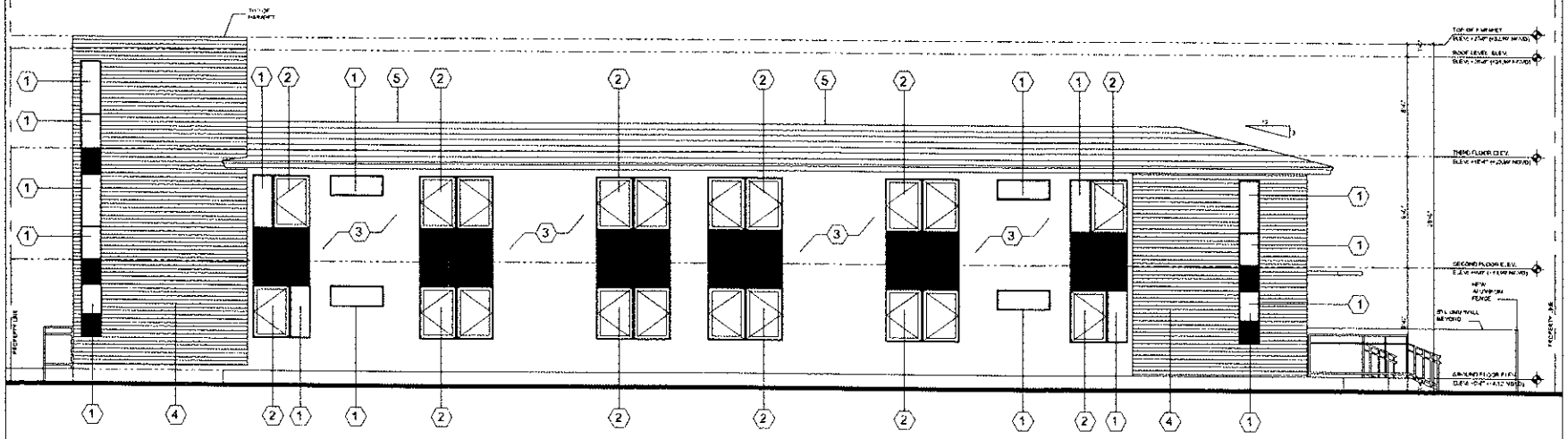


KEY NOTES

1. FIXED IMPACT GLASS WINDOW
2. OPERABLE IMPACT GLASS WINDOW
3. STUCCO
4. REVEAL ON STUCCO
5. FLAT CEMENT TILE-ROOF
6. DOOR

A3 NORTH ELEVATION

SCALE: 1/4"=1'-0"



A1 EAST ELEVATION

SCALE: 1/4"=1'-0"

NORMANDY LIVING

ASSISTED LIVING FACILITIES

DATE REVISION

DWG. TITLE

NORTH AND EAST ELEVATIONS BUILDING A

SCALE

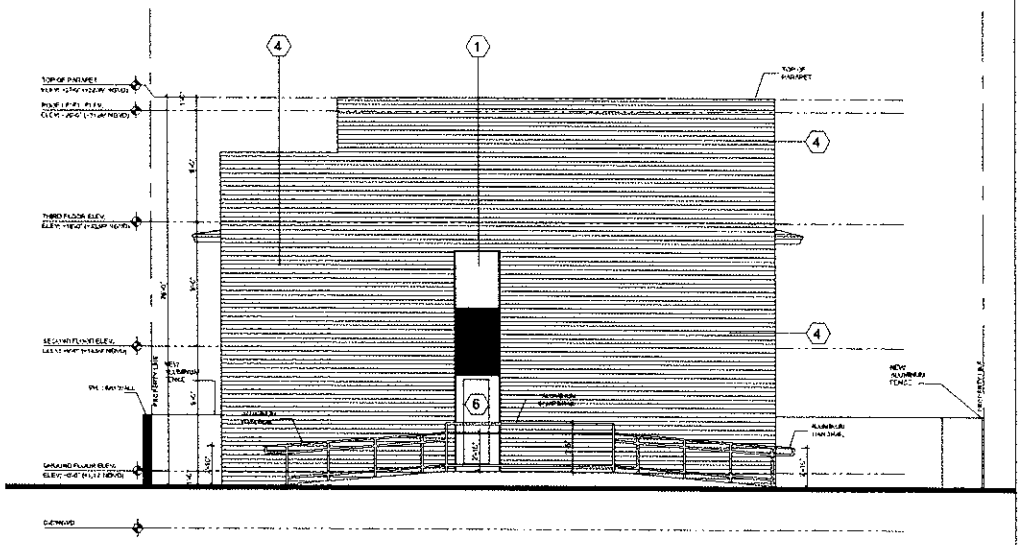
PROJECT NO.

DATE

SHEET NUMBER A-201

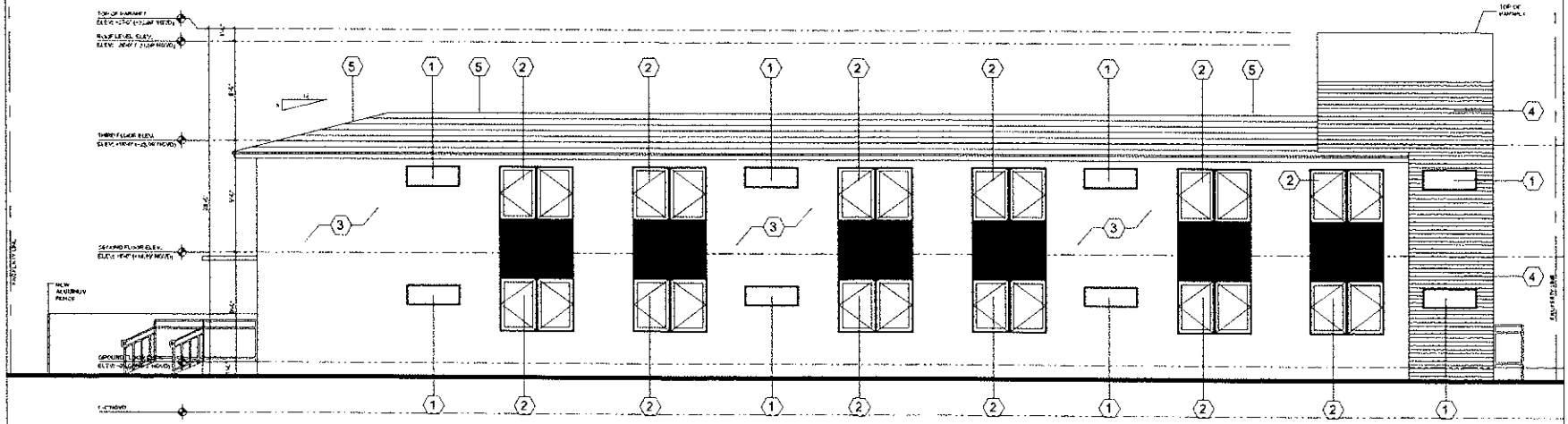
KEY NOTES

1. FIXED IMPACT GLASS WINDOW
2. OPERABLE IMPACT GLASS WINDOW
3. STUCCO
4. REVEAL ON STUCCO
5. FLAT CEMENT TILE-ROOF
6. DOOR



A3 SOUTH ELEVATION

SCALE: 1/4"=1'-0"



A1 WEST ELEVATION

SCALE: 1/4"=1'-0"

NORMANDY LIVING

DATE REVISION

CASE TITLE

SOUTH AND EAST ELEVATIONS BUILDING 4

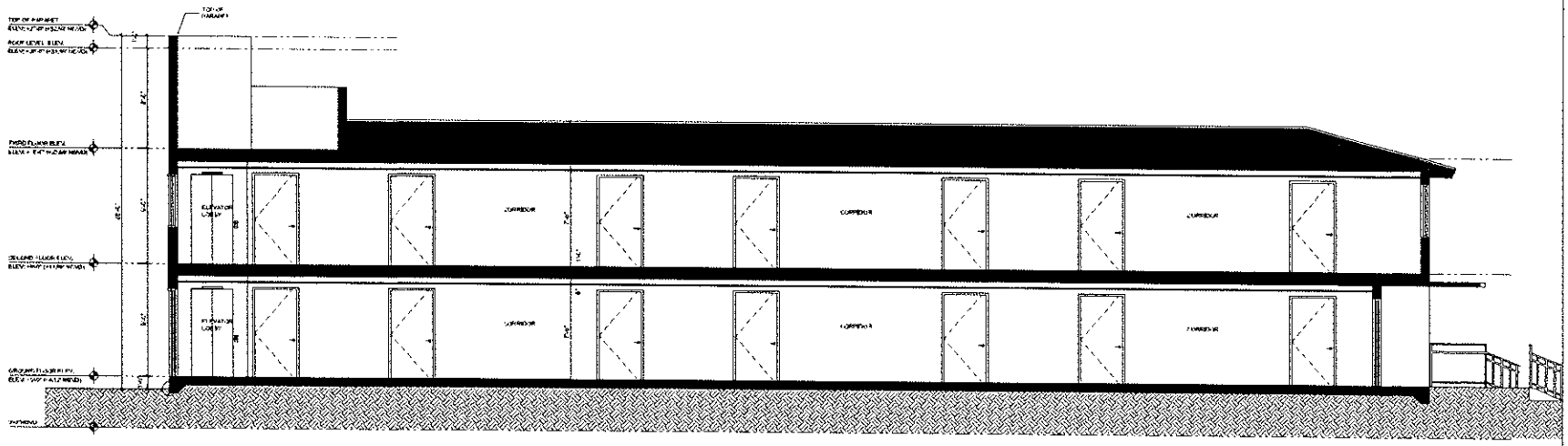
SCALE

PROJECT NO.

DATE

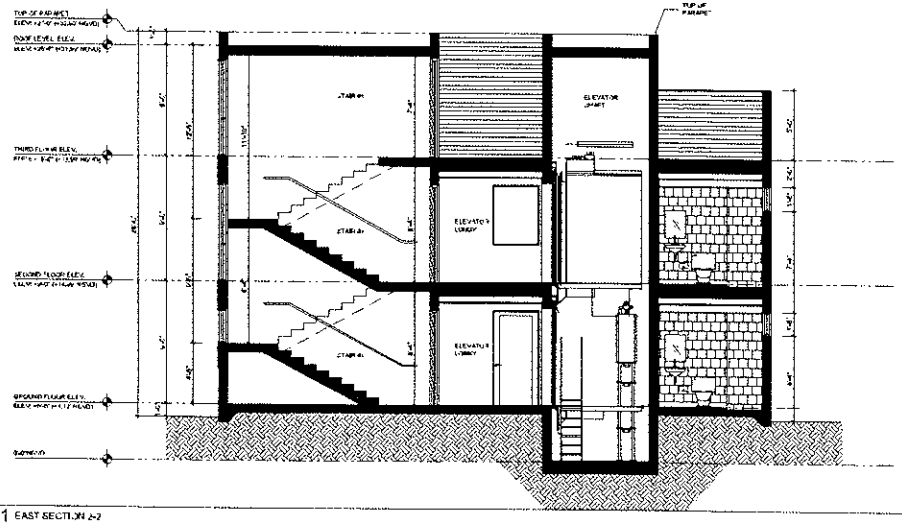
SHEET NUMBER

A-202



A3 SECTION 1-1

SCALE: 1/4"=1'-0"



A1 EAST SECTION 2-2

SCALE: 1/4"=1'-0"

NORMANDY LIVING

ASSISTED LIVING FACILITIES

SHEET TITLE

SECTIONS

SCALE

PROJECT NO.

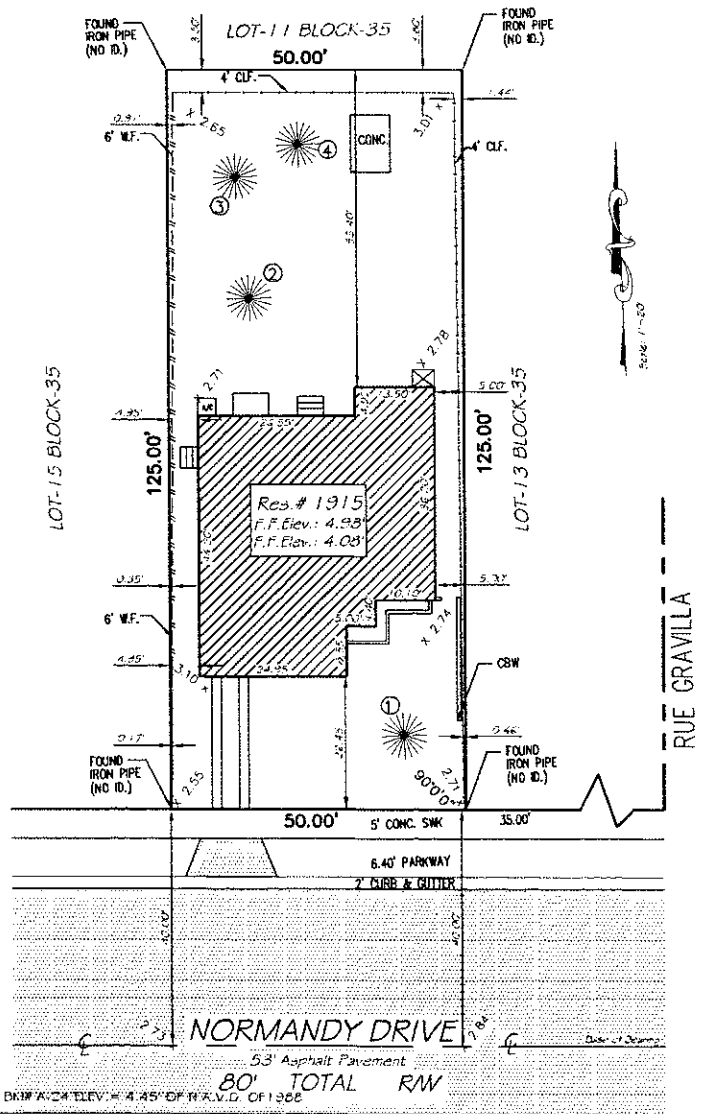
DATE

SHEET NUMBER

A-301

BOUNDARY SURVEY

SCALE: 1" = 20'



NOTE:
ELEVATIONS ARE REFERRED TO MIAMI DADE COUNTY BENCH MARK ELEV.= 4.45' OF N.G.V.D. OF 1988

LEGEND AND ABBREVIATIONS

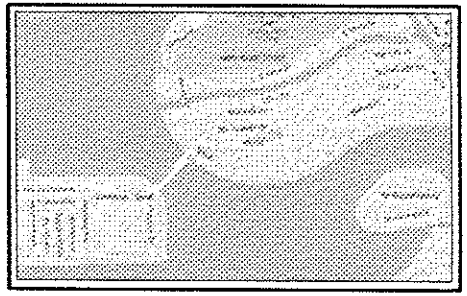
℄	= CENTER LINE	FD.	= FOUND IRON PIPE	AC	= AIR CONDITIONED UNIT	A	= ARC DISTANCE	C.G.	= CURB & GUTTER
P/L	= PROPERTY LINE	O.H.L.	= OVERHEAD UTILITIES	W.M.	= WATER METER	D	= CENTRAL ANGLE	V.G.	= VALLEY & GUTTER
M/L	= MONUMENT LINE	C.B.	= CHORD BEARING	U.E.	= UTILITY EASEMENT	R	= RADIUS	E.M.	= ELECTRIC METER
R/W	= RIGHT OF WAY	(C)	= CALCULATED	C.B.S.	= CONCRETE BLOCK STRUCTURE	Ø	= DIAMETER	STY.	= STORY
C.L.F.	= CHAIN LINK FENCE	(M)	= MEASURED	P.C.P.	= PERMANENT CONTROL POINT	B.C.	= BLOCK CORNER	SEC.	= SECTION
W.F.	= WOODEN FENCE	(R)	= RECORD	D.M.E.	= DRAINAGE MAINT. EASEMENT	TYP	= TYPICAL	MH.	= MANHOLE
ELEV.	= ELEVATION	ENC.	= ENCROACHMENT	P.O.B.	= POINT OF BEGINNING	S.W.	= SIDEWALK	CL.	= CLEAR
CONC.	= CONCRETE SLAB	RES.	= RESIDENCE	P.O.C.	= POINT OF COMMENCE	PL.	= PLANTER	F.F. ELEV.	= FINISH FLOOR ELEVATION

VIZCAYA SURVEYING AND MAPPING Inc.

Phone/Fax: (305) 223-6060
E-mail: rvizcaya.13@gmail.com
L.B. 8000
13217 S.W. 46th Ln.
Miami, Florida 33175

PROPERTY ADDRESS: 1915 Normandy Dr, Miami Beach, FL 33141

LEGAL DESCRIPTION: Lot 14, Block 35,of ISLE OF NORMANDY MIAMI, according to the plat thereof, as recorded in Plat Book 40, at Page 33, of the Public Records of Miami-Dade County Florida. SQFT : 6250'



LOCATION MAP
N.T.S.

#	HEIGHT	DIAMETER	CANOPY	SYMBOL
1	50.00'	4.00'	70.00'	
2	75.00'	1.50'	30.00'	
3	80.00'	2.60'	40.00'	
4	25.00'	1.50	20.00'	

** TREE LOCATION & DIMENSION ARE APPROXIMATE.

** FOR PROPER AND SCIENTIFIC TREE NAME AN ARBORIST SHOULD BE CONTACTED.

JOB NUMBER: J

BASED ON THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY AGENCY REVISED ON 09-11-2009 THE HEREIN DESCRIBED PROPERTY IS SITUATED WITHIN:

ZONE AE BASE FLOOD ELEV. 8 COMMUNITY NUMBER 120651 PANEL NUMBER 12086C0397L SUFFIX L

LEGAL NOTES

THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP. EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY. THIS SURVEY IS SUBJECT TO DEDICATION, LIMITATIONS, RESTRICTIONS, RESERVATIONS OR EASEMENTS OF RECORDS. LEGAL DESCRIPTION PROVIDED BY CLIENT. THE LIABILITY OF THIS SURVEY IS LIMITED TO THE COST OF THE SURVEY. UNDERGROUND ENCROACHMENTS, IF ANY ARE NOT SHOWN. THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTING AND/OR FOUNDATIONS AND/OR UNDERGROUND IMPROVEMENTS OF ANY NATURE. IF SHOWN BEARINGS ARE REFERRED TO AN ASSUMED MERIDIAN. IF SHOWN ELEVATIONS ARE REFERRED TO N.G.V.D. OF 1929. THE CLOSURE IN THE BOUNDARY SURVEY IS ABOVE 1: 10000. THIS SURVEY IS NOT INTENDED FOR NEITHER DESIGN NOR CONSTRUCTION PURPOSES. FOR THOSE PURPOSES A TOPOGRAPHIC SURVEY IS REQUIRED.

FOR:
BETTER LIVING WEST LLC.

DATE OF FIELD WORK: MAY. 03, 2016

REVISED ON:

I hereby certify that the attached Sketch of Survey of the herein described property is to the best of my knowledge and belief, a true and correct representation, of a field survey performed under my direction. And also meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in chapter 5J-17.050 thru 5J-17.052 F.A.C. pursuant to Section 472.027 F. S.

ARTURO R. TOIRAC
Professional Land Surveyor & Mapper

ARTURO R. TOIRAC P.S.M. 3102

Not valid without the signature and the original embossed seal of a Florida Licensed Surveyor and Mapper.

VIZCAYA SURVEYING AND MAPPING Inc.

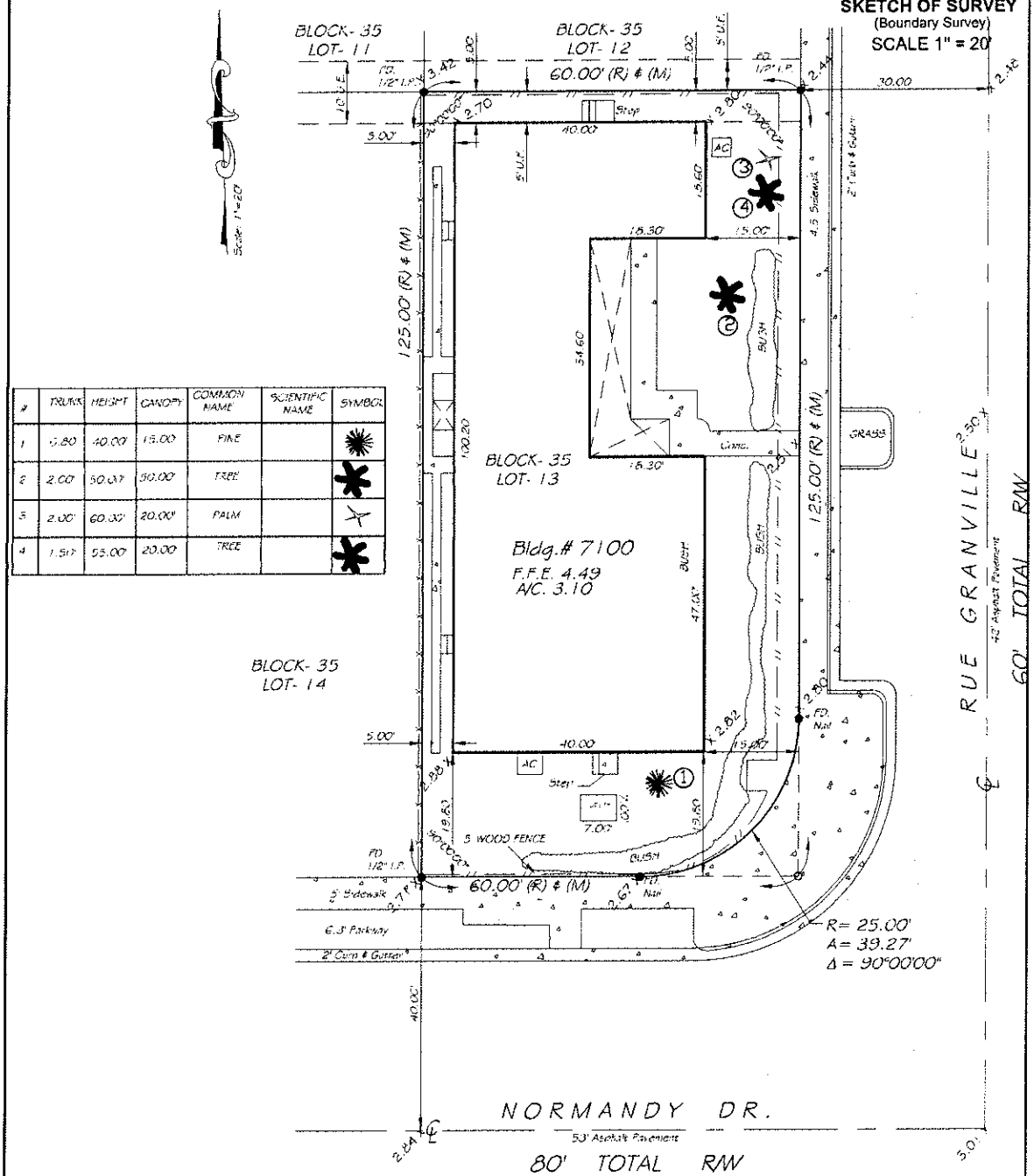
Phone/Fax: (305) 223-6060
E-mail: rvizcaya.13@gmail.com

13217 S.W. 46th Ln.
Miami, Florida 33175

PROPERTY ADDRESS: 7100 Rue Granville Miami Beach, FL. 33141

LEGAL DESCRIPTION: Lot 13, Block 35, of ISLE OF NORMANDY MIAMI VIEW SECTION PART 3, according to the plat thereof as recorded in Plat Book 40, at Page 33, of the Public Records of Miami Dade County, Florida. SQ/F: 7500'

SKETCH OF SURVEY
(Boundary Survey)
SCALE 1" = 20'



#	TRUNK	HEIGHT	CANOPY	COMMON NAME	SCIENTIFIC NAME	SYMBOL
1	0.80	40.00'	15.00	PINE		
2	2.00'	50.00'	30.00'	TREE		
3	2.00'	60.00'	20.00'	PALM		
4	1.50'	55.00'	20.00'	TREE		

BASED ON THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY AGENCY REVISED ON 09-11-2009 THE HEREIN DESCRIBED PROPERTY IS SITUATED WITHIN:
ZONE AE BASE FLOOD ELEV. 8 COMMUNITY NUMBER 120651
PANEL NUMBER 12086C0307L SUFFIX L

DATE OF FIELD WORK: 05. 03. 2016
REVISED ON:

I hereby certify that the attached Sketch of Survey of the herein described property is to the best of my knowledge and belief, a true and correct representation, of a field survey performed under my direction. And also meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in chapter 5J-17.050 thru 5J-17.052 F.A.C. pursuant to Section 472.027 F.S.

ARTURO R. TOIRAC P.S.M. 3102

Not valid without the signature and the original embossed seal of a Florida Licensed Surveyor and Mapper.

CERTIFIED TO:
Better Living Invest LLC.

LEGAL NOTES

THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP. EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY. THIS SURVEY IS SUBJECT TO DEDICATION, LIMITATIONS, RESTRICTIONS RESERVATIONS OR EASEMENTS OF RECORDS. LEGAL DESCRIPTION PROVIDED BY CLIENT. THE LIABILITY OF THIS SURVEY IS LIMITED TO THE COST OF THE SURVEY. UNDERGROUND ENCROACHMENTS, IF ANY, ARE NOT SHOWN. THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTING AND/OR FOUNDATIONS AND/OR UNDERGROUND IMPROVEMENTS OF ANY NATURE. IF SHOWN BEARINGS ARE REFERRED TO AN ASSUMED MERIDIAN, IF SHOWN ELEVATIONS ARE REFERRED TO N.G.V.D. OF 1929 THE CLOSURE IN THE BOUNDARY SURVEY IS ABOVE 1: 10000

LEGEND AND ABBREVIATIONS

℄ = CENTER LINE	FD. = FOUND IRON PIPE	TYP.= TYPICAL	ENC. = ENCROACHMENT	AC = AIR CONDITIONED UNIT
P/L = PROPERTY LINE	O.H.L. = OVERHEAD UTILITIES	8.00 = ELEVATION	C.B.S. = CONCRETE BLOCK STRUCTURE	RES. = RESIDENCE
M/L = MONUMENT LINE	(C) = CALCULATED	R = RADIUS	CONC.= CONCRETE	W.M. = WATER METER
R/W = RIGHT OF WAY	(R) = RECORD	A = ARC DISTANCE	Ø = DIAMETER	U.E. = UTILITY EASEMENT
C.L.F.= CHAIN LINK FENCE	(M) = MEASURED	C.B. = CATCH BASIN	D.M.E.= DRAINAGE MAINT. EASEMENT	P.C.P.= PERMANENT CONTROL POINT
W.F.= WOODEN FENCE	CL. = CLEAR	B.C.= BLOCK CORNER	I.F. = IRON FENCE	P.O.B.= POINT OF BEGINNING

JOB No.

This survey is valid for Mortgages only

VIZCAYA SURVEYING AND MAPPING Inc.

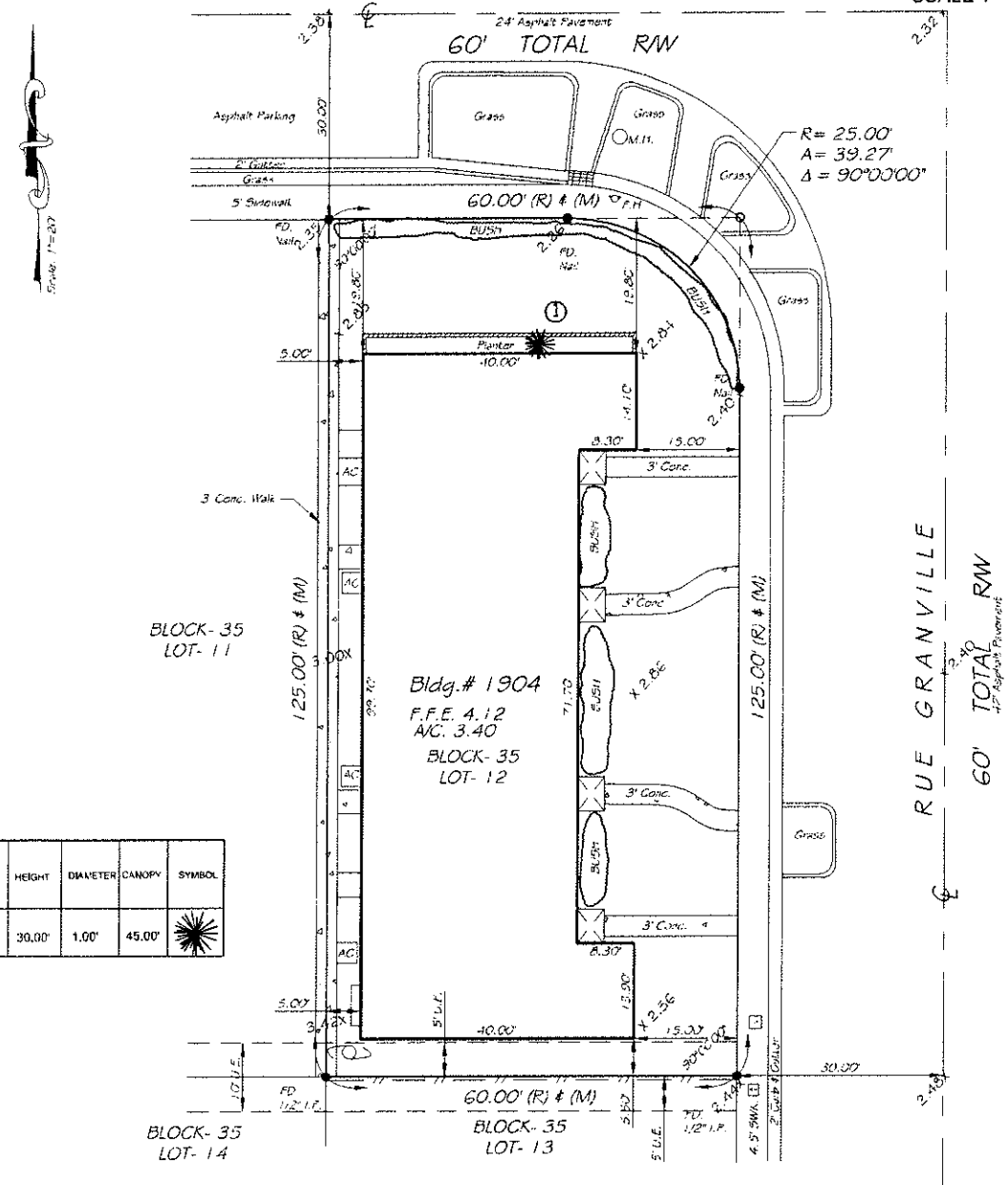
Phone/Fax: (305) 223-6060
E-mail: rvizcaya.13@gmail.com

13217 S.W. 46th Ln.
Miami, Florida 33175

PROPERTY ADDRESS: 1904 Marseille Dr. Miami Beach, FL. 33141

LEGAL DESCRIPTION: Lot 12, Block 35, of ISLE OF NORMANDY MIAMI VIEW SECTION PART 3, according to the plat thereof as recorded in Plat Book 40, at Page 33, of the Public Records of Miami Dade County, Florida. SQ/F: 7500'

SKETCH OF SURVEY
(Boundary Survey)
SCALE 1" = 20'



#	HEIGHT	DIAMETER	CANOPY	SYMBOL
1	30.00'	1.00'	45.00'	

BASED ON THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY AGENCY REVISED ON 09-11-2009 THE HEREIN DESCRIBED PROPERTY IS SITUATED WITHIN:

ZONE AE BASE FLOOD ELEV. 8 COMMUNITY NUMBER 120651 PANEL NUMBER 12086C0307L SUFFIX L

DATE OF FIELD WORK: 05. 03. 2016

REVISED ON:

I hereby certify that the attached Sketch of Survey of the herein described property is to the best of my knowledge and belief, a true and correct representation, of a field survey performed under my direction, And also meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in chapter 5J-17.050 thru 5J-17.052 F.A.C. pursuant to Section 472.027 F. S.

ARTURO R. TOIRAC P.S.M. 3102

Not valid without the signature and the original embossed seal of a Florida Licensed Surveyor and Mapper.

CERTIFIED TO:
Better Living Invest LLC.

VISUAL ENCROACHMENTS NOTED:

LEGAL NOTES

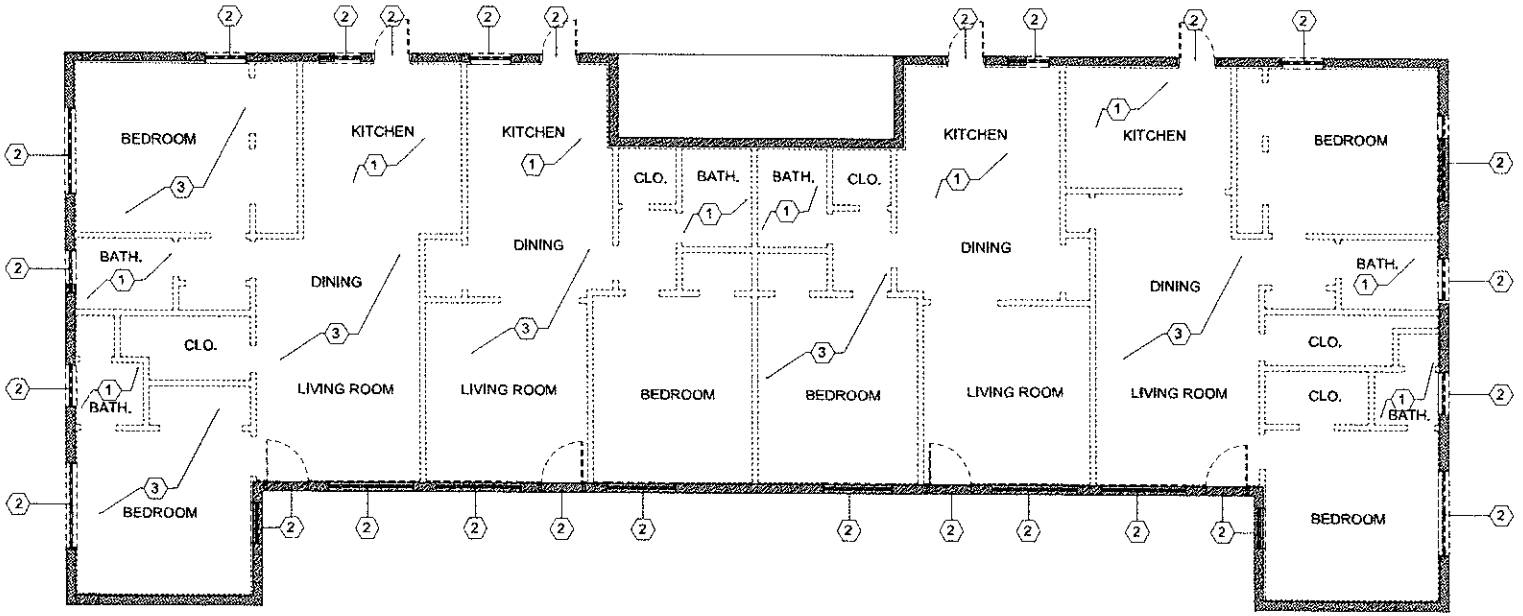
THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP. EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY. THIS SURVEY IS SUBJECT TO DEDICATION, LIMITATIONS, RESTRICTIONS, RESERVATIONS OR EASEMENTS OF RECORDS. LEGAL DESCRIPTION PROVIDED BY CLIENT. THE LIABILITY OF THIS SURVEY IS LIMITED TO THE COST OF THE SURVEY. UNDERGROUND ENCROACHMENTS, IF ANY, ARE NOT SHOWN. THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTING AND/OR FOUNDATIONS AND/OR UNDERGROUND IMPROVEMENTS OF ANY NATURE. IF SHOWN BEARINGS ARE REFERRED TO AN ASSUMED MERIDIAN. IF SHOWN ELEVATIONS ARE REFERRED TO N.G.V.D. OF 1929 THE CLOSURE IN THE BOUNDARY SURVEY IS ABOVE 1: 10000

LEGEND AND ABBREVIATIONS

JOB No.

℄ = CENTER LINE	FD. = FOUND IRON PIPE	TYP.= TYPICAL	ENC. = ENCROACHMENT	AC = AIR CONDITIONED UNIT
P/L = PROPERTY LINE	O.H.L.= OVERHEAD UTILITIES	8.00' = ELEVATION	C.B.S. = CONCRETE BLOCK STRUCTURE	RES. = RESIDENCE
M/L = MONUMENT LINE	(C) = CALCULATED	R = RADIUS	CONC.= CONCRETE	W.M. = WATER METER
R/W = RIGHT OF WAY	(R) = RECORD	A = ARC DISTANCE	Ø = DIAMETER	U.E. = UTILITY EASEMENT
C.L.F.= CHAIN LINK FENCE	(M) = MEASURED	C.B. = CATCH BASIN	D.M.E. = DRAINAGE MAINT. EASEMENT	P.C.P.= PERMANENT CONTROL POINT
W.F.= WOODEN FENCE	CL. = CLEAR	B.C. = BLOCK CORNER	I.F. = IRON FENCE	P.O.B.= POINT OF BEGINNING

This survey is valid for Mortgages only



GROUND FLOOR DEMOLITION PLAN
BUILDING A

DEMOLITION GENERAL NOTES:

SCOPE : DEMOLITION OF INTERIOR PARTITIONS
PARTIAL DEMOLITION OF EXTERIOR WALL
ADDITION OF NEW SECOND FLOOR.

WALL LEGEND

- EXISTING CONC. BLOCK WALL TO REMAIN "AS IS"
- EXISTING CONC. BLOCK WALL TO BE DEMOLISHED
- EXISTING PARTITION TO BE DEMOLISHED

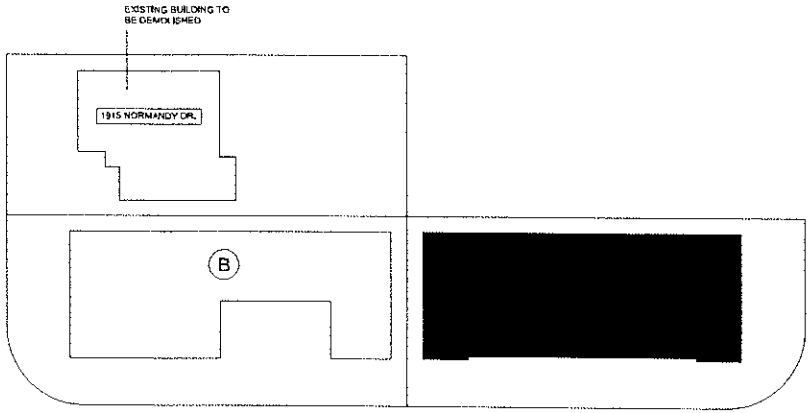
KEY NOTES - DEMOLITION

1. REMOVE EXISTING PLUMBING FIXTURES AND CAP SEWER LINES
2. REMOVE EXISTING WINDOW AND DOOR
3. REMOVE EXISTING FLOOR FINISH

1915 NORMANDY DR. BUILDING TO BE DEMOLISHED

(B) BUILDING TO BE REMODELED

(A) BUILDING TO BE PARTIALLY DEMOLISHED SEE IN THIS SHEET : GROUND FLOOR DEMOLITION

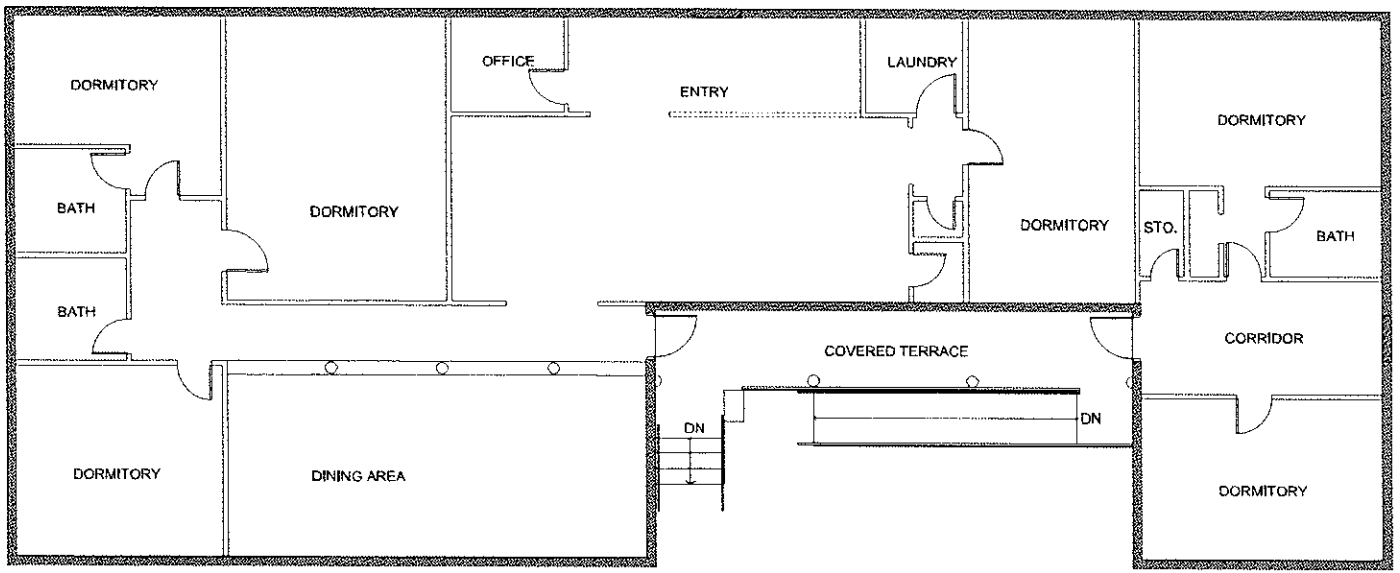


NORMANDY LIVING

A1 EXISTING- DEMOLITION PLAN

SCALE: 1/4"=1'-0"

EXIST.-D 1



DEMOLITION GENERAL NOTES:

SCOPE : DEMOLITION OF INTERIOR PARTITIONS
PARTIAL DEMOLITION OF EXTERIOR WALL

GROUND FLOOR DEMOLITION PLAN
BUILDING B

WALL LEGEND

- EXISTING CONC. BLOCK WALL TO REMAIN "AS IS"
- EXISTING CONC. BLOCK WALL TO BE DEMOLISHED
- EXISTING PARTITION TO BE DEMOLISHED

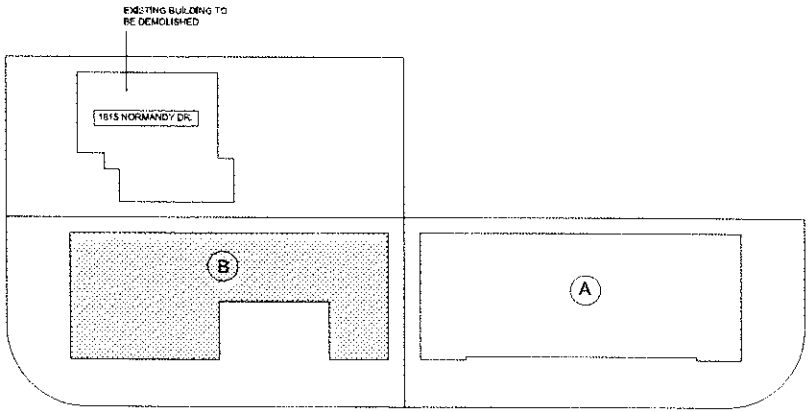
KEY NOTES - DEMOLITION

1. REMOVE EXISTING PLUMBING FIXTURES AND CAP SEWER LINES
2. REMOVE EXISTING WINDOW AND DOOR
3. REMOVE EXISTING FLOOR FINISH

1915 NORMANDY DR. BUILDING TO BE DEMOLISHED

(B) BUILDING TO BE REMODELED SEE IN THIS SHEET : GROUND FLOOR DEMOLITION

(A) BUILDING TO BE PARTIALLY DEMOLISHED



NORMANDY LIVING

DWG. TITLE
EXISTING DEMOLITION FLOOR PLAN BUILDING B

SCALE

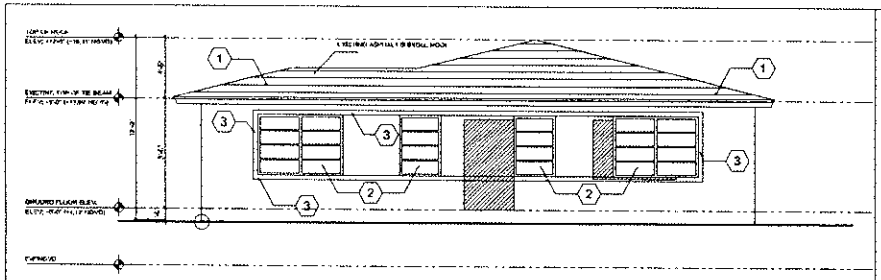
PROJECT NO.

DATE

SHEET NUMBER
EXIST.-D 2

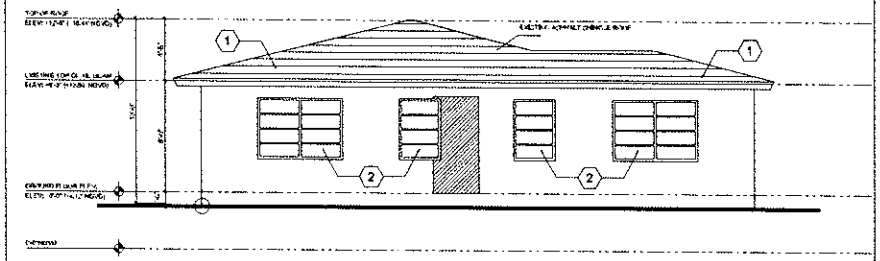
A1 EXISTING- DEMOLITION PLAN

SCALE:



D1 NORTH ELEVATION, BUILDING A

SCALE: 1/4"=1'-0"



C1 SOUTH ELEVATION, BUILDING A

SCALE: 1/4"=1'-0"

EXISTING - DEMO, BUILDING A

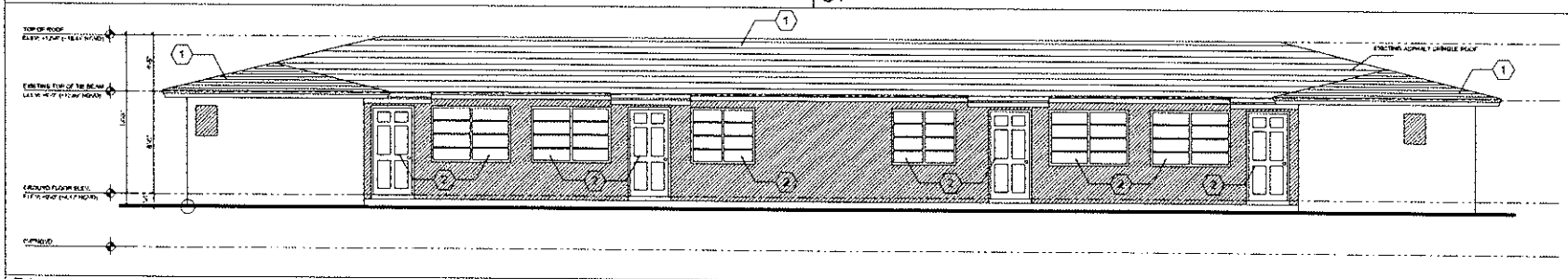
WALL LEGEND

EXISTING CONC. BLOCK WALL TO BE DEMOLISHED

KEY NOTES - DEMOLITION

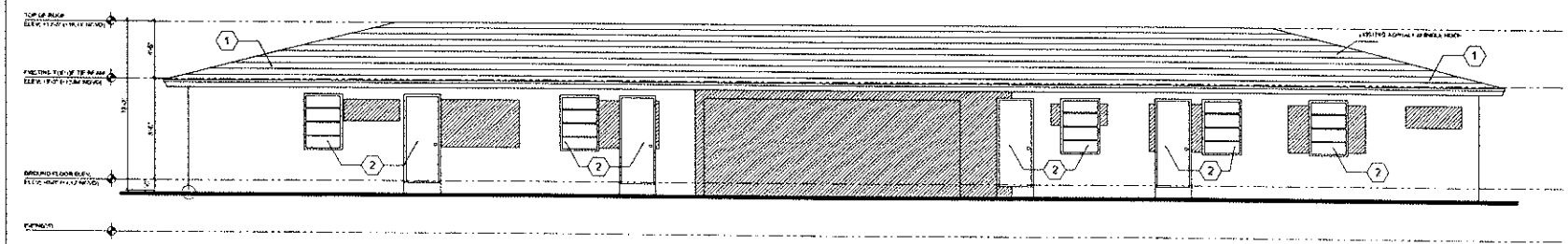
1. REMOVE EXISTING ASPHALT SHINGLE ROOF
2. REMOVE EXISTING WINDOW AND DOOR
3. REMOVE EXISTING EYEBROW

C4 NOTES



B1 EAST ELEVATION, BUILDING A

SCALE: 1/4"=1'-0"



A1 WEST ELEVATION, BUILDING A

SCALE: 1/4"=1'-0"

BEUTLINSON SDMF2

NORMANDY LIVING

DATE REVISION

DWG TITLE

EXISTING ELEVATIONS & DEMO BLDG A

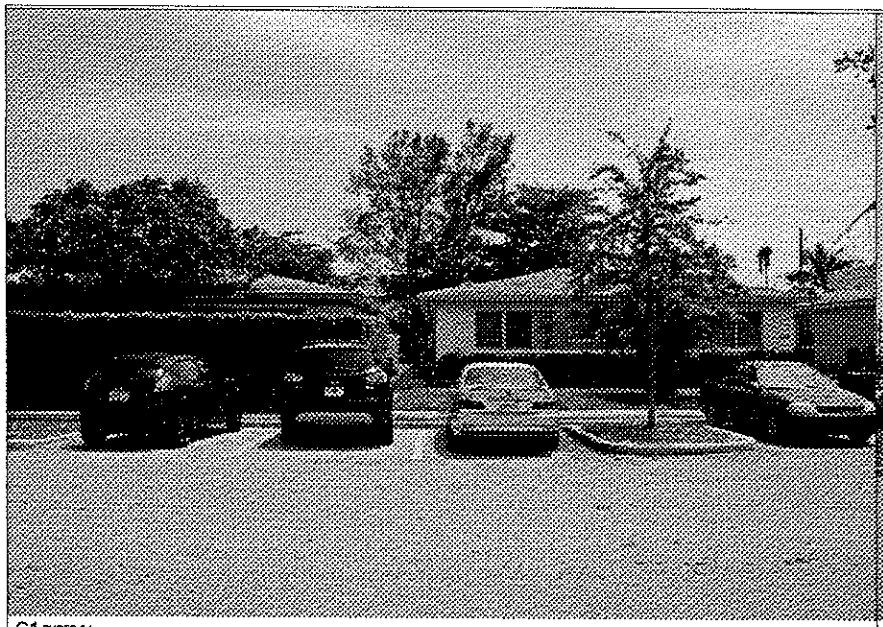
SCALE

PROJECT NO.

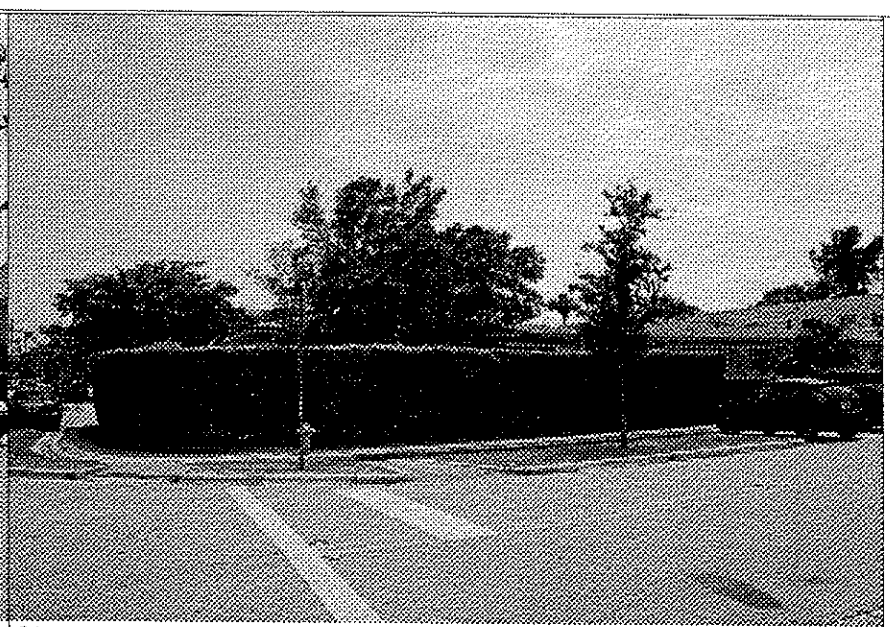
DATE

SHEET NUMBER

EXIST-D 3

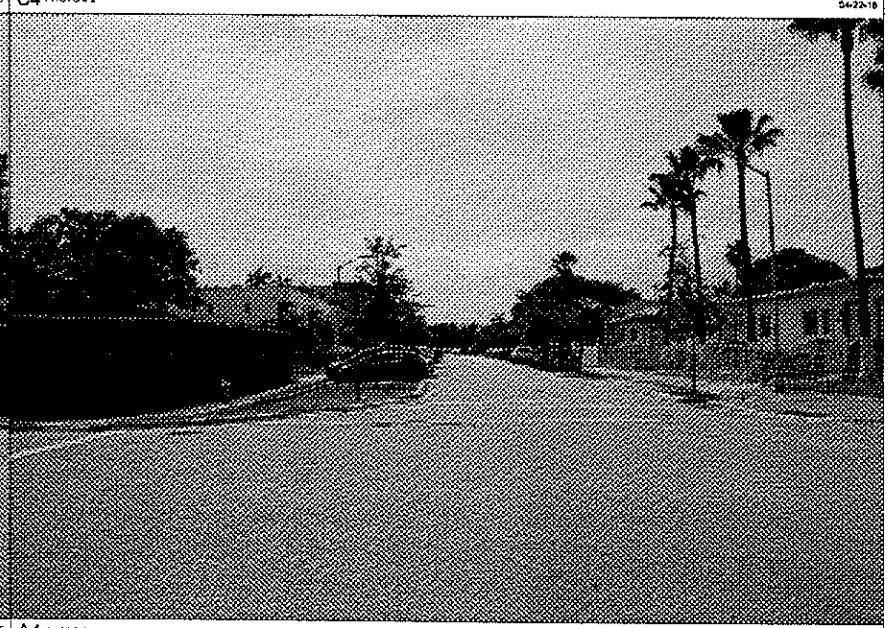


C1 PHOTO # 1 04-22-16



C4 PHOTO # 2 04-22-16

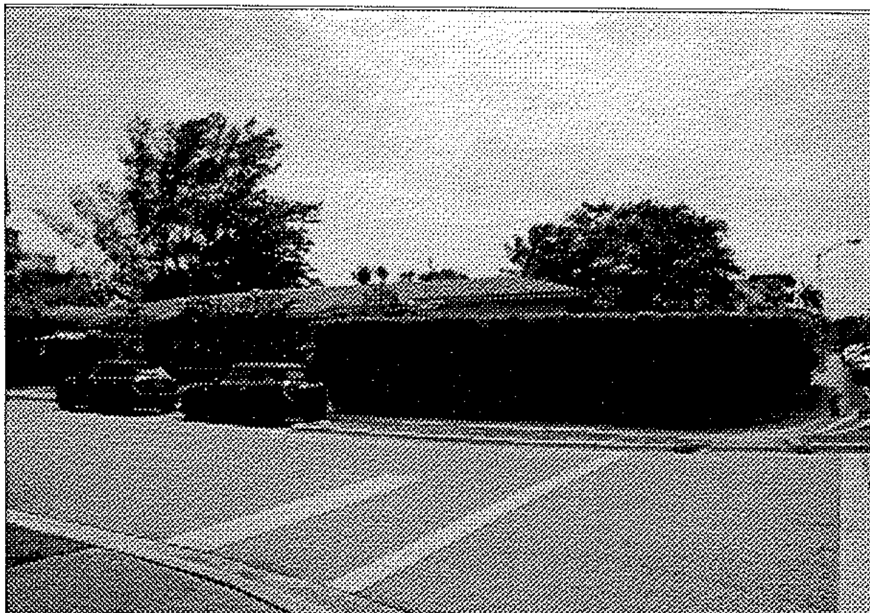
A1 PHOTO # 3 04-22-16



A4 PHOTO # 4 04-22-16

NORMANDY LIVING

SHEET NUMBER A-003



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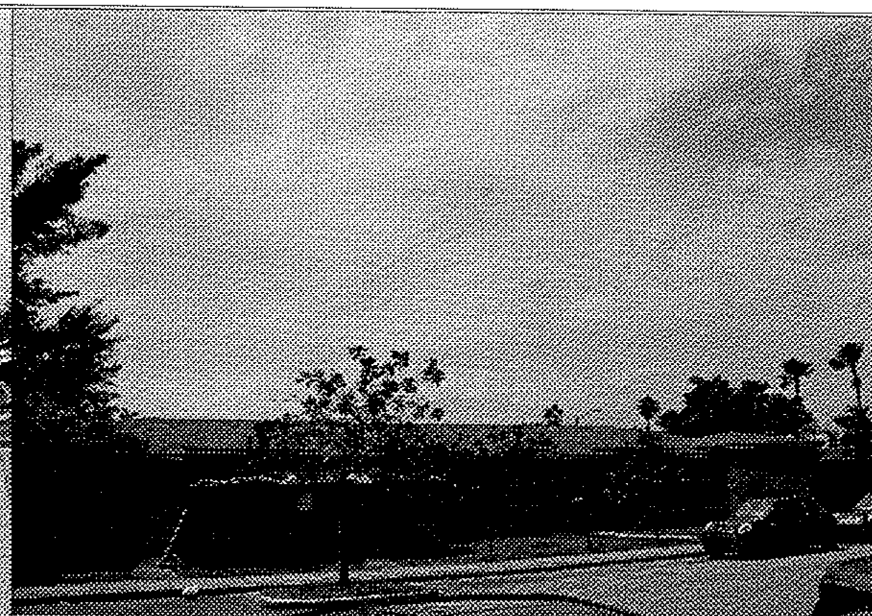

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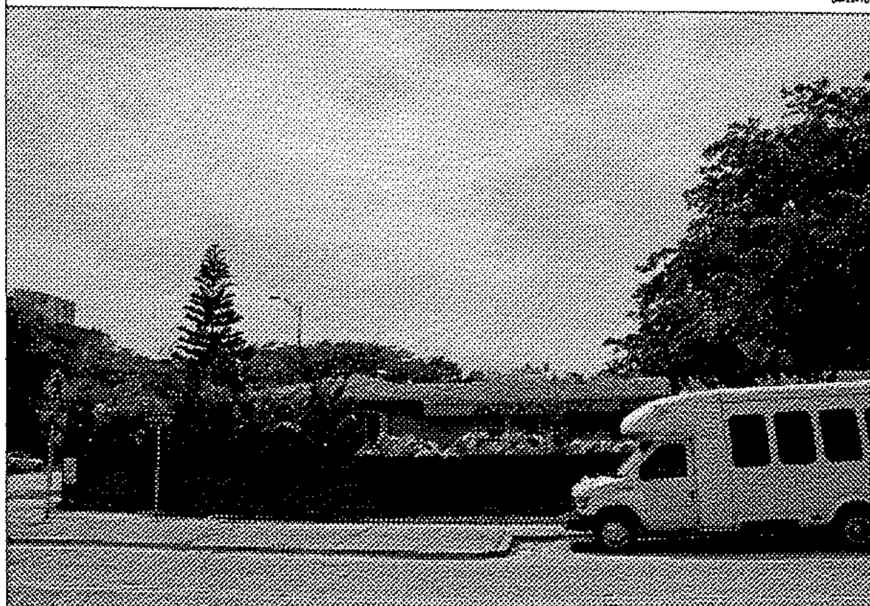

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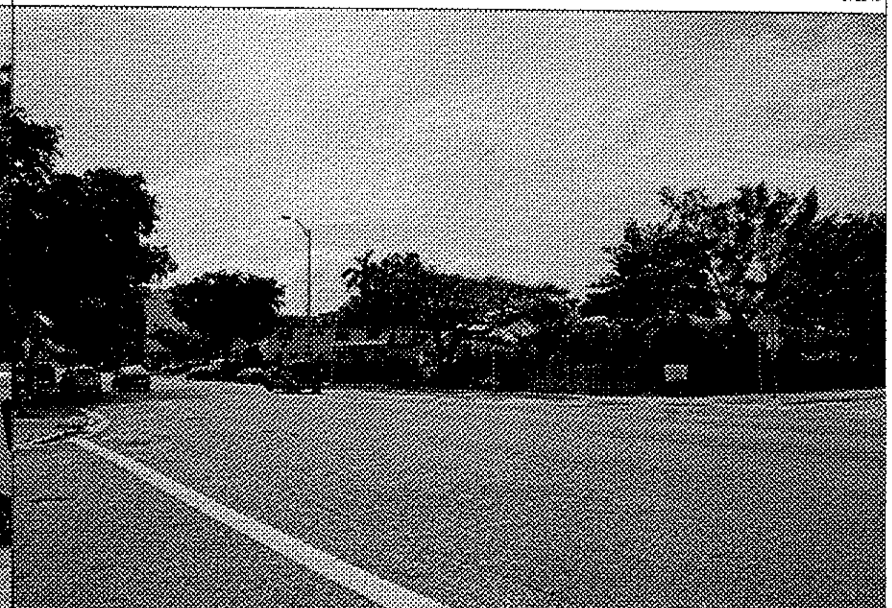


A4 PHOTO # 8 04-22-16

NORMANDY LIVING

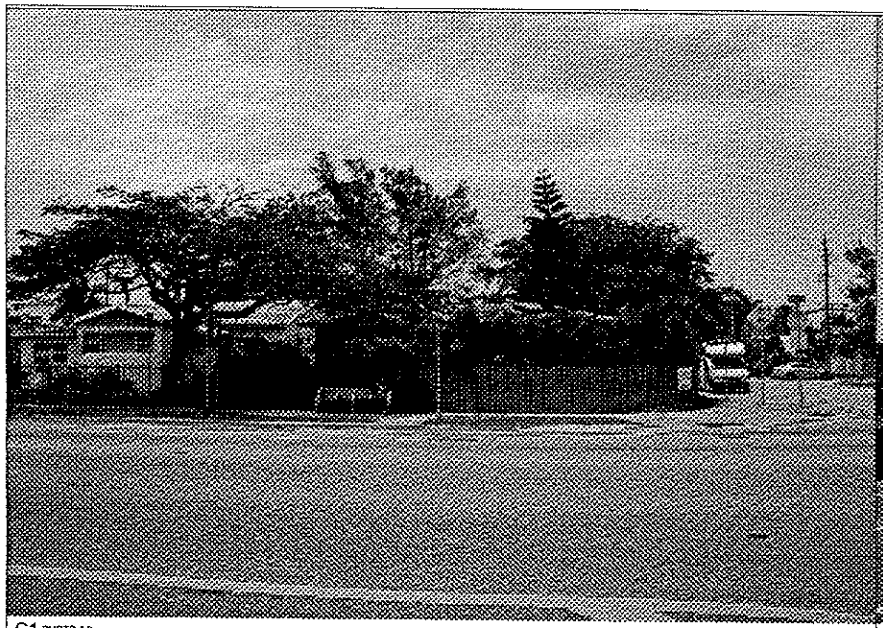
ASSISTED LIVING FACILITIES

DATE	REVISION

DWG. TITLE: SITE IMAGES

SCALE: N.T.S.

SHEET NUMBER: A-004



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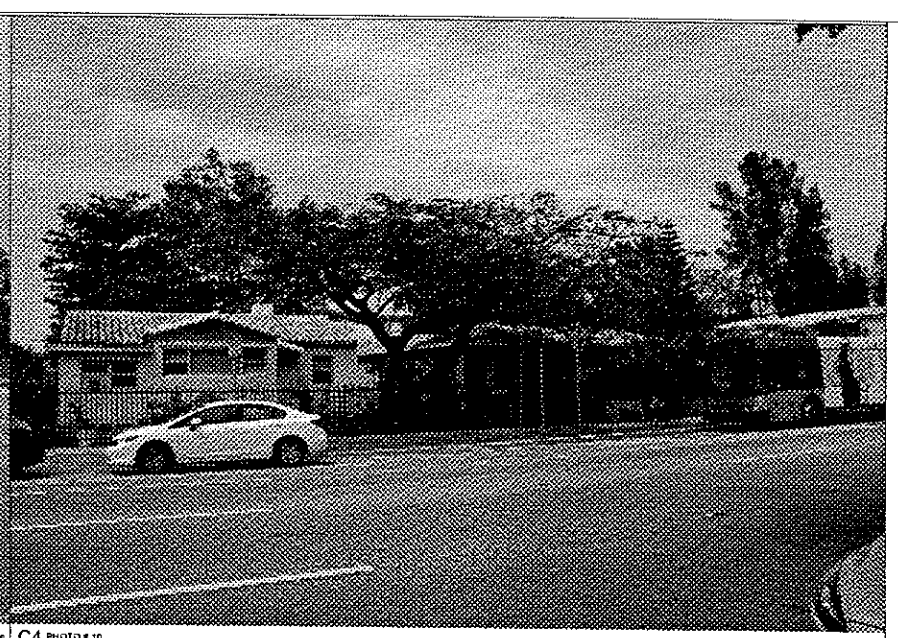
04-22-16



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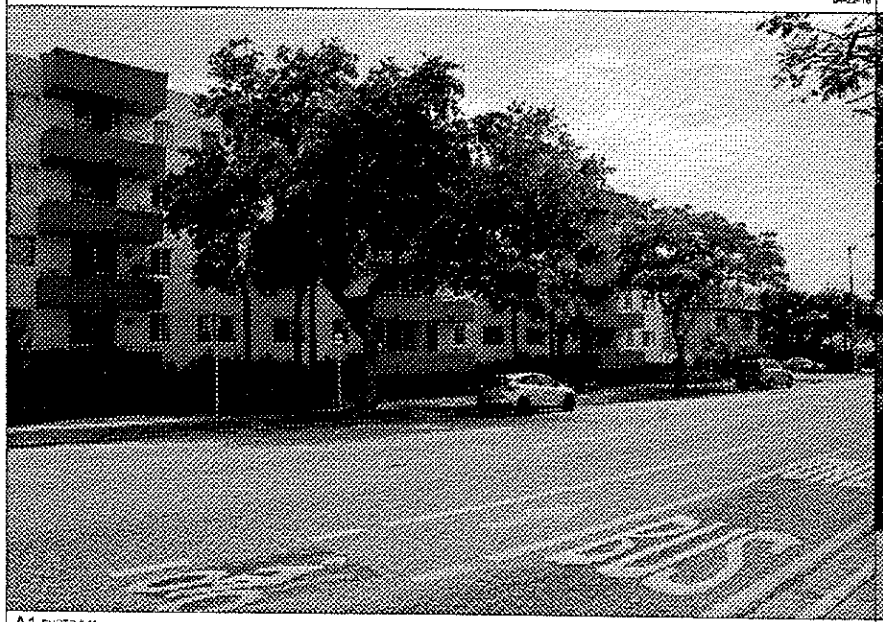
04-22-16



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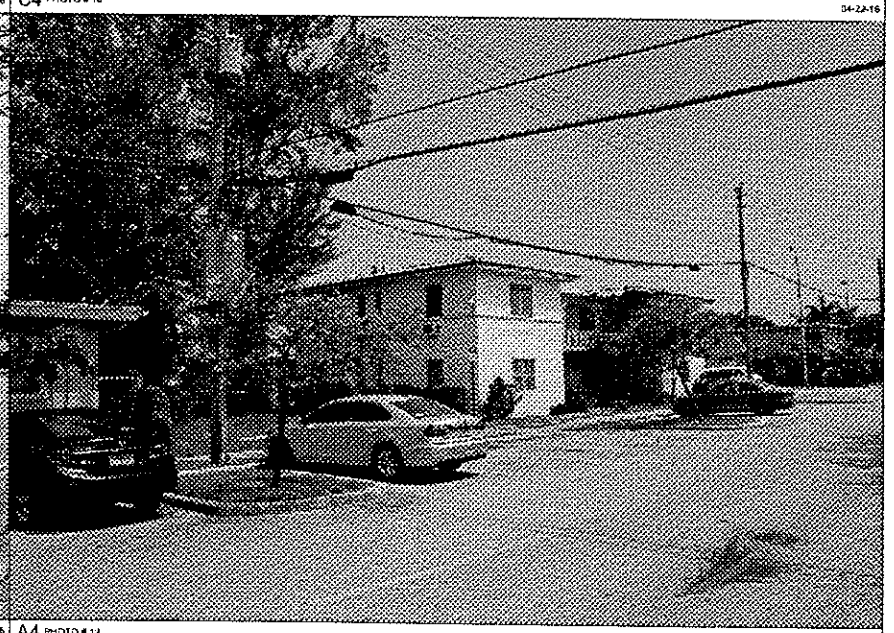
04-22-16



A4 PHOTO # 12

04-22-16

NORMANDY LIVING

△	DATE	REVISION

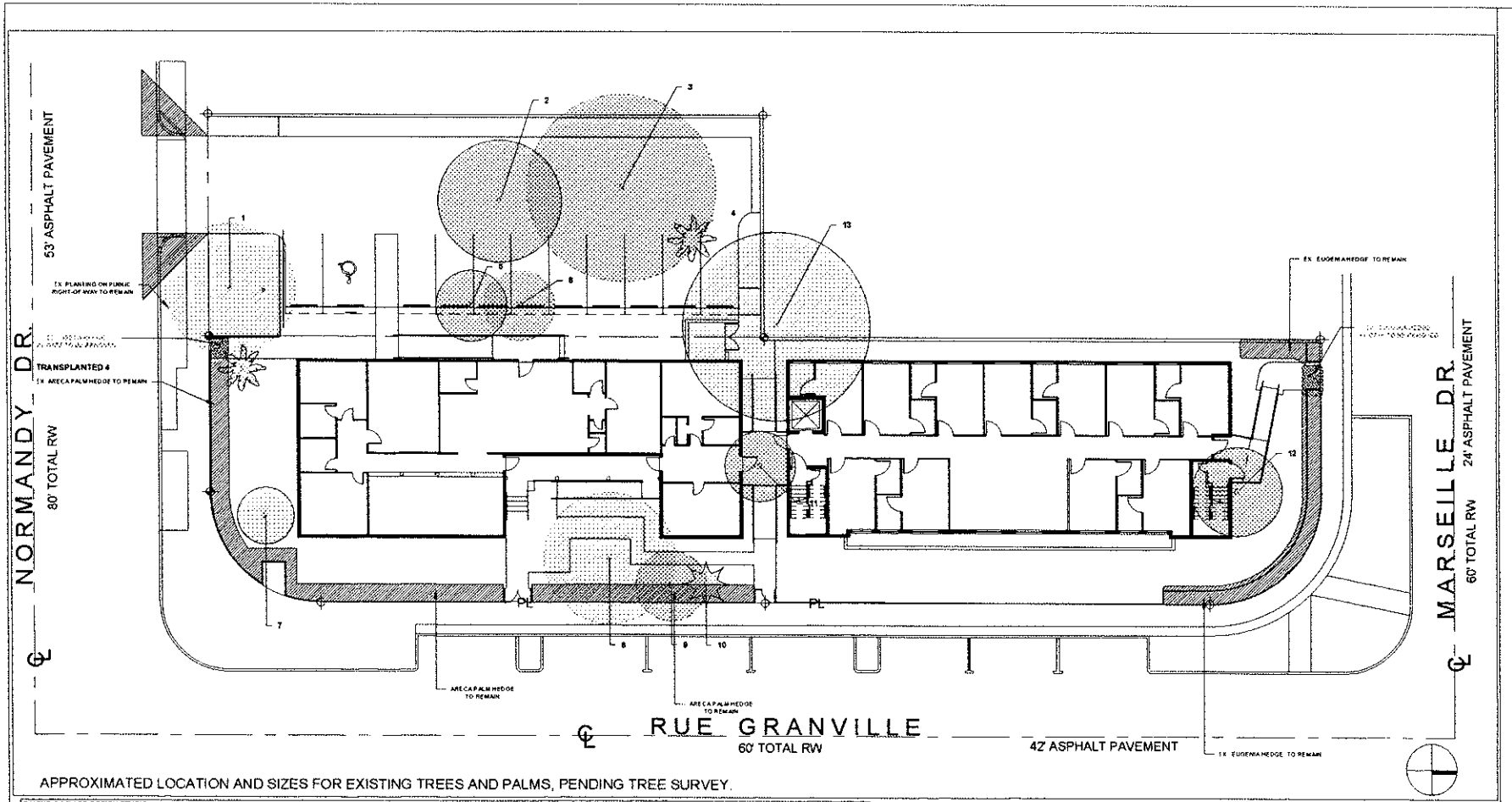
DRG. TITLE: SITE IMAGES

SCALE: NTS

PROJECT NO.:

DATE: 05-04-16

SHEET NUMBER: A-005



APPROXIMATED LOCATION AND SIZES FOR EXISTING TREES AND PALMS, PENDING TREE SURVEY.

SAVINO & MILLER DESIGN STUDIO

1904 MARSEILLE DR. TREE MANAGEMENT PLAN

TABLE #	QNTY.	BOTANICAL NAME	COMMON NAME	CONDITION	PRESERVE	TRANSPLANT	REMOVE	TRUNK DBH (IN)	TREE HT. (FT.)	CANOPY DIAM. (FT.)	CANOPY SQ. FT.	ROOTBALL DIAM	SIZE OF HOLE	ROOT PRUNING TIME
1	1	*Delonix regia*	Royal poinciana	Good	1			48	25	30		N/A	N/A	N/A
2	1	*Mangifera foetida*	Mango tree	Good			1	18-24	30	20	314	N/A	N/A	N/A
3	1	*Terminalia catappa*	Tropical almond	Good			1	24-30	80	30	706.5	N/A	N/A	N/A
4	1	*Cocos nucifera*	Coconut Palm	Good		1		12	12	10	78.5	4'	6'	30 days
5	1	*Unknown Tree*	Unknown	Good			1	3	15	10	~~78.5~~	N/A	N/A	N/A
6	1	*Unknown Tree*	Unknown	Good			1	3	12	8	~~50.24~~	N/A	N/A	N/A
7	1	*Araucaria heterophylla*	Norfolk Island Pine	Good	1			3	15	4		N/A	N/A	N/A
8	1	*Bucida buceras*	Black Olive	Good	1			30	30	30		N/A	N/A	N/A
9	1	*Schefflera actinophylla*	Umbrella tree	Good			1	18	34	30	~~706.5~~	N/A	N/A	N/A
10	1	*Roystonea*	Royal Palm	Good	1			12	30	32		N/A	N/A	N/A
11	1	*Terminalia catappa*	Tropical almond	Poor			1	4	30	28	615.44	N/A	N/A	N/A
12	1	*Ficus aurea*	Strangler Fig	Good			1	5	18	15	176.625	N/A	N/A	N/A
13	1	*Casuarina species*	Australian Pine	Good			1	36	100	30	1,449.00	N/A	N/A	N/A
	13	TOTAL OF TREES			4	1	10				1,812.57	6 trees at 8' OA HT. , or 4 trees at 12' OA HT.		

Prohibited plants (Australian) are not included

TREES / PALMS TO PRESERVE

TREES / PALMS TO TRANSPLANT OLD LOCATION

TREES / PALMS TRANSPLANT NEW LOCATION

TREES / PALMS TO REMOVE

NOT FOR CONSTRUCTION
PLANS NOT COMPLETE WITHOUT WRITTEN SPECIFICATIONS

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NORMANDY LIVING
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1915 NORMANDY DR., MIAMI BEACH, FL 33141
7315 NORMANDY DR., MIAMI BEACH, FL 33141
1904 MARSEILLE DR., MIAMI BEACH, FL 33141
1901 SUBMITTAL FOR PLANNING BOARD

DATE REVISION

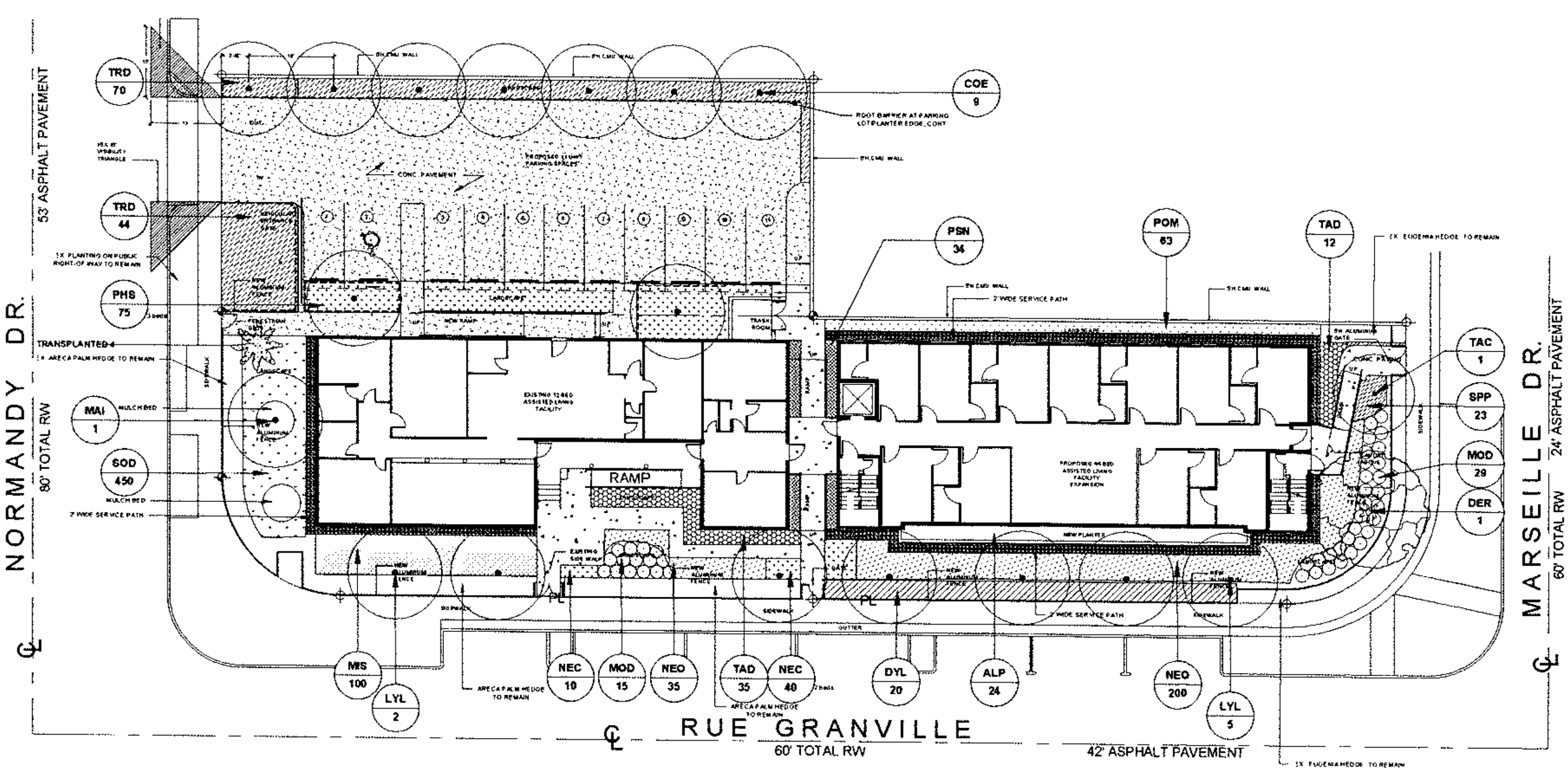
SHEET TITLE
TREE MANAGEMENT PLAN

SCALE
1/8"=1'-0"

PROJECT NO.
2016.12

DATE
05-04-16

SHEET NUMBER
LT-1



1904 MARSEILLE DR. - PLANT SCHEDULE					
KEY	QTY.	BOTANICAL/COMMON NAME	SIZE	NATIVE STATUS	DROUGHT TOL
		TREES			
COE	9	Conocarpus erectus	12'-14' Ht. x 8'-9' Spr., Multi trunk, 4" DBH min.	Native	Tolerant
		Green Buttonwood	Specimen Character, B&B,		
DER	1	Delonix regia	12'-14' Ht. x 8'-9' Spr., B&B, Full, Even Branching		Tolerant
		Royal Poinciana	4' CT, 3.5" CAL., No root girdling		
LYL	7	Lysiloma latisiliqua /	10'-12' Ht., x 7'-8' Spr., B&B	Native	Tolerant
		Wild Tamarind	4' c.t.		
MAI	1	Mangifera indica ' Dwarf variety'	7'-8' Ht. x 6'-7' Spr., 45 gal		Tolerant
		Mango	submit species for approval		
TAC	1	Tabebuia caraiba /	10'-12' Ht. x 7'-8' Spr., B&B,		Tolerant
		Silver / Yellow Trumpet Tree	3' CT, Specimen		
		PALMS			
DYL	20	Dypsis lutescens/	8'-10' OA Ht., 15 gal., Full		
		Areca Palm			
		SHRUBS AND GROUNDCOVERS			
ALP	24	Alpinia purpurata /	30"-36" OA, Full, 36" OC, 3 gal.	Native	
		Red Ginger			
NEC	50	Spathoglottis plicata /	12"-18" OA, 1 gal., 18" OC		
		Ground Orchid			
NEO	235	Nephrolepis obliterata 'Kimberly'	12"-18" OA, 1 gal., 24" OC		
		Kimberly Queen Fern			

MIS	100	Microsorum scolopendria /	12"-18" OA, 3 gal., 18" OC		
		Wart Fern			
MOD	44	Monstera deliciosa /	18"-24" OA, 3 gal., 36" OC		
		Monstera			
PHS	75	Philodendron selloum /	30"-36" OA, 3 gal., 36" OC		
		Split Leaf Philodendron			
POM	63	Podocarpus macrophyllus /	30"-36" Ht., 3 gal, Full., 24" OC		Tolerant
		Japanese Yew			
PSN	34	Psychotria nervosa /	24"-30" Ht., Full, 3 gal., 24" OC	Native	
		Wild Coffee			
TAD	47	Tabernaemontana divaricata /	3'-4' Ht., 3 gal., Dense, 30" OC		
		Florida gardenia			
TRD	114	Tripsacum dactyloides /	24"-30" OA, 3 gal, 36" OC	Native	Tolerant
		Fakahatchee Grass			
SPP	23	Spathoglottis plicata /	12"-18" OA, 3 gal., 18" OC		
		Ground Orchid			
SOD	450	Zoysia 'Empire'	paletes		
	SF	Zoysia Sod			
NOTE: Contractor shall submit photos of all plant material for LA approval before delivery to site					

NOT FOR CONSTRUCTION
PLANS NOT COMPLETE WITHOUT WRITTEN SPECIFICATIONS

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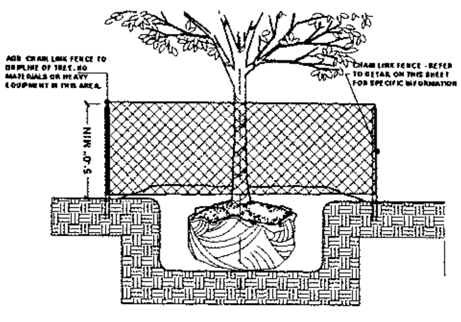
NORMANDY LIVING
ASSISTED LIVING FACILITIES
1915 NORMANDY DR., MIAMI BEACH, FL 33141
7100 RUE GRANVILLE, MIAMI BEACH, FL 33141
1904 MARSEILLE DR., MIAMI BEACH, FL 33141
FIRST SUBMITTAL FOR PLANNING BOARD

DATE	REVISION

DWG TITLE: LANDSCAPE PLANTING PLAN
SCALE: 3/32"=1'-0"
PROJECT NO: 2016-10
DATE: 05-04-16
SHEET NUMBER: LP-1

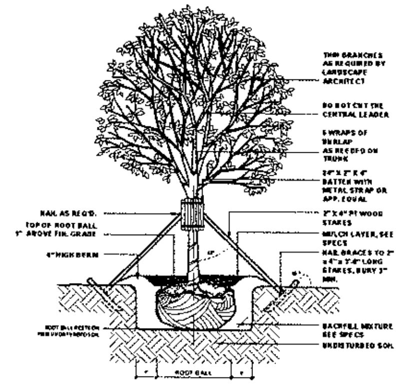
NOTE:
CONTRACTOR TO INSTALL FENCE AROUND PERIMETER OF TRANSPLANT HOLDING AREA.



1 TREE PROTECTION DETAIL

SCALE: NTS

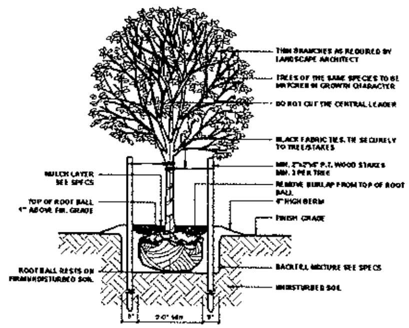
NOTE:
* TRIPLE GUYING AND TRIANGULAR PLACEMENT.
* REMOVE ALL NURSERY STAKES, SUPPORTS, BRACES, TAPE AND LABELS AT TIME OF PLANTING
* KEEP MULCH 3"-4" AWAY FROM TRUNK
* REMOVE CONTAINER AND CUT CIRCLING ROOTS IF CONTAINER-GROWN, OR AS MUCH BURLAP AS POSSIBLE IF FIELD GROWN



2 TYPICAL DETAIL: LARGE TREE PLANTING & STAKING

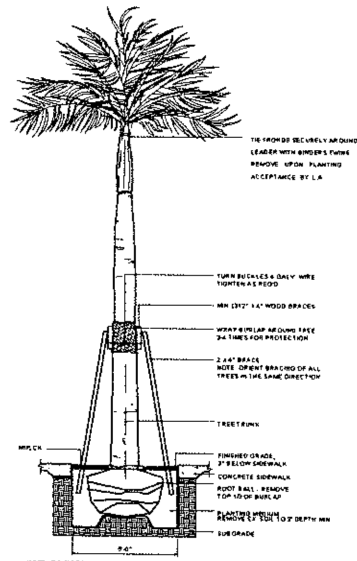
SCALE: NTS

NOTE:
* REMOVE ALL NURSERY STAKES, SUPPORTS, BRACES, TAPE AND LABELS AT TIME OF PLANTING
* KEEP MULCH 3"-4" AWAY FROM TRUNK
* REMOVE CONTAINER AND CUT CIRCLING ROOTS IF CONTAINER-GROWN, OR AS MUCH BURLAP AS POSSIBLE IF FIELD GROWN



3 TYPICAL DETAIL: SMALL TREE PLANTING & STAKING

SCALE: NTS



NOTE: DO NOT NAIL BATTENS TO PALM. HEIGHT OF BATTENS SHALL BE LOCATED IN RELATION TO THE HT. OF THE PALM FOR ADEQUATE BRACING.

7 TYPICAL LARGE PALM PLANTING & STAKING

SCALE: NTS

GENERAL NOTES

1. All plants furnished by the Landscape Contractor unless otherwise specified shall be Florida No.1 or better, and shall be specified in Grades and Standards for Nursery Plants, Part 1 (2nd Ed., 1998) by the Florida Department of Agriculture and Consumer Services Division of the plant industry.

2. All shrubs and groundcovers shall be guaranteed for six months from date of final acceptance. All trees and palms shall be guaranteed for one year from date of final acceptance. The Contractor shall be responsible to remove all the failing plant materials and replace them with the same kind and size material as specified in the plant list, with the same guarantee as initial planting.

3. Contractor shall familiarize him/herself with the limits of work and existing conditions and verify all information. Where discrepancies with quantities and/or species differ between the planting plan(s) and the plant list, the contractor shall notify owner's representative in writing within seven (7) calendar days of notice to proceed. No changes shall be made without the prior, written consent of the Landscape Architect and/or Owner.

4. Any substitution in size and/or plant material must be approved by the Landscape Architect in writing. All plants will be subject to approval by the Landscape Architect and/or owner's representative before planting can begin.

5. All biodegradable burlap shall be untied and pulled down on the ball. Wire baskets and other non-biodegradable material attached to plants shall be removed prior to planting. Care shall be taken not to break or disturb rootball of plants.

6. All plants shall be watered immediately after planting.

7. Planting soil shall be weed-free, and consist of 70% clear silica sand and 30% Everglades muck. Mix planting soil with excavated soil in 1:1 ratio.

8. All planting beds to be weed and grass free. Contractor shall apply herbicide to soil as recommended by manufacturer.

9. Contractor shall notify all necessary utility companies 48 hours minimum prior to digging for verification of all underground utilities and other obstructions and coordinate with owner's representative in writing prior to initiating operations.

10. Landscape Contractor shall locate and verify all underground utilities and obtain As-Built information prior to digging. Drawings were prepared according to the best information available at the time. Contractor shall notify owner's representative in writing within seven (7) calendar days of notice to proceed with any discrepancies.

11. All trees and palms shall be staked as shown in the plans. No nail staking permitted.

12. Typically, shrub and groundcover plantings are shown as mass planting beds. Plants shall be placed on a triangular spacing configuration (staggered spacing). Plant center to center dimensions (O.C.) are listed on the plant list.

13. The Contractor shall bear all costs of testing of soils, amendments, etc. associated with the work and included in the specifications.

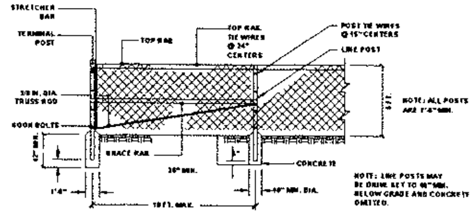
14. All trees shall be fertilized at installation with "Agriform Pills", 21 gram size, with a 20-10-5 formulation, (or approved equal), according to manufacturer's recommendations.

15. All palms and other plants shall be fertilized at installation with Florida Atlantic East Coast Fertilizer "Palm Special" 8-4-12 time-release fertilizer (with slow-release sulphur) according to manufacturer's recommendations, unless otherwise approved by the Landscape Architect.

16. Cover all planting beds with a minimum of 3" layer of shredded Melaleuca, or Eucalyptus mulch, Grade B. Do not use Cypress Mulch.

17. A fully automatic, zoned irrigation system, equipped with an automatic rain sensor and providing 100% coverage of planted areas with minimum 75% overlap, shall be installed by the Contractor. Adjust irrigation nozzles to avoid overspray onto adjacent building, sidewalks, asphalt paving, and properties.

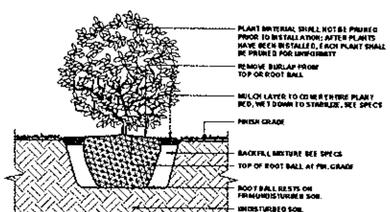
18. Contractor shall provide maintenance, including mowing, pruning, trimming, fertilization and application of pesticide, as required for all landscape areas for a period of one year after Final Approval of landscape installation.



4 CHAIN LINK FENCE DETAIL (TYP.)

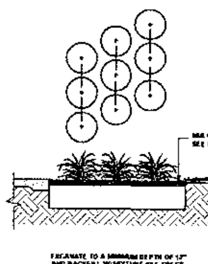
SCALE: NTS

NOTE:
* REMOVE ALL NURSERY STAKES, SUPPORTS, BRACES, TAPE AND LABELS AT TIME OF PLANTING
* KEEP MULCH 3"-4" AWAY FROM TRUNK
* REMOVE CONTAINER AND CUT CIRCLING ROOTS IF CONTAINER-GROWN, OR AS MUCH BURLAP AS POSSIBLE IF FIELD GROWN



5 TYPICAL DETAIL: SHRUB PLANTING

SCALE: NTS



6 TYPICAL DETAIL: GROUNDCOVER SPACING

NOT FOR CONSTRUCTION
PLANS NOT COMPLETE WITHOUT WRITTEN SPECIFICATIONS

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NORMANDY LIVING

ASSISTED LIVING FACILITIES
1051 NORMANDY DR, MIAMI BEACH, FL 33141
7100 RUE GRANVILLE, MIAMI BEACH, FL 33141
1904 MARSEILLE DR, MIAMI BEACH, FL 33141
FIRST SUBMITTAL FOR PLANNING BOARD

DATE	REVISION

DWG TITLE: PLANTING DETAILS

SCALE: N.T.S.

PROJECT NO: 2016-10

DATE: 05-04-16

SHEET NUMBER: LP-2

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

RAUL J. AGUILA, CITY ATTORNEY
Office of the City Attorney
Tel: 305-673-7470, Fax: 305-673-7002

August 31, 2016

Michael W. Larkin
Bercow Radell & Fernandez
200 South Biscayne Blvd., Suite 850
Miami, Florida 33131

Re: Administrative and Jurisdictional Determination as to Planning Board Application for a Modification to a Conditional Use Permit for Normandy Living, LLC, 1904 Marseille Drive, 7100 Rue Granville, and 1915 Normandy Drive, Miami Beach, FL

Dear Mr. Larkin:

I. Introduction

On April 26, 2016, your client, Normandy Living, LLC (the "Applicant"), filed an application with the City of Miami Beach ("City") for approval by the City's Planning Board to modify a conditional use permit ("CUP") for an adult congregate living facility ("ACLF") at 1904 Marseille Drive and 7100 Rue Granville, and to expand the use onto 1915 Normandy Drive in Miami Beach (altogether, the "Application"). These properties are located in the City's RM-1 residential multifamily, low intensity district. A CUP for an ACLF must comply with City Code Sections 58-296; 114-1; 118-192; and 142-1251 through -1253.

In order to determine whether, for zoning purposes, the proposed facility is consistent with the definition of ACLF under the City Code, the City retained a subject matter expert (the "City's Consultant") to review the Application, including the proposed operational plan, utilizing industry standards and local and state regulatory requirements. *See* Consultant's Report, attached as Exhibit "A"; *see also Curriculum Vitae* of Consultant, Elizabeth Moore Brinkley, AIA, ACHE, attached as Exhibit "B."

II. Summary conclusions

A. The information provided by the Applicant does not support review of the Application as an ACLF. The Planning Director has concluded that the Application does not meet the standard for an ACLF under the City Code. The proposed use is more akin to a crisis stabilization unit, or other short-term inpatient rehabilitative facility.

B. Based on the Planning Director's determination that the proposed use may not properly be characterized as an ACLF, the City Attorney, pursuant to City Code Section 118-52(b), has determined that the Planning Board has no jurisdiction over the subject matter of the Application. Therefore, the Application will be removed from the September 27, 2016 Planning Board agenda.

III. Adult Congregate Living Facilities ("ACLFs") / Assisted Living Facilities ("ALFs")

Pursuant to City Code Section 142-153, ACLFs are a conditional use in the RM-1 district. The term ACLF is the predecessor term for "assisted living facility" ("ALF"), which is licensed by the Florida Agency for Health Care Administration ("AHCA"). Section 429.02, Florida Statutes, defines an "assisted living facility" as:

> ***any building*** or buildings, section or distinct part of a building, ***private home, boarding home, home for the aged, or other*** residential facility, ***whether operated for profit or not, which undertakes through its ownership or management to provide*** housing, meals, and ***one or more personal services for a period exceeding 24 hours*** to one ***or more adults*** who are ***not relatives*** of ***the owner or administrator.***

The City's definition of ACLF is substantially the same as the State's definition of ALF.[1] The City Code, at Section 114-1, defines ACLF as:

> ***any*** state licensed institution, ***building,*** residence, ***private home, boarding home, home for the aged, or other*** place ***whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, one or more personal services*** for four ***or more adults, not related to the owner or administrator*** by blood or marriage, who require such services.

(Emphasis added to indicate identical language in both definitions.)

As illustrated above, the two definitions remain almost identical, with the material difference being that Chapter 429, Fla. Stat., actually identifies the Agency for Health Care Administration ("AHCA") as the licensing entity, and the City Code does not. Further, between the enactment of Florida's Adult Congregate Living Facilities Act in 1975 and the present date, the State amended the rules for these group homes on several occasions, but left the overall intent of the law intact. In 1995, for example, "adult congregate living facilities" were renamed "assisted living facilities" by the State Legislature. The State's definition, however, did not materially change. Although the City never amended its ACLF regulations to conform to non-substantive changes in State law, the objective remained to provide services for the elderly in a residential environment, so they may age in place.[2] The City's ACLF regulations are intended to apply to what are today defined by the State as ALFs.

---

[1] In 1982, the City was urged by HRS to enact an ACLF code that would make the City Code consistent with the Adult Congregate Living Facilities Act of 1975, and with Section 163.3177(6)(f), Florida Statutes. The City then enacted its ACLF code, which is substantially similar to the City's current ACLF code.

[2] The State and the City were concerned with ensuring the long term availability of housing for the elderly. *See* Composite Exhibit "C." In fact, "when it created the Assisted Living Facilities Act . . . , the Florida Legislature sought to promote the availability of services for elderly persons and adults with disabilities 'in the least restrictive and most homelike environment, to encourage the development of facilities that promote the dignity, individuality, privacy, and decision-making ability of such persons.'" Agency for Health Care Administration, Assisted Living Workgroup, Final Report and Recommendations (2011), attached hereto as Exhibit "D."

IV. Summary of the proposed use

The Applicant seeks an "[a]mendment of a conditional use permit to change owner and operator to Normandy Living, LLC and to increase the permitted number of beds at the ACLF." *See* Application, at p. 3. The 7100 Rue Granville site is the only facility currently in operation, which operates as Better Living Investment, LLC ("Better Living"), "a 12-bed ACLF licensed and in operation for many years."[3] *See* Applicant's Letter of Intent, at p. 1. In 2015, Better Living applied for and obtained a new CUP to house a total of 19 ACLF beds at 7100 Rue Granville and 1904 Marseille Drive. The new CUP has not been implemented. Currently, the 1915 Normandy Drive site is a single family home unassociated with an ACLF.

The Applicant attempts to characterize the proposed use as similar in nature and scale to the existing Better Living operation: "[the Applicant] will become the new owner/operator of the [existing] facility." Applicant's Letter of Intent, at p. 2. "Notably, only limited medical services, such as monitoring of vitals and administering medications, will occur at the facility." *Id.* at 4. "The Applicant merely seeks to expand an approved facility." *Id.* The proposed operation will occupy three lots and accommodate 56 beds. *See* Application and Site Plan.

Subsequent to the initial Application, the Applicant has provided information that illustrates material differences between the proposed facility and the existing Better Living ALF. Had the City known all the information at the time of filing, the City would have rejected the Application outright as not being an ACLF.

Unlike an ACLF/ALF, which provides for aging-in-place, patients admitted to the proposed facility will undergo "inpatient detoxification." *See* E-mail from Matthew Amster, counsel for Applicant (Aug. 16, 2016, 8:42 AM). Admitted patients will be in the initial stages of drug withdrawal. "The proposed use is described as short-term (4-14 days), drug and alcohol detox center." *See* Consultant's Report, at p. 4. A medical director, who is a licensed psychiatrist trained in addiction, administers the medical detoxification program. Statement of Mark Epley, Member of Normandy Living, LLC, to City staff and the City's Consultant (Aug. 8, 2016) (hereinafter "Epley's Statement"). A nurse practitioner administers and orders prescriptions and if, after admission, any patient begins to need a higher level of care, the facility administration will arrange transportation to the hospital or other appropriate facility. *Id.*; Applicant's Addendum – Policy and Procedure, at pp. 5-6 (received Aug. 26, 2016) (hereinafter "Addendum"). "Admitted patients will be placed on a protocol for treatment including, in most cases, pharmaceuticals to manage the detox process." Consultant's Report, at p. 4. The goal of the facility is to stabilize a patient under a medication management program. Epley's Statement.

The patients in the program are prohibited from leaving the facility during their stay. Should a patient leave the facility, the patient would be removed from the program and escorted to a new destination "outside of the neighborhood and RM-1 Zoning District." *See* Applicant's Operational Plan, at p. 2. Interaction between the patients and the neighboring community is precluded.

The Applicant proposes to remove the existing kitchen, and all meals will be catered. *See* Site Plan; Applicant's Operational Plan, at 2. The proposed facility's policies and procedures provide for 24-hour security, and searches of each patient's unit, at a frequency of "up to every 30 minutes" of their stay. *See* Addendum, at p. 9. Personal items, like books and radios, are confiscated by the staff. *See id.* Each patient is required to live with another patient as there are no private rooms proposed; seclusion is contrary to the treatment plan for detoxification. Epley's Statement. Discharge planning begins immediately after entry into

[3] As of the date of this letter, the Better Living facility is licensed by AHCA as an ALF.

the treatment facility. *Id.*

"ACLF and ALF are intended for long term living and not short term treatment." Consultant's Report, at p. 5. "ACLF/ALFs are intended to provide for 'aging-in-place' of long-term residents requiring 'personal care' services, **which specifically do not include medical, nursing, dental, or mental health services.**"[4] *Id.* at 6 (emphasis added). To the contrary, the Applicant is not seeking a long-term residential use as would be associated with an ACLF/ALF. The facility is similar to a hospital in that there is 24-hour supervision; medication for detoxification is administered; the patient may be bedridden for up to a third of his/her stay; and meals, laundry, and cleaning of units are all provided by the facility staff. Epley's Statement. The patients will be sheltered away from the community, in a restrictive site without the furnishings or amenities of a "home" (e.g., no kitchen or right to privacy). "The Plan appears to limit patients' right to privacy, a founding tenet of ACLF/ALFs." *Id.* Patients may not leave the facility without risking expulsion from the program. Applicant's Operational Plan, at 2; Epley's Statement.

"While the Applicant stated that they will not accept behavioral health patients, in fact, drug and alcohol addiction is a behavioral health condition. . . . This, along with the duration of the treatment, more closely aligns the operations of the Plan with that of a Crisis Stabilization Unit (CSU)." Consultant's Report, at p. 6.

V. Conclusion

A. After reviewing the Application, all additional information provided by the Applicant, and the City's Consultant's Report, the Planning Director has determined that the proposed use is inconsistent with the definition of ACLF in the City Code. Instead, based upon the information provided, the proposed use is more akin to a crisis stabilization unit, or other short-term inpatient rehabilitative facility authorized to treat patients for substance abuse. **"[W]hile the Plan operations (policies and procedures) generally align with industry practices for residential detoxification programs and are indicative of services offered outside acute care hospitals, they do not align with governing definitions of Adult Congregate Living Facility (ACLF) / Assisted Living Facility (ALF).**" Consultant's Report, at p. 7.

B. Because the City's land development regulations do not allow the proposed use in the RM-1 district, the City Attorney has determined that the Application is not properly before the Planning Board. The Planning Board therefore has no jurisdiction to hear the Application as the Applicant is not an ACLF under the City's Land Development Regulations. Pursuant to City Code Section 118-52(b), "[a]ll requests [for Planning Board approval] shall be submitted to the [C]ity [A]ttorney for a determination whether the request is properly such, and does not constitute a variance of these land development regulations. The jurisdiction of the planning board shall not attach unless and until the board has before it a written certificate of the [C]ity [A]ttorney that the subject matter of the request is properly before the board." As such, this Application will be removed from the September 27, 2016 Planning Board agenda, and all fees will be refunded.

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[4] "Within the City of Miami Beach, the State of Florida or AHCA [the Agency for Health Care Administration], there is not a specific facility type associated with residential detoxification programs. Throughout Florida, local zoning codes vary as to how they are classified and reviewed. However, there is little to support their inclusion under the umbrella of ACLF/ALF." Consultant's Report, at p. 6.

Pursuant to Article I, Section 2 of the Related Special Acts and City Code Section 118-9(b)(2)(A)(ii), the Planning Director's administrative determination set forth herein may be appealed to the Board of Adjustment within 30 days of the date of this letter. Alternatively, the Applicant may pursue an amendment to the land development regulations in order to allow the proposed use at the subject properties.

Sincerely,

Raul J. Aguila
City Attorney

Enclosures

c: Jimmy Morales, City Manager
Tom Mooney, Planning Director
Eve Boutsis, Chief Deputy City Attorney
Nick Kallergis, Assistant City Attorney

MIAMIBEACH

Operational Plan Review

Normandy Living, LLC
1904 Marseille Dr. / 7100 Rue Granville / 1915 Normandy Dr.

30 August 2016

INNOVA | Healthcare Solutions

PO 20160268-00 / Project Number 071602.00

EXHIBIT

Table of Contents

Introduction

This report summarizes the review of Normandy Living, LLC's application documents (referred to as the "Plan" throughout the report), relative to standard operating procedures for this facility type and codes and/or regulations noted by Miami Beach. The Reviewers tested the assumptions provided by Normandy Living, LLC using available industry standards, and local and state regulatory requirements.

The Plan documentation included:

- Application Documents
- Operational Plan
- Proposed Plans
- Supplemental Renderings and Plans

Additional information was requested and provided as follows.

From the Applicant:

- Policies and procedures
    - Examples from other jurisdiction
        - Emergency Police Ambulance Contact
        - Room Searches
        - Violence Prevention
        - Acupuncture
        - Admission Process
        - Transfer
    - Plan location - Operational Plan Addendum - Normandy Living 8.26.16
        - Nursing Admission
        - Triage Sheet
        - Admitting Process (Admittance to Building)
        - Transfers to Alternative Levels of Care
        - Transfer for Emergency Treatment
        - Violence Prevention
        - Room Searches
- Observation Protocols
    - Clinical Opiate Withdrawal Scale (COWS) / Clinical Institute Withdrawal Assessment (CIWA)
- Licensure/Certification(s) under which the facility intends to operate
    - The program will be licensed by Florida Department of Children and Families for residential detoxification, also known as inpatient detoxification.

From the City of Miami Beach:

- Resources
    - Miami Beach Zoning
    - North Beach Master Plan Draft June 7
    - 2016 Florida Statutes
    - Florida Department of Children and Families
    - Florida Health Finder
    - Agency for Healthcare Administration AHCA

Context

Application Highlights

Property

There are three properties included in the application. They are zoned Residential Multifamily, Low Density (RM-1).

- 1904 Marseille Drive: 1-story, multifamily residential building with four apartment units
- 7100 Rue Granville: 12-bed Assisted Living Facility operated by Better Living Investment, LLC
- 1915 Normandy Drive: 1-story, single family home

In 2013, the current owner previously obtained a CUP to expand the 12-bed ACLF into the adjacent property; converting the multifamily residential building to achieve a 21-bed facility. Additionally, in 2015, the number of beds was reduced to 19 via another CUP.

In this application, the Applicant proposes the following:

- 1904 Marseille Drive: Convert existing building for 22-beds and add a second floor with 22 additional beds for a total complement of 44 beds
- 7100 Rue Granville: Maintain existing 12-beds
- 1915 Normandy Drive: Convert to open-air, surface parking

Use

The proposed use is described as short-term (4-14 days), drug and alcohol detox center. In further correspondence, the Applicant defined it as residential detoxification, also known as inpatient detoxification.

Operations

The facility will operate 24 hours per day, 7 days per week, and 365 days per year.

Patients will be screened and those who are medically compromised and/or have been diagnosed with significant mental or health issues will be referred to Mount Sinai Hospital. Admitted patients will be placed on a protocol for treatment including, in most cases, pharmaceuticals to manage the detox process.

Patients will participate in counseling and other activities. Three meals per day will be served and snacks available 24/7. Food will be prepared off-site and delivered to the facility.

For the duration of their treatment, patients are restricted to the facility or they are removed from the program. Transportation will be provided for patients leaving the facility to assure they do not loiter in the residential neighborhood.

Staff

Staffing is noted in the Plan as follows. Policies and procedures are needed to clarify staff definitions and numbers per each shift.

- Professional Staff: Approximately 15 full-time staff, with additional part-time and after hours support staff as needed.
- Security Guards: Security is staffed 24 hours a day, 7 days a week, 365 days a year. There will be a minimum of 2 security staff at night time and 3 during the day time to assist with admissions.
- Housekeeping staff: 2 per shift

Applicable Statutes / Regulations / Standards

The Plan facility must comply with the statutes and regulations of The City of Miami Beach and the State of Florida. Applicable statutes and Codes are provided in the Appendix for reference.

Observations

The Reviewers observations relative to the Plan are grouped into three categories.

- Zoning Criteria – comparison of the Plan to relevant Miami Beach Zoning requirements
- Operational Plan – comparison of policies and procedures provided by the applicant to industry standards for residential detoxification programs
- Facility Type – assessment of operational plan and licensure relative to facility type designation

Zoning Criteria

Operational considerations relative to the City of Miami Beach zoning requirements (Subpart B - LAND DEVELOPMENT REGULATIONS, Chapter 142 - ZONING DISTRICTS AND REGULATIONS, ARTICLE V. - SPECIALIZED USE REGULATIONS, DIVISION 2. - ADULT CONGREGATE LIVING FACILITIES, Sec. 142-1253) were reviewed for compliance.

The Plan:

- Does not exceed the 2,000 beds per 100,000 population. There are currently 114 beds in the City of Miami Beach and a census population of 87,779.
- Does exceed the recommended 16 residents per facility

Operational Plan

There are no definitive guidelines or rules for residential detoxification programs. The organizations listed below, and others, offer resources, standards of and performance measures, and scholarly articles.

- National Council on Alcoholism and Drug Dependency
- Substance Abuse and Mental Health Services Administration (SAMHSA)
- National Institute on Drug Abuse
- American Society of Addiction Medicine (ASAM)

Information provided by the Applicant relative to the operational plan:

1. Aligns with general industry practices for residential detoxification programs.
2. Is not indicative of a hospital – patient acuity, proposed services and staffing align with sub-acute and/or non-acute operations.
3. Would not be permitted in a medical office building because patients must stay overnight.

Facility Type

The Applicant has applied for conditional use as an Adult Congregate Living Facility (ACLF). While this classification exists in the City of Miami Beach Code, within the Florida Statues, it is encompassed in the category of Assisted Living Facility (ALF). The chart below outlines key components of each type, relative to the referenced codes and standards. As written, ACLF and ALF are intended for long term living and not short term treatment. The special provisions in the State Law reinforce that notion, as they specifically enable residents to "age in place."

Information by Jurisdiction

Because the Application requests amendment of an existing Conditional Use Permit (CUP) for an Adult Congregate Living Facility (ACLF), the proposed operations, as documented in the Plan, must meet the definition and adhere to the requirements for such. The table below is provided to clarify alignment and terminology.

See Appendix for links to codes and statutes with full definitions.

	Miami Beach	Florida	AHCA
Designation	**ACLF**	**ALF** (formerly known as ACLF)	**ALF**
Description	One or more personal services provided for a period exceeding 24 hours	Full-time living arrangements in the least restrictive and most home-like setting with basic services	Personal care services in the least restrictive and most home-like environment
Qualification(s)	Any state licensed institution that provides for a period exceeding 24 hours, one or more personal services	All assisted living facilities (ALF) must obtain and maintain a standard license from the Agency for Health Care Administration (AHCA) Assisted Living Unit. Extended Congregate Care: expanded service, not including 24-hour nursing services Limited Mental Health: limited mental health services Limited Nursing Services does not include 24-hour nursing supervision	Standard license: routine personal care services Specialty licenses: allow "age in place"
No. of Beds	6 to 16	N/A	1 to Several Hundred
Length of Stay	Exceeding 24 hours	Full-time living	

Within the City of Miami Beach, the State of Florida or AHCA, there is not a specific facility type associated with residential detoxification programs. Throughout Florida, local zoning codes vary as to how they are classified and reviewed. However, there is little to support their inclusion under the umbrella of ACLF/ALF.

ACLF/ALFs are intended to provide for "aging-in-place" of long-term residents requiring "personal care" services, which specifically do not include medical, nursing, dental, or mental health services. The Plan proposes housing short-term patients, staying only 4 to 14 days, and includes fulltime observation by medical personnel; thereby, does not align with definitions of Adult Congregate Living Facility (ACLF) / Assisted Living Facility (ALF). Additionally, the Plan appears to limit patients' rights to privacy, a founding tenet of ACLF/ALFs.

While the Applicant stated that they will not accept behavioral health patients, in fact, drug and alcohol addiction is a behavioral health condition. The required licensure falls under the Substance Abuse and Mental Health Program Office (SAMH) of the Florida Department of Children and Families. This, along with the duration of treatment, more closely aligns the operations of the Plan with that of a Crisis Stabilization Unit (CSU). While

defined more restrictively on the AHCA website, CSUs often include short term treatment of patients with substance abuse disorders.

Conclusions

The Plan does not fully comply with the City of Miami Beach Zoning Code for ACLFs. The existing and requested increase in number of beds exceeds the recommended number for the facility type designated on the application. The dining and community space also appears to be insufficient for the number of residents.

Additionally, while the Plan operations (policies and procedures) generally align with industry practices for residential detoxification programs and are indicative of services offered outside acute care hospitals, they do not align with governing definitions of Adult Congregate Living Facility (ACLF) / Assisted Living Facility (ALF).

Appendix

Referenced Statutes and Codes

Miami Beach Zoning

City Of Miami Beach Planning Board Review Process and Application Instructions

ASSISTED LIVING FACILITIES (ALF) - Pursuant to Sec. 142-1252, adult congregate living facilities are subject to the following mandatory requirements and reviewed under the Conditional Use procedure:

(1) The total number of adult congregate living facility beds in the city shall not exceed 2,000 per 100,000 permanent residents or fraction thereof. Facilities shall not be located in any designated redevelopment area or MXE mixed use entertainment district.
(2) The design of the building shall be reviewed under the design review process pursuant to chapter 118, article VI.
(3) The entire building shall conform with the South Florida Building Code, fire prevention and safety code, and to the City's Property Maintenance Standards. If it is a historic structure, it shall also conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior.

CODE OF THE CITY OF MIAMI BEACH, FLORIDA

Subpart A – GENERAL ORDINANCES, Chapter 58 – HOUSING, DIVISION 3. – MINIMUM STANDARDS

Sec. 58-296. - Adult congregate living facilities.

(a) In addition to the property maintenance standards set forth in this article, adult congregate living facilities (ACLF) must comply with the requirements of subsections (b)—(k) of this section, which shall control in case of conflict.
(b) Facilities must be in conformance with all provisions of the South Florida Building Code, Fire Code, and the H.R.S. Fire Safety Standards for adult congregate living facilities.
(c) All facilities with enclosed hallways shall have sprinkler systems in hallways and bedrooms.
(d) Smoke detectors are required in each bedroom.
(e) All bedrooms, dining and indoor recreation areas shall be heated and air conditioned.
(f) All facilities of more than two floors shall have an elevator large enough to carry a stretcher 76 inches by 24 inches in a horizontal position.
(g) Each bedroom and bathroom shall have emergency call buttons.
(h) A bathroom shall be provided for each two ACLF units.
(i) Units including bedrooms, bathrooms and closets shall be a minimum of 200 square feet for the first two occupants in each unit; for each additional person, another 100 square feet shall be added excepting facilities with valid city and H.R.S. licenses as ACLF's as of June 25, 1983.
(j) Each communal area for eating and recreation shall each be no less than 20 square feet per person; such areas may be contiguous to one another.
(k) Facilities must be in conformance with state department of children and family services guidelines regarding availability of staff personnel on the premises.

Subpart B - LAND DEVELOPMENT REGULATIONS, Chapter 114 - GENERAL PROVISIONS

Sec. 114-1. - Definitions.

Adult congregate living facility means any state licensed institution, building, residence, private home, boarding home, home for the aged, or other place whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Subpart B - LAND DEVELOPMENT REGULATIONS, Chapter 118 - ADMINISTRATION AND REVIEW PROCEDURES, ARTICLE IV. - CONDITIONAL USE PROCEDURE

Sec. 118-192. - Review guidelines.

a) Conditional uses may be approved in accordance with the procedures and standards of this article provided that:

(2) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.
(3) The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.
(4) Structures and uses associated with the request are consistent with these land development regulations.
(5) The public health, safety, morals, and general welfare will not be adversely affected.
(6) Adequate off-street parking facilities will be provided.
(7) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.
(8) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Subpart B - LAND DEVELOPMENT REGULATIONS, Chapter 142 - ZONING DISTRICTS AND REGULATIONS, ARTICLE V. - SPECIALIZED USE REGULATIONS, DIVISION 2. - ADULT CONGREGATE LIVING FACILITIES

Sec. 142-1252. - Mandatory requirements.

Adult congregate living facilities shall be subject to the following mandatory requirements:

(1) The total number of adult congregate living facility beds in the city of shall not exceed 2,000 per 100,000 permanent residents or fraction thereof. The population as determined by the U.S. Census Bureau shall be the official figure in determining the number of persons residing in the city.
(2) Facilities shall not be located in any designated redevelopment area or MXE mixed use entertainment district.
(3) The design of the building shall be reviewed under the design review process pursuant to chapter 118, article VI.
(4) The entire building shall conform with the South Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.

Sec. 142-1253. - Review criteria.

Adult congregate living facilities shall be in substantial compliance with the following review criteria as determined by the planning board and when applicable by the city commission:

(1) Smaller scale (six to 16 residents) facilities are encouraged in order to provide a noninstitutional environment.
(2) The city should encourage equal distribution of facilities serving various income groups.
(3) Facilities located in newly constructed buildings should be encouraged.
(4) The location of facilities should be compatible with the city's comprehensive plan and all other adopted neighborhood plans.
(5) In order to encourage geographic distribution, facilities should not be located within 1,500 feet from another facility.

2016 Florida Statutes

Title XXX, SOCIAL WELFARE, Chapter 429, ASSISTED CARE COMMUNITIES, 429.02 Definitions

(5) "Assisted living facility" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

Additional Sections Referenced

Full text available at
http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes&CFID=84148839&CFTOKEN=7b00a38407a0b3e6-68B18737-ED28-E23D-F7FA72A4DF2DBFC9

- Title XXX, SOCIAL WELFARE, Chapter 429, ASSISTED CARE COMMUNITIES, PART I, ASSISTED LIVING FACILITIES
- Title XXIX, PUBLIC HEALTH, Chapter 397 SUBSTANCE ABUSE SERVICES

Agency for Healthcare Administration AHCA

Assisted Living Facility (ALF)

An assisted living facility (ALF) is designed to provide personal care services in the least restrictive and most home-like environment. These facilities can range in size from one resident to several hundred and may offer a wide variety of personal and nursing services designed specifically to meet an individual's personal needs.

Facilities are licensed to provide routine personal care services under a "Standard" license, or more specific services under the authority of "Specialty" licenses. ALFs meeting the requirements for a Standard license may also qualify for specialty licenses. The purpose of "Specialty Licenses" is to allow individuals to "age in place" in familiar surroundings that can adequately and safely meet their continuing healthcare needs

Facility/Provider Definitions from Florida Health Finder

Additional information provided by AHCA

Assisted Living Facility – Assisted living facilities (ALF) provide full-time living arrangements in the least restrictive and most home-like setting. The basic services include, but are not limited to: housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping residents give themselves medications; arrange for health care services; provide or arrange for transportation to health care services; health monitoring; respite care; and social activities. Assisted living facilities are licensed and surveyed by the State of Florida.

Bed Types:

- Extended Congregate Care (ECC) – An ALF with ECC beds may keep residents who become frailer than would normally be permitted in order for the resident to age in place. For example the facility can provide total help with bathing, dressing, grooming and toileting, and can provide or arrange for rehabilitative services, along with other services. However, this does not include 24-hour nursing services.
- Optional State Supplementation (OSS) – The OSS listing refers to the number of beds available for residents receiving Optional State Supplementation. This is a cash assistance program provided through the Florida Department of Children and Families. It adds to a person's income to help pay for costs in an assisted living facility, mental health residential treatment facility or an adult family care home. To read more about Optional State Supplementation, and other funding sources, view the Florida Department of Elder Affairs website.
- Private– Private Beds refers to the beds available for private pay residents.

Assisted Living Facility (ALF) Specialty Licenses:

- Extended Congregate Care (ECC) – An ALF with this license can provide extended congregate care services (defined above, under Bed Types).
- Limited Mental Health (LMH) – An ALF with this license can provide limited mental health services. This type of license must be obtained if an assisted living facility serves three or more mental health residents. Services must be provided for the special needs of these residents, along with the basic services of an

assisted living facility. A facility with a limited mental health license must consult with the resident and the resident's mental health case manager to develop and carry out a community living support plan.

- Limited Nursing Services (LNS) - An ALF with this license offers some limited nursing services as defined by law, but does not include 24-hour nursing supervision.

Agency for Health Care Administration, Assisted Living Workgroup, Final Report and Recommendations

- In 1995, ACLFs were renamed "assisted living facilities" (ALF).
- Today, Florida Statute defines an assisted living facility as any building or residential facility that provides "housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator." When it created the Assisted Living Facilities Act in 2006, the Florida Legislature sought to promote the availability of services for elderly persons and adults with disabilities "in the least restrictive and most homelike environment, to encourage the development of facilities that promote the dignity, individuality, privacy, and decision-making ability of such persons."

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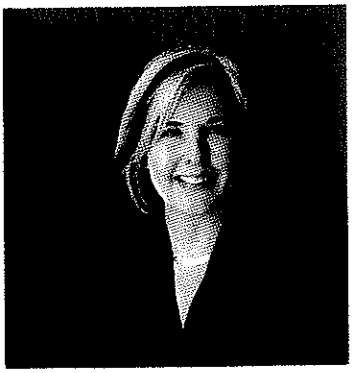

Elizabeth Brinkley

Principal – The Innova Group

Elizabeth Brinkley's 28 years of experience in the healthcare sector encompass all aspects of facility and operational planning. She brings unique expertise in the facilitation of strategic, operational, facility, program and activation planning engagements with a focus on improving outcomes.

At the heart of her planning philosophy is the belief that the built environment plays a profound role in health and wellness. In all engagements – planning and developing ambulatory care prototypes, pediatric academic health centers, health sciences campuses and health districts; domestically and internationally – she leverages the effort to contribute to the development of healthier communities.

With every client her objective is to assist them in understanding the context within which they are planning their future growth, investing capital wisely, designing the best development path and incorporating the most effective and innovative solutions to support and further their strategic mission. She is currently shepherding the development of an international health science center, and facilitating capital investment planning and market strategy for large domestic systems.

Elizabeth was previously an Associate Principal at Perkins + Will and a Senior Manager with Kurt Salmon. She is an active member of the Academy of Architecture for Health and has presented at national and regional conferences.

Education and Certificates
Bachelor of Architecture, Ball State University
Institute of Industrial Engineers, Blackbelt in Lean Healthcare

Registrations and Affiliations
Member, Academy of Architecture for Health
Member, American Institute of Architects
Member, American College of Healthcare Executives

*While an employee of another firm

Experience: Selected Projects

University Hospitals:
Visioning, system market strategy, facility master planning
Cleveland, OH

Catholic Health:
System facility assessment and planning, Capital Formation Tools development
Buffalo, NY

Reliant Medical Group:
Ambulatory care network distribution design, care model visioning, strategic capital investment planning
Worcester, Massachusetts

***Kaiser Permanente, Small Hospital Big Idea Competition:**
Operational visioning, programming and master planning for a winning submission
Pasadena, California

Medical University of South Carolina:
System visioning, strategic and master planning
Charleston, South Carolina

Veteran's Health Administration:
Long range regional healthcare planning and master planning; strategic capital investment planning
Multiple US Locations

Baptist Health South Florida:
Operational Plan analysis and expert witness
Miami Beach, Florida

***Children's Health:**
Master and transition planning, programming
Dallas, Texas

***Orlando Health:**
Visioning, project shaping, master and operational planning, programming, design assist
Miami Beach, Florida

***Baton Rouge Area Foundation:**
Research and facilitation of health district planning between multiple health systems and health science institutes
Baton Rouge, Louisiana

***University of Tennessee Health Sciences:**
Multi-institute health district, operational, and campus master planning
Memphis, Tennessee

EXHIBIT
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City of Miami Beach

FLORIDA 33139

"VACATIONLAND U.S.A."

OFFICE OF THE CITY MANAGER
ROB PARKINS
CITY MANAGER

CITY HALL
1700 CONVENTION CENTER DRIVE
TELEPHONE: 673-7010

COMMISSION MEMORANDUM NO. 211-82 REVISED

DATE: MAY 5, 1982

TO: Mayor Norman Ciment and
Members of the City Commission

FROM: ROB PARKINS
City Manager

SUBJECT: PLANNING BOARD REPORT AND RECOMMENDATIONS ON PROPOSED AMENDMENTS TO ZONING ORDINANCE NO. 1891 IN ORDER TO PROVIDE FOR THE LOCATION OF ADULT CONGREGATE LIVING FACILITIES AS CONDITIONAL USES IN THE FOLLOWING ZONING DISTRICTS: (PUD), PLANNED UNIT RESIDENTIAL DEVELOPMENT DISTRICT, RM-60, RM-100, AND RM-125 MULTIPLE FAMILY RESIDENTIAL DISTRICTS.

BACKGROUND

The City Commission on November 25, 1981 referred to the Planning Board for consideration and recommendation, the subject of appropriate location and regulations for adult congregate living facilities (ACLF's). This action followed a public hearing called by Commissioner Daoud at which time a number of issues concerning ACLF's were discussed. It was determined that due to the fact that the City's existing Zoning Ordinance did not specifically define or allow ACLF's, the four existing ACLF's in Miami Beach were in jeopardy of losing their State operating licenses issued by the Florida Department of Health and Rehabilitative Services. This report and recommendation is a response to that situation.

PLANNING DEPARTMENT ANALYSIS

The Planning staff as part of its analysis prepared a data chart on the existing licensed ACLF's in the City, which chart is attached for information purposes. In reviewing the existing situation, the Department determined that the following four (4) factors must be considered:

1. There is a need to provide a zoning category for ACLF's. This is necessary in order to provide the existing facilities an opportunity to continue in operation. In addition, this will allow for the City to officially regulate and inspect ACLF's.

2. From a comprehensive planning viewpoint, there is a need to assure that ACLF's do not become an overwhelming dominant land use in the City, and that these facilities are compatible with the surrounding neighborhood.

3. There is a need to provide a special height restriction for purposes of safety and comfort of the residents.

4. There is a need to assure that the location of the facilities are appropriate as it pertains to the personal services needed by the elderly residents.

CITY OF MIAMI BEACH

MAY 5 1982

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AGENDA ITEM R-3-G

DATE 5-5-82

The Department recommended to the Planning Board a series of zoning ordinance amendments which would allow ACLF's to be conditional uses in four multiple family residential districts, PUD, RM-60, RM-100, and RM-125. In addition, the staff recommended additional criteria, to encourage geographic distribution of future ACLF's, height limits....etc. It was felt that these restrictions together with the conditional use category (requiring Planning Board and City Commission approval on a case-by-case basis) provided a compromise solution for all parties concerned.

PLANNING BOARD RECOMMENDATIONS

The Planning Board, at its meeting of February 23, 1982, conducted a public hearing on the proposed amendments; in addition, a special workshop session on the subject was held on March 9, 1982. The Planning Board, at its meeting on March 23, 1982, approved a motion by a vote of 7 aye, 1 nay (3 absent) recommending adoption of the amendments as specified in the attached ordinance and summarized below:

(1) Providing for a definition of Adult Congregate Living Facilities;

(2) Allowing ACLF's to be located in the PUD, RM-60, RM-100, and RM-125 zoning districts subject to the following requirements:

(a) Shall not be located on bayfront or oceanfront properties or north of Dade Boulevard.

(b) To encourage geographic distribution and discourage clustering of these facilities, not less than 2500 feet shall separate the facility from another similar facility.

(c) The maximum height of these facilities shall be four (4) stories.

(d) In order to provide residents with access to the necessary personal support services including public transit, all facilities shall be located within 1500 feet of a commercial shopping area.

(e) All facilities shall be compatible with the surrounding neighborhood and adjacent properties.

(3) providing for a parking requirement of one (1) space for two (2) beds.

In addition to the zoning amendments, the Planning Board was also concerned with the extension of the State licenses to operate for the four (4) existing ACLF's. The Board forwarded a resolution to the Florida Department of Health and Rehabilitative Services asking the State to allow the continued operation of the facilities until the appropriate zoning could be determined. Attached is a copy of a response from the State official (J.L. Stokesberry), who is in charge of the Aging and Adult Services Division. Essentially Mr. Stokesberry stated that an ACLF can continue to operate for ninety (90) days while a license reapplication is being reviewed. This period of time is sufficient to avoid the closing down of a facility for the reason of non-compliance with the local Zoning Ordinance. However, this time period would require the City to expeditiously adopt an appropriate amendment to the Zoning Ordinance.

COMPLIANCE WITH STATE STATUTE PROVISIONS

In response to concerns expressed at the April 6th City Commission meeting with regard to whether this Ordinance conflicts with existing provisions of the State Statutes, the Chief Assistant City Attorney and Director of Planning met with Dr. Irving Vinger and other representatives of the Long Term Care Ombudsman Committee on April 23, 1982.

Attached and marked Exhibit "A" is a copy of the provision of the State Statutes in question. As was explained to Dr. Vinger, the language contained herein applies to the contents of a portion of the City's Comprehensive Plan delineated as the Housing Element and does not apply to the contents of Zoning Ordinance amendments currently being considered.

The City's Comprehensive Plan was adopted in August of 1980. The language underlined in "Exhibit A" dealing with "group home facilities" became effective on October 1, 1980. At the present time, the City's Planning Staff is completing work on a Housing Study which, when adopted, will become the updated housing element of the City's Comprehensive Plan and careful attention will be given to assure that this document addresses all issues identified in the State Statute including "group home facilities".

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the proposed amendments to the Zoning Ordinance as proposed by the Planning Board to allow Adult Congregate Living Facilities as conditional uses in the PUD, RM-60, RM-100 and RM-125 zoning districts.

HTT/MSL/rg

COMMISSION
MEETING
CITY OF MIAMI BEACH

MAY 5 1982

CHAPTER 80-154

Committee Substitute for Senate Bill No. 584

An act relating to the Local Government Comprehensive Planning Act of 1975; amending s. 163.3177(6)(f), Florida Statutes; requiring that the housing element of the comprehensive plan provide for sites for group home facilities and foster care facilities; providing an effective date.

WHEREAS, it is the intent of the Legislature that the elderly, dependent children, physically disabled, developmentally disabled and nondangerous mentally ill persons be entitled to the benefits of living in normal residential communities and that such persons receive treatment, care, rehabilitation, or education in the least restrictive setting possible, and

WHEREAS, the Legislature intends that future planning for housing elements in any comprehensive plan provide adequately for sites for group and foster homes and for other housing modes for those persons, in single family and other residential areas, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (f) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(6) In addition to the general requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(f) A housing element consisting of standards, plans, and principles to be followed in:

1. The provision of housing for existing residents and the anticipated population growth of the area.

2. The elimination of substandard dwelling conditions.

3. The improvement of existing housing.

4. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, and mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and community facilities as described in paragraphs (6)(c) and (7)(e) and (f).

5. Provision for relocation housing and identification of housing for purposes of conservation, rehabilitation, or replacement.

6. The formulation of housing implementation programs.

Section 2. This act shall take effect October 1, 1980.

Approved by the Governor June 23, 1980.

Filed in Office Secretary of State June 24, 1980.

****
* This public document was promulgated at a base cost of $13.50 per *
* page for 1500 copies or $.0090 per single page for the purpose *
* of informing the public of Acts passed by the Legislature. *
****

CODING: Words in ~~struck-through~~ type are deletions from existing law; words in underscored type are additions.

MAY 5 1982

EXHIBIT A

STATE OF FLORIDA

DEPARTMENT OF
Health & Rehabilitative Services

Bob Graham, Governor

1317 WINEWOOD BOULEVARD TALLAHASSEE, FLORIDA 32301

March 10, 1982

RECEIVED
MAR 15 1982
DEPARTMENT OF
ECONOMIC DEVELOPMENT
BY

Mr. Sanford A. Youkilis, AICP
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Dear Mr. Youkilis:

Please refer to your letter of February 26, 1982, in which you referred to a resolution passed by the City of Miami Beach Planning Board requesting State cooperation in extending the licenses for existing Adult Congregate Living Facilities until the City of Miami Beach can act upon the appropriate zoning amendments for such facilities.

When the Department promulgated new ACLF Rules, May 14, 1981, with the requirement that facilities comply with local zoning as one condition of licensure, a provision was included in the rules allowing for the issuance of a conditional license to facilities for up to six months which were found to be out of compliance with local zoning requirements. The purpose of this provision is to establish a "grace" period whereby facilities may obtain such approval.

Unfortunately there is no provision in our administrative rules or statute which allows for the extending of a conditional license beyond six months. Facilities which cannot comply with local zoning codes during this period are considered unlicensed and must cease operating or reapply for an annual license. Facilities which reapply for a license may continue operating during the time licensure activities are being conducted by the Department (up to 90 days) if the Department determines there does not exist in the facility conditions which present an imminent danger to the health, safety, or welfare of the residents. If licensure activities have been concluded and the facility still cannot show proof of compliance with zoning requirements, a license cannot be issued and the facility must cease operating unless an administrative hearing is requested on the denial of the license.

In the interest of the facilities adversely affected and the well-being and concern for their residents, we urge the City of Miami Beach to act as expeditiously as possible to establish proper zoning classifications for Adult Congregate Living Facilities.

Thank you for the opportunity to respond to your letter.

Sincerely,

John L. Stokesberry

John L. Stokesberry
Program Staff Director
Aging and Adult Services

JLS:cv

AGENCY FOR HEALTH CARE ADMINISTRATION
ASSISTED LIVING WORKGROUP

FINAL REPORT AND RECOMMENDATIONS

INTRODUCTION

In July 2011, Governor Rick Scott directed the Agency for Health Care Administration (AHCA) to examine the regulation and oversight of assisted living facilities in Florida. In response, AHCA created of the Assisted Living Workgroup (AL Workgroup). The AL Workgroup's objective is to make recommendations to the Governor and Legislature that will improve the monitoring of safety in assisted living facilities to help ensure the well-being of residents.

The workgroup included Senator Ronda Storms, Representative Matt Hudson as well as health care association representatives, policy experts, the State Long-Term Care Ombudsman, advocates, and assisted living facility administrators. Dr. Larry Polivka, Director and Scholar in Residence at the Claude Pepper Foundation, served as Chairman of the workgroup and Agency Secretary Elizabeth Dudek and representatives from the Governor's Office participated in each meeting. State agency leadership participation included Charles Corley, Secretary of the Department of Elder Affairs, and representatives from each Agency involved in assisted living facility oversight. The Assisted Living Workgroup held three meetings around the state and heard testimony and presentations from more than seventy-five (75) individuals, including residents, family members, assisted living facility administrators and owners, provider associations, advocates and state agency representatives.

Meetings were held on August 8th in Tallahassee, September 23rd in Tampa and November 7th and 8th in Miami. In addition to public testimony and presentations, the AL Workgroup discussion focused on assisted living regulation, consumer information and choice, and long term care services and access.

The AL Workgroup recommendations are designed to ensure that all residents live in safe environments. The AL Workgroup supported several recommendations that could strengthen oversight and reassure the public that ALFs are safe places for their residents including:

- Increased administrator qualifications,
- Expanded and improved training for administrators and other staff,
- Increased survey and inspection activity with a focus on facilities with poor track records,
- A systematic appeal process for residents who want to contest a notice of eviction,
- Increased reporting of resident data by facilities,
- Enhanced enforcement capacity by state agencies,
- Creation of a permanent policy review and oversight council with members representing all stakeholder groups,
- Requiring all facilities with at least one resident receiving mental health care to be licensed as a limited mental health (LMH) facility and,
- Providing greater integration of information from all agencies involved in ALF regulation in order to identify potential problems sooner.

The AL Workgroup also noted that several other issues, requiring more time to evaluate, be addressed and recommended they be examined by a Phase II workgroup appointed by the Governor. Assisted living policy and regulation has not been addressed in a comprehensive fashion for several years and additional time is needed to successfully complete the task.

Workgroup discussion was detailed and thorough in all areas. Certain issues were not passed as recommendations by the AL Workgroup such as the placement of the Ombudsman Program; however, it was agreed this is an important issue and should be considered in more detail in future discussion and planning.

WORKGROUP MEMBERSHIP AND PARTICIPATION

Public officials, policymakers, advocates and members of the provider community participated on the workgroup as follows:

Larry Polivka, PhD., Chair, The Pepper Center Florida State University
Senator Ronda Storms, The Florida Senate
Representative Matt Hudson, The Florida House of Representatives
Larry Sherberg, Florida Assisted Living Association
Darlene R. Arbeit, Florida Association of Homes and Services for the Aging
Marilyn Wood, Florida Health Care Association
Jim Crochet, Long Term Care Ombudsman, Department of Elder Affairs
Bob Sharpe, Florida Council for Community Mental Health
Ken Plante, Academy of Florida Elder Law Attorneys
Brian Robare, The Villa at Carpenter's
Roxana Solano, Villa Serena I-V
Michael Bay, Eastside Care, Inc.
Martha Lenderman, Lenderman and Associates
Luis E. Collazo, MSW, Palm Breeze ALF

Senator Nan Rich, Senator Rene Garcia, and Senator Eleanor Sobel participated as guests at the Miami meeting.

State Agency Representatives, serving as resources to the AL Workgroup consisted of:

The Office of the Governor was represented by Jane Johnson, Health and Human Services Policy Coordinator
The Office of the Governor was represented by Danielle Scoggins.
Elizabeth Dudek, Secretary, Agency for Health Care Administration
Charles Corley, Secretary Department of Elder Affairs

David Sofferin, Assistant Secretary for Substance Abuse and Mental Health, Department of Children and Families

David Lewis, Director, Medicaid Fraud Control Unit, Attorney General's Office
George Cooper, State Fire Marshal, Department of Financial Services
Susan Rice, Deputy General Counsel, Department of Elder Affairs
Robert Anderson, Director Adult Protective Services, Department of Children and Families
Tom Rice, Operations Review Specialist, Agency for Persons with Disabilities
Molly McKinstry, Deputy Secretary for Health Quality Assurance, Agency for Health Care Administration
Polly Weaver, Chief, Bureau of Field Operations, Agency for Health Care Administration
Shaddrick Haston, Esq., Assisted Living Unit Manager, Agency for Health Care Administration

ASSISTED LIVING REGULATION BACKGROUND

The regulation of assisted living facilities (ALFs) began in Florida with the Legislature's 1975 adoption of the Adult Congregate Living Facilities (ACLF) Act. Since that time, amendments to the ACLF Act created specialty licenses that expanded the list of allowed services beyond basic personal services. In 1987, the Legislature authorized ACLFs to provide "limited nursing services" (LNS). In 1989, "limited mental health services" (LMH) were authorized. In 1991, the Legislature authorized ACLFs to provide "extended congregate care services" (ECC). In 1995, ACLFs were renamed "assisted living facilities" (ALF). In 2006, the regulation of ALFs was transferred from s. 400, F.S., to part I of s. 429, F.S., and named the Assisted Living Facilities Act.

Today, Florida Statute defines an *assisted living facility* as any building or residential facility that provides "housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator." When it created the Assisted Living Facilities Act in 2006, the Florida Legislature sought to promote the availability of services for elderly persons and adults with disabilities "in the least restrictive and most homelike environment, to encourage the development of facilities that promote the dignity, individuality, privacy, and decision-making ability of such persons."

CURRENT SITUATION

ALF Services

Today, Florida ALFs range in size from one resident to several hundred and can include individual apartments or rooms that a resident shares with another person. Basic ALF services include:

- Housing, nutritional meals, and special diets;
- Assistance with the activities of daily living (bathing, dressing, eating, walking);
- Administering medications (by a nurse employed at the facility or arranged by contract);
- Assisting residents to take their own medications;
- Supervising residents;
- Arranging for health care services;
- Providing or arranging for transportation to health care services;
- Health monitoring;
- Respite care (temporary supervision providing relief to the primary caregiver); and

- Social and leisure activities.

Some ALFs arrange or directly provide these services to their residents. Others require the resident to arrange their own services as agreed upon in the contract between the resident and the facility. An ALF may employ or contract with a nurse to take vital signs (blood pressure, pulse, respiration, and temperature), manage pill organizers, give medications and keep nursing progress notes. A resident can also contract with a licensed home health care provider for nursing and other health care services, as long as the resident does not become more ill than is allowed in an assisted living facility.

If an ALF in Florida would like to provide any services beyond those allowed in the standard license, a specialty license must be acquired. These licenses allow the ALF to accept residents who need more advanced nursing or mental health care. The specialty licenses are listed below.

Limited Nursing Services: A limited nursing services (LNS) specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services authorized by the standard license. The nursing services authorized to be provided under this license may only be provided as authorized by a licensed practitioner's order. A nursing assessment that describes the type, amount, duration, scope, and outcomes of services, and the general status of the resident's health, is required to be conducted at least monthly on each resident who receives a limited nursing service. An LNS licensee is subject to monitoring inspections by the AHCA or its agents at least twice a year.

An ALF with a limited nursing services license provides the basic services of an assisted living facility as well as additional nursing services. Some of the limited nursing services are:

- Nursing assessments;
- Care and application of routine dressings;
- Care of casts, braces, and splints;
- Administration and regulation of portable oxygen;
- Catheter, colostomy, and ileostomy care and maintenance; and
- Application of cold or heat treatments, passive range of motion exercises, ear and eye irrigations.

Limited Mental Health: An ALF that serves three or more mentally ill or disabled residents must obtain a limited mental health (LMH) specialty license. For the purposes of assisted living licensure, a mental health resident is defined as an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS). This definition is limited as there may be other assisted living facility residents with severe and persistent mental illness who have a case manger but do not meet this specific definition.

The LMH license requires basic staff training in mental health issues and requires the ALF to ensure that the resident has a community living support plan, provides assistance to the resident in carrying out the plan, and maintains a cooperative agreement for handling emergency resident matters.

There may be residents with severe and persistent mental illness who have a Department of Community Affairs (DCF) case manager but do not otherwise meet the definition of a mentally ill ALF resident. Since the specialty license is only required if the ALF has three or more "mental health residents," a facility can serve one or two mental health residents without a Limited Mental Health license (no requirement for mental health training of staff or assistance with the community licensing support plan).

Pursuant to s. 394.4574, F.S., the Department of Children and Families must assure that:

- A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse to be appropriate to reside in an assisted living facility;
- A cooperative agreement to provide case management, as required in s. 429.075 F.S, is developed between the mental health care services provider and the administrator of the ALF-LMH;
- A case manager is assigned for each mental health resident;
- The community living support plan, as defined in s. 429.02 F.S. has been prepared by the mental health resident and a case manager in consultation with the administrator of the facility; and
- The ALF is provided with documentation that the individual meets the definition of a mental health resident.

Each DCF Circuit Administrator develops, with community input, annual plans that demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of ALF-LMH facilities.

Extended Congregate Care: An assisted living facility with an extended congregate care license provides the basic services of an assisted living facility as well as:

- Limited nursing services and assessments,
- Total help with bathing, dressing, grooming and toileting,
- Measurement and recording of vital signs and weight,
- Dietary management, including special diets, monitoring nutrition and food and fluid intake,
- Supervision of residents with dementia and cognitive impairments,
- Rehabilitative services,
- Escort services to medical appointments,
- Educational programs to promote health and prevent illness.

An ALF is required to perform and document a monthly assessment for residents who are receiving nursing services, including any substantial changes in the resident's status which may indicate the need for relocation to a nursing home, hospital or other specialized health care facility.

The ALF is required to notify a licensed physician within 30 days when a resident exhibits signs of dementia or cognitive impairment, or has a change of condition, in order to rule out the

presence of an underlying physical condition that may be contributing to the dementia or impairment.

The owner or administrator of a facility is responsible for determining the appropriateness of admission to the facility and for determining the appropriateness of a resident's continuing stay in the facility.

The Comprehensive Assessment and Review for Long-Term Care Services (CARES) program performs a federally mandated function of conducting nursing home pre-admission screening and assessment for Medicaid long term care programs. Persons who are applying for Medicaid-funded nursing home care are assessed by a CARES nurse or social worker, with medical review by a physician prior to approval. One of the program's functions is to assist Floridians in obtaining home and community services to avoid nursing home care. Another function is the continued education of the public, particularly health care providers, about less costly alternatives for long term care.

Medicaid reimbursement for assisted living services is limited to people who are eligible to participate in waiver programs or receive assistive care services. The Nursing Home Diversion Program is designed to provide home and community based services to older persons assessed as being frail, functionally impaired and at risk of nursing home placement. An array of long term care services, Medicaid-covered medical services and Medicare services are coordinated and delivered through managed care organizations (MCOs) contracted with the Department of Elder Affairs.

The facility is required to provide 45 days' notice of the need for relocation or termination of residency unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care, or the resident engages in a pattern of conduct that is harmful or offensive to other residents.

ALF Statistics

Since 2003, the number of Florida ALFs has grown by nearly a third (30.28%). In 2003, a Florida ALF was most likely to be mid-sized (25 beds or less) and serving a diverse resident population as indicated by the number of beds dedicated to extended congregate care (ECC) for medically complex residents , and the indigent as measured by participation in the Optional State Supplementation (OSS) program.

	Number of ALFs	Number of Beds	ALFs with ECC Beds	ECC Beds	ALFs with OSS Beds	OSS Beds
2011	2,960	82,951	277	14,480	1,521	15,686
2010	2,850	81,027	308	16,976	1,505	15,709
2009	2,783	79,302	306	16,882	1,454	15,436
2008	2,643	77,338	302	16,124	1,367	14,665
2007	2,442	75,958	306	15,064	1,249	14,161
2006	2,340	74,317	312	15,316	1,206	13,881
2005	2,291	74,282	327	16,144	1,205	13,992
2004	2,275	74,788	346	17,967	1,179	14,100
2003	2,272	76,714	398	18,853	1,176	14,171

In 2011, Florida ALFs are increasingly small (the majority now house six or fewer beds) and serve an increasingly diverse population after increases in the number of LMH and OSS beds. The number of Florida ALFs serving the limited mental health population increased by over 80% from 2003 to 2011. The number of facilities with OSS beds increased by nearly 30% during the same time period.

The steady increase in the annual total of licensed ALFs (as shown above) understates the impact of new licensees each year. While Florida has had an average annual net increase of 86 new ALFs since 2003, the Agency has also approved an annual average of 125 changes of ALF ownership during the same period. Data gathered since 2009 also documents that an average of 125 ALFs have been failing to renew their licenses each year. This pattern is continuing based on year-to-date information for 2011. All of these factors result in more than a 10% turnover of newly licensed ALFs each year.

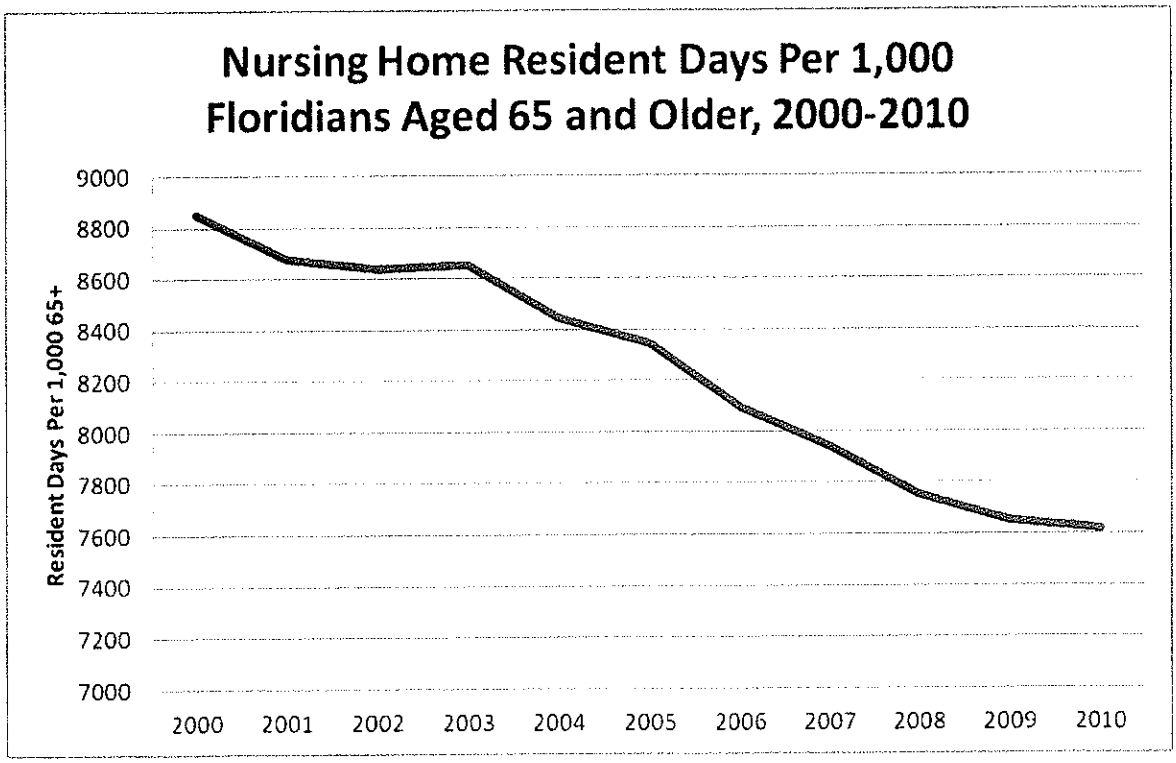
	ALF growth	Bed growth	ALFs ≤ 6 Beds	ALFs ≤ 25 Beds	ALFs with LMH Beds	ALFs with ECC Beds	ALFs with OSS Beds	ECC Beds	OSS Beds
2011	4%	2%	52%	72%	37%	9%	51%	17%	19%
2010	2%	2%	52%	73%	38%	11%	53%	21%	19%
2009	5%	3%	50%	70%	38%	11%	52%	21%	19%
2008	8%	2%	47%	69%	38%	11%	52%	21%	19%
2007	4%	2%	43%	67%	36%	13%	51%	20%	19%
2006	2%	0%	41%	67%	35%	13%	52%	21%	19%
2005	1%	-1%	37%	68%	34%	14%	53%	22%	19%
2004	0%	-3%	38%	66%	33%	15%	52%	24%	19%
2003			37%	65%	27%	18%	52%	25%	18%

ALF Residents

Originally, Florida ACLFs began as residential homes for elderly or developmentally disabled residents who needed limited assistance with daily tasks such as bathing, meals or medications. However, a detailed picture of current ALF residents is very difficult to create due to the lack of data. Assisted living's role as a less intensive residential alternative to skilled nursing facilities has been and continues to be based on assumptions about the resident population: they are those too frail to live alone but not yet in need of full-time skilled nursing care.

This attitude may be changing as the potential interest in resident protection grows. What is clear from existing sources is that the number of very small facilities is increasing rapidly, as is the mental health population. Both of these trends have major implications for assisted living facilities. Regulating a large facility of generally healthy seniors requires a different approach than regulating a five-bed facility serving primarily LMH residents.

It is presumed that Florida ALFs also house persons who once would have been more likely to live in skilled nursing facilities. While there is no Florida data source that can specifically document this trend, it is widely assumed. One of the main reasons for the assumption is the decrease in nursing home utilization that has occurred since 2000. Though the statewide average percent occupancy in nursing homes has remained relatively constant between 85 and 88 percent, the state's elder population has been growing and aging, masking the actual decline in nursing home utilization. The following graphic illustrates the decline by showing a steady drop in statewide nursing home resident days per 1,000 Floridians aged 65 and older.



This drop occurred during a statewide moratorium on the addition of new nursing home beds. When the moratorium began in 2001, there was an expectation, based on the use rates of the 1990s, that Florida nursing homes would be overcrowded by now. The fact that overcrowding has not occurred while the elder population has been growing leads many to conclude that ALFs are housing more frail individuals with diverse and complicated medical issues.

ALF Regulation

Agency licensure activities include processing initial, renewal and change of ownership applications; conducting licensure and complaint inspections; monitoring and citing violations; and sanctioning providers and facilities when serious or repeat violations are identified.

The goal of these activities is to assure compliance with the laws and regulations that safeguard Florida's health care consumers. However, when the regulations are violated, the law specifies when sanctions are imposed and requires the consideration of several factors prior to imposing a penalty.

Historically, few of the violations cited by the Agency result in patient or resident harm and most are corrected expeditiously. However, any licensee that refuses or fails to achieve regulatory compliance risks closure, license revocation, denial of the renewal license or denial of a change of ownership to a new operator.

The regulation of assisted living facilities is governed by licensure statutes and rules. Basic requirements that are shared with other regulated health care facilities are found in s. 408, Part II, F.S. and Chapter 59A-35 of the Florida Administrative Code. Requirements that are specific to assisted living facilities are found in s. 429, Part I, F. S., and Chapter 58A-4, Florida Administrative Code.

The Agency's approach to facility regulation centers on: identifying problems (through surveys, complaints or self-reporting); pinpointing their underlying cause(s); ensuring the facility has a plan to mitigate those causes and ensuring the facility effectively implements its plan.

The following tables provide basic statistics about regulatory actions the Agency has taken in ALFs. The first table shows the number of regulatory visits made by field staff in ALFs over the last five fiscal years. The visits include routine surveys, follow-up surveys and complaint investigations.

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11
Number of Visits	6,274	6,892	6,060	6,455	6,327

Regulatory citations are documented in a Statement of Deficiencies sent to the licensee. Deficiencies are documented with a classification and scope to represent the severity of risk to residents on a scale of I to IV, Class I being most serious and Class IV being minor with no concern of resident risk. The most serious deficiencies are classified as "Class I" if they

represent immediate danger to clients or a substantial probability of death or serious harm. Classification is defined in Health Care Licensing Procedures Act, s. 408.813, F.S. and is uniform across all health care providers licensed by the Agency, except nursing homes which are aligned with the federal definitions.

Classifications are defined in s. 408.813 (2), F.S. as:

(a) Class "I" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines present an imminent danger to the clients of the provider or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. The agency shall impose an administrative fine as provided by law for a cited class I violation. A fine shall be levied notwithstanding the correction of the violation.

(b) Class "II" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines directly threaten the physical or emotional health, safety, or security of the clients, other than class I violations. The agency shall impose an administrative fine as provided by law for a cited class II violation. A fine shall be levied notwithstanding the correction of the violation.

(c) Class III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed.

(d) Class "IV" violations are those conditions or occurrences related to the operation and maintenance of a provider or to required reports, forms, or documents that do not have the potential of negatively affecting clients. These violations are of a type that the agency determines do not threaten the health, safety, or security of clients. The agency shall impose an administrative fine as provided in this section for a cited class IV violation. A citation for a class IV violation must specify the time within which the violation is required to be corrected. If a class IV violation is corrected within the time specified, a fine may not be imposed.

The following table shows the number of violations cited in ALFs over the last five fiscal years.

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	Total
Surveys	1,726	1,897	1,725	2,114	2,105	9,567
Class I	60	41	55	25	109	290
Class II	256	242	260	215	351	1,324
Class III	11,151	12,025	10,262	12,506	11,696	57,640
Class IV	1,878	2,362	1,257	1,577	731	7,805
Total Class Violations	13,345	14,670	11,834	14,323	12,887	67,059

The amount of assisted living facility fines imposed by the Agency over the last five fiscal years is shown in the table below.

Fiscal Year	Fines Imposed
06/07	$872,860.16
07/08	$815,073.27
08/09	$683,892.83
09/10	$636,555.50
10/11	$776,238.44

Shown in the following table is the annual number of ALF license revocations and suspensions from 2006 to the present. The table also contains facilities that have been denied a licensure application and the number of facilities that closed or failed to renew either with a history of legal sanction cases or while an action against the license was pending.

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	Total
Suspensions	3	0	2	1	2	8
Revocations	3	5	4	12	7	31
Denials of Active Licenses	8	6	11	7	5	37
Closed or Failed to Renew with legal cases (subject of all Closed/ Failed to renew)	38	34	37	40	46	195

Roles of Government Agencies in Assisted Living

In addition to the regulatory oversight of licensure, several other government organizations are involved in assisted living facilities. The Agency works closely with each of these programs and communicates both at the local and headquarters offices. Primary agencies and their roles are described below followed by a chart of primary and other agencies involved in assisted living facilities.

Agency for Health Care Administration

- Health Quality Assurance: Licensing and regulatory oversight,
- Medicaid: State plan reimbursement for assistive care services (no reimbursement for residential ALF care), Medicaid reimbursement through long term care waivers including assisted living and nursing home diversion.

Department of Elder Affairs

- Rule development for assisted living and adult family care home,
- Assisted Living Trainer Certification,
- Comprehensive assessment and review of long-term care services (CARES) reviews.

Medicaid long term care placement

- Administration of the Nursing Home Diversion Medicaid Waiver,
- Statewide Public Guardianship Office assists in guardianship services as appropriate.

State Long-Term Care Ombudsman Program

- Engages volunteer resident advocates to assist residents and families in dialogue with representatives of long term care facilities.

Department of Children and Families

- Adult Protective Services: Investigates complaints of abuse, neglect or exploitation of vulnerable persons including those who live in long term care facilities,
- For mental health residents in ALFs, assists in rule development for Limited Mental Health ALFs, facilitates case management for clients living in ALFs,
- Administration of certain Medicaid waivers.

Agency for Persons with Disabilities

- Individuals with developmental disabilities who reside in ALFs and receive services from the Developmental Disabilities Home and Community Based Services Waiver.

Attorney General

- Medicaid Fraud Control Unit: The Attorney General's Office (AG) investigates allegations of Medicaid fraud. Administers the PANE Project, (Patient Abuse, Neglect and Exploitation), Operation Spot Check, and Attorney General staff may investigate abusive situations in long term care facilities.

Department of Health

- Health and sanitation inspections,
- Licensure and regulatory oversight of health care practitioners working in assisted living facilities.

Local Authorities (ALF)

- Fire and life/safety approval,
- Zoning /building code approval and enforcement.

ASSISTED LIVING REGULATION IN OTHER STATES

Nearly every state has experienced growth in similar types of "assisted living" facilities. Though use of the term "assisted living" is widespread, there is considerable state-to-state variation in the definition. The term is currently used by 41 states but refers to facilities licensed by states as personal care homes, residential care facilities, adult care homes, homes for the aged and other types of facilities. This variation in the definition of assisted living complicates any effort to compare regulatory approaches and outcomes across states.

Few states approach the regulation of assisted living facilities in the same manner. The Agency for Health Care Research and Quality (AHRQ) has found that while all states license and regulate what they call assisted living facilities, these regulations "differ significantly both within and among states, in part because of the lack of a uniform definition of assisted living." In 1999, the U.S. Government Accountability Office (GAO) found that in general, "State reviews occur every 1 to 2 years, and the results of monitoring activities varied." An AHRQ review of the Web sites of state licensing agencies found that 48 states post licensing regulations; 46 provide access to a database or list of licensed facilities; 12 post survey findings on their web site; and 14 states post a guide to help consumers learn about and choose a facility. Twenty six states offer information to facility administrators and staff on a web site. The information ranges from licensing application and renewal forms, administrator requirements, bulletins, information about the survey process, technical assistance materials, and incident and complaint forms.

EXECUTIVE SUMMARY

The assisted living community in Florida has witnessed exponential growth over the past eight years, increasing by 30%. Assisted living, a largely consumer choice driven industry, continues to be a home-like, residential model that thrives in the Sunshine State. Section 429, F.S. specifically states that ALFs should be operated and regulated as residences with supportive services and not as medical or nursing facilities. Further, regulations governing ALFs must be flexible enough to allow facilities to adopt policies that enable residents to age in place while accommodating their needs and preferences. When residents age in place, care becomes more complex. The challenge is balancing the provision of appropriate care without compromising the concept of a social or residential model.

This report and the recommendations contained herein, if passed into law, would increase some regulations that have been in place since the 1980's and continue Florida's tradition of providing the home-like characteristics that have allowed for such growth. As the growth continues, the Agency for Health Care Administration must work with partners such as the Department of Elder Affairs, the Department of Children and Families, the Agency for Persons with Disabilities and the Attorney General's Office, as well as the provider industry, advocates, families and

individuals to reduce regulation in areas that are overly burdensome, while implementing safeguards and regulations that protect the residents in assisted living facilities.

ASSISTED LIVING WORKGROUP RECOMMENDATIONS

The Assisted Living Workgroup compiled a series of recommendations based on public meetings and member input; all were considered at a final meeting in Miami, Florida. Issues which the Workgroup felt could be addressed immediately were considered Phase I Recommendations.

The workgroup also formulated issues identified separately as Phase II (see ***attachment #2***). The Phase II issues are intended to allow an additional six to twelve months of evaluation and dialogue prior to being considered as formal recommendations. Although not all issues had full support of each member; the Phase I recommendations received approval by a majority of members.

Based on the AL Workgroup deliberations, the following recommendations are made:

Consumer Information

1. Consolidate and expand existing consumer resources. Currently Florida ALF information is available through the AHCA FloridaHealthFinder.gov website as well as the DOEA Affordable Assisted Living website (http://elderaffairs.state.fl.us/faal/consumer/facilityselect.html). Both sites contain information regarding how to evaluate an ALF, questions to ask and a resource to search for facilities (DOEA links to http://www.floridahousingsearch.org/). Each facility search contains unique information: AHCA www.FloridaHealthFinder.gov provides more regulatory information such as inspection reports, sanctions, owner and administrator names; while DOEA allows the ALF to update information about funding sources, available services, and other accommodations.

ALF Administrator Qualifications

1. Raise standards to become an ALF administrator including:

    - Take core training and pass the competency examination, and
    - Be at least 21 years of age, and
    - Have an associate degree or higher from an accredited college (in a health care related field) and (one year experience) working in a health care related field having direct contact with one or more of the client groups or,
    - Have a bachelor's degree in a field other than in health care from an accredited college and (one year experience) working in a health care related field having direct contact with one or more of the client groups or,
    - Have a bachelor's degree in a field other than in health care from an accredited college and one year experience working in an ALF or,
    - Have at least two years' experience working in a health care related field having direct contact with one or more of the client groups or,

- Have a valid nursing home administrator's license, or
- Have valid registered nurse license, or
- Grandfather existing administrators with certain training and experience, and no Class I or Class II deficiencies in their past.

Training/Staffing

Core Training

1. Create ALF Core Trainer Oversight program.

2. Authorize DOEA in coordination with DCF related to LMH to develop a partnership to conduct one standardized core curriculum course in English and Spanish that is updated as needed. This will increase the credibility and professionalism of the training process and will align the training of ALF administrators with other paraprofessionals. Options include existing accredited educational institutions or existing professional healthcare associations that currently provide continuing education. Allow existing registered trainers to provide training until July 1, 2013, when training will be turned over to either the educational institutions or professional associations. This will allow current trainers an opportunity to develop affiliations with training entities.

3. Expand the number of minimum CORE training curriculum hours from 26 to 40 to include specific minimum training hours in each area and to include additional topics such as:
   - Elopement prevention,
   - Aggression, de-escalation, behavior management, and proper use of the Baker Act,
   - Do Not Resuscitate Orders,
   - Infection control,
   - Admission, continuing residency and best practices,
   - Phases of care giving and interacting with residents,
   - Human resource management, finance and business operation, and supervision topics,
   - Require at least 8 additional training hours for all administrators employed or to be employed in an Extended Congregate Care and Limited Mental Health licensed facility and,
   - Competency test available through a testing center, the cost of which is paid by the test fee.

4. Raise the passing score for the Core exam from 70% to 80%.

5. Require the competency exam be taken within 90 days of completing the initial core training. If an applicant fails the core exam, the applicant must wait 30 days to retake the exam and must reapply and pay the exam fee. If an applicant fails the exam three times, the applicant must retake the initial core training including payment of any course fees.

6. Develop supplemental core competency exams for ECC and LMH licensure.

7. Explore the use of a system similar to that used by the Department of Health to track compliance with statutory requirements and recognize continuing education requirements for licensed health care professionals toward assisted living requirements.

Continuing Education

1. Increase and improve initial and on-going training for all ALF staff. Consider core training standards as the minimum and create additional orientation and in-service training for administrators and direct care staff based upon the types of residents served.

2. Revise continuing education requirements for administration and care. Include de-escalation techniques.

3. Expand the number of continuing education hours from 12 to 18 in a two-year period in topics similar to the initial core curriculum.

4. Establish in statute a procedure similar to that used by the Department of Health in s. 456.025(7), F.S., to approve continuing education trainers and courses. This establishes an online education tracking system for approving training providers, initial core training, and continuing education credits for each biennial renewal cycle. Training entities shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall specify the form and procedures by which the information is to be submitted and monitored.

5. Prepare and provide a well-designed curriculum in a wide array of subjects by highly skilled trainers using readily accessible technology. Training should demonstrate methods and techniques for staff. Administer tests by an independent party on-line or at a testing center after the training is completed.

6. Allow flexible training to meet individual needs of direct care, frontline staff. Allow alternatives to instructor-led training. Create flexibility to accommodate staff who work nights and weekends. Offer training in staff native languages. Consider varying skill levels of staff.

7. Require the state to contract for the development of on- line courses similar to the DCF funded online series of Baker Act related courses (through USF/FMHI) that can be found at www.BakerActTraining.org. Courses are available to anyone at no cost. Consider "subscription-based" online service to meet the needs of direct care workers, but recognize that a fee for classes may create a disincentive for participation.

8. Require staff to pass a short exam after initial and in-service training to document receipt and comprehension of the training.

9. Require one hour of elopement training for all staff.

10. Update the competency tests annually to ensure that the tests are informed by the best research and best practices knowledge. Allow competency test to be made available through testing centers with the cost to be covered by the test fee.

11. Enable costs associated with training changes be borne solely by the trainers, administrators, and assisted living facilities and remain revenue neutral to the state. Reasonable fees should be imposed in a manner that will not be a barrier to job creation.

Limited Mental Health Training

1. Increase training for LMH facility staff, provided by mental health professionals and including an emphasis on aggression management and de-escalation techniques.

2. Require all staff members who have contact with residents with mental health issues to complete the mental health training.

3. Establish a panel of mental health experts to develop a comprehensive, standardized training curriculum for mental health training for assisted living facility staff members.

4. Increase the training hours for staff members working in facilities with an LMH license from 6 hours of limited mental health training to 8.

5. Require staff members to complete a test following their training in mental health and score a minimum of 80%.

6. Allow the Department of Elder Affairs to monitor and sanction trainers providing the mental health training course.

7. Collaborate with NAMI (National Alliance on Mental Illness) in each community with an active chapter to provide free training of residents (Peer-to-Peer), caregivers (Family-to-Family), and Provider Education, as well increased oversight when NAMI members are present in the facilities.

Surveys and Inspections

1. Modify survey frequency. Inspect facilities with a problematic regulatory history, as defined in statute, more frequently than once every two years. Require more frequent and extensive inspections of those facilities that have recurring or observed deficiencies.

2. Allow AHCA to approve accreditation for facilities that have undergone accreditation or certification by a nationally recognized body such as CARF might be helpful to reduce the number and frequency of on-site surveys. Any deemed status must be based on a nationally recognized accreditation body or upon a documented history of high performance without serious or repeated citations.

3. Acknowledge CARF accreditation and allow lighter inspections.

4. Require AHCA surveyors to rely more on site-based observations than paper review. While it is more difficult to measure quality care than technical compliance, rules must be created to provide objectively reasonable basis for surveyor judgment to be applied and the surveyors must be adequately trained to use the probes.

5. Require a specific number of lead surveyors in each area office to specialize on ALF inspections and be dedicated to ALF inspections only.

6. Require dedicated AHCA staff to monitor surveyors and the field work to ensure consistency in inspections, citing deficiencies, and enforcement throughout the state.

7. Assess AHCA inspection forms. Create a workgroup that includes Ombudsman members and stakeholders to assess AHCA inspection forms to assure they adequately assess ALF compliance with the law, resident protection, and meeting resident needs.

8. Require dedicated AHCA staff to focus on assisted living facilities including one position to monitor state-wide issues and lead surveyors in each field office.

9. Exercise caution when making changes to any business or industry to avoid having unintended consequences.

Licensure

1. Create rigorous initial ALF license requirements to prevent persons who are unprepared or uncommitted to providing quality care from becoming licensed. Consider education and training of the administrator, background checks on the owner and proposed administrator regarding previous facility ownership and operations, and appropriateness of the facility.

2. Utilize the provisional license permitted in s. 429, F.S., for initial licensure, then followed up within a specified period after the facility has opened, to conduct the more complete survey.

3. Prohibit an administrator or property owner associated with an ALF with a regulatory record that would qualify for license revocation or denial, from future affiliation with an ALF. Align with the requirements in s. 408.815, F.S. that allow mitigation. This provision would require disclosure of property ownership.

Resident Discharge

1. Reduce the resident discharge notice from 45 to 30 days and provide an option for the resident to appeal with a decision within 10 days. The entire appeal process should take no longer than 45 days.

2. Clarify that a temporary transfer such as a Baker Act is not a discharge and the resident may return to the facility once released.

3. Mandate that social workers and discharge planners provide a completed AHCA 1823 Form to the assisted living facility administrator to ensure appropriateness of the resident's admission.

ALF Information and Reporting

1. Require minimal online data submission to the Agency on a quarterly basis. ALFs currently submit data to the agency in a variety of online applications including adverse incident reporting, monthly liability claim reporting and participation in the Emergency Status System (over 85% of ALF have online accounts). ALF data submission to the Agency should include:
   Number of residents (census)
   Number of residents requiring specialty license services: Limited Nursing Services (LNS), Limited Mental Health (LMH), Extended Congregate Care (ECC)
   Number of residents on Optional State Supplementation (OSS)
   Number of Medicaid recipients whose care is funded through Medicaid by type of waiver

2. Require maintenance of a resident roster available upon request including name, Medicaid ID, guardian or representative name and contact information, source of resident admission and care manager name and contact information.

Enforcement

1. Enforce existing regulations, and retain due process protections for providers.

2. Require AHCA to assess certain administrative penalties such as increasing sanctions for recurrence of serious deficiencies affecting residents' health, safety, or welfare or failure to pay fine.
3. Require a mandatory moratorium for serious violations (Class I or II), when an ALF fails to correct all outstanding deficiencies and reach full compliance at the time of a follow up visit or by the mandatory correction date.

4. Provide AHCA the authority to cite for past egregious violations (Class I) even if corrected upon inspection and a mechanism to address evidence presented after an AHCA investigation such as a DCF Abuse report or law enforcement investigation.

5. Authorize AHCA to cite violations for falsification of information. Current laws authorize licensure action for falsification of a license application [s. 408.815(1)(a) F.S] or authorize criminal penalties for falsification of records (s. 429.49, F.S.), but do not address licensure violations for other falsified documentation submitted to AHCA.

Resident Advocacy

1. Focus Ombudsman oversight on resident advocacy. Focus on communication with each resident of each ALF monitored to elicit information on ways the facility can improve as well as ways in which the facility may excel. Train members on the requirements of and be alert to regulatory requirements of ALFs so they can recognize obvious deficiencies and make complaints to regulators. Address allegations of excessive enthusiasm of Ombudsman and assure focus is on residents and not license regulation.

2. An employee or volunteer of the Office of Long Term Care Ombudsman shall be required to report, with the resident's consent, all instances of resident retaliation exercising rights guarantee pursuant to s. 429.28, F.S., the resident bill of rights. The Agency is required to impose a sanction for this violation regardless of the deficiency classification. The Agency shall not be required to reinvestigate the incident if the Office of the LTCOC provides a certification that this was an investigation by the Office and the incident was confirmed.

3. Ensure volunteers have the right to visit licensed programs at any time for purposes of monitoring as well as for complaint resolution. All observations and findings should be submitted to AHCA and acted on in an expedited manner.

4. Contact former members of the State and Local Advisory Council to expand Ombudsman efforts. These members have great knowledge and skill in mental health related issues that has been lost since the Councils were de-funded by the Legislature in 2010. Establish a sub-committee of each Council focused on ALF's with limited mental health licenses; members would be a resource to other Council members and staff for issues related to mental illness in other types of long-term care facilities.

5. Create an independent statewide ALF Council made up of residents, ombudsmen, and families (at least 2/3 of the membership), in addition to one member from each respective trade association, to meet periodically.

6. Encourage ALFs to contact representatives of the Florida Peer Network to seek certified peer specialists for employment or at a minimum, encourage the peer specialists to visit the facilities to make recommendations that would improve the ability of the facility to better serve persons with severe mental illnesses.

Mental Health

1. Require a Limited Mental Health (LMH) license for ALFs with any mental health residents. The current definition of LMH license is an ALF that serves three or more mentally ill or disabled residents must obtain a limited mental health (LMH) specialty license. Change the definition to require an ALF that serves one or more mental health residents as defined in statute to obtain a limited mental health specialty license. For the purposes of assisted living licensure, a mental health resident is defined as an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS). This definition is limited as there may be other assisted living

facility residents with severe and persistent mental illness who have a case manger but do not meet this specific definition.

Multiple Regulators

1. Cross-train regulatory staff to reduce duplication and increase effective oversight across agencies and address multitude of inspections by various agencies. Eliminate duplication between entities, only if reduction in oversight would not increase the threat of harm to vulnerable elders and persons with disabilities.

2. Require in law that AHCA staff and other agencies involved in ALF's report knowledge or suspicion of any resident abuse, neglect or exploitation to the central DCF abuse hotline.

3. Improve ability to share information and data efficiently between the Long Term Care Ombudsman Program, DCF Adult Protective Services and AHCA by enabling integration between Agency for Health Care Administration's licensure data and the provider data which is used as an identifier in abuse reports and the Ombudsman Program. This integration would allow for more immediate identification of unlicensed facilities and would improve accuracy of reports particular to individual facilities.

4. Improve ability to share information and data efficiently between APD and AHCA related to ALFs where APD clients reside.

Home and Community Based Care

1. Assist people who need to know what choices are available and what supports are available to make the choice successful. Each person should have access to the most integrated setting that allows interaction with non-disabled persons to the fullest extent possible so they can live, work and receive services in the greater community. Opportunities must be available to receive services at times, frequencies, and with persons of an individual's choosing.

2. Promote the development of and expand the use of alternative housing options for older adults who needed housing supports/assisted care.

AL WORKGROUP ACTIVITIES

The Agency for Health Care Administration hosted the first statewide meeting on August 8, 2011 in Tallahassee, Florida.

Members heard presentations from AHCA staff on The Sunshine Law and the AL Workgroup Charter.

Specific information is below:

Richard Shoop, AHCA Agency Clerk, gave a presentation of the Sunshine Law. He stated the Assisted Living Workgroup is subject to the Sunshine Law and explained the definition and history of what the Sunshine Law means. Mr. Shoop discussed basic requirements, how meetings are conducted and noticed, meeting minutes, public records and confidential information. He stated that meetings are open to the public, and reasonable notice must be given. Any gathering of two or more Assisted Living Workgroup members to discuss business of the workgroup constitutes a public meeting that must be properly noticed.

Molly McKinstry, Deputy Secretary, HQA, provided a review of the AL Workgroup Charter and priorities. State agency representatives are resources to the Assisted Living Workgroup, the term of the Assisted Living Workgroup is one year and a quorum is eight members. The duties of the Assisted Living Workgroup are to research and evaluate and make recommendations. There is no compensation for travel. The Assisted Living Workgroup will operate under Roberts Rules of Order.

Members heard the following stakeholder presentations with suggested recommendations:

American Association of Retired Persons (AARP). Mr. Jack McRay, Advocacy Manager, presented by telephone. Ms. Laura Cantwell represented AARP at the Assisted Living Workgroup. AARP is interested in a viable Assisted Living Facility community and the best place for consumers. These same problems existed 30 years ago and statutes are adequate but reality is different. AARP believes we need stronger credentials for owners, managers and controlling interests, and those consumers must have reliable and transparent information for good decision-making. Florida consumers also need more ombudsmen and better training for the volunteers. Disturbing trends, AARP noted, are tort reform that threatens consumer protections, and remedies and inappropriate assessments and placements. AARP supports greater use of Home and Community Based Services, but only if consumers are getting the care they need in those facilities.

AARP recommends:

- The Ombudsmen should be independent and not regulators,
- Focus should be on "early intervention" for problem assisted living facilities,
- The Legislature should consider establishing local or regionally-based rapid-response teams,

- Provide strong punitive actions for egregious and preventable harm to Assisted Living Facility residents and,
- S. 429.11(2) and 429.275(3), F. S., be amended to establish a minimum amount of liability insurance and, State attorneys need to be aware of elder abuse.

Disability Rights Florida, Dana Farmer, Director of Public Policy for Disability Rights. Ms. Farmer made a presentation on Residential Options for People with Disabilities, and stated that the organization's work is focused on assisted living facilities with a limited mental health license. Integrated and segregated settings were discussed, and information was provided on interviews with Assisted Living Facility/Limited Mental Health residents, residential options and informed choice and discharges from state mental health facilities.

Disability Rights Florida suggests the following recommendations:

- Develop an accurate count of people with mental illnesses with SSI/Medicaid/OSS (Optional State Supplementation) who reside in Assisted Living Facilities with Limited Mental Health,
- Move funds from the Florida Department of Children and Families (DCF) institutional budgets to follow the people being discharged into integrated residential options,
- Allow OSS funds now used in facility settings to follow the person into integrated settings,
- Permit AHCA to use the Money Follows the Person grant it was awarded and,
- Hedge the depletion of the Affordable Housing Trust Fund.

Florida Assisted Living Association (FALA). Alberta Granger, Assisted Living Specialist, presented information on fragmented regulations, flaws in the initial survey process, survey inconsistencies and problems with core training and trainers. Emphasis was on licensure requirements that are disseminated among various departments and agencies, such as, AHCA, DOH (Department of Health), DOEA, the local fire marshal and local zoning, and that providers are confused.

FALA recommends:

- Appropriately return place the Assisted Living Facility licensure and regulatory provisions to Part I, Chapter 429, F.S.,
- Make the Assisted Living Facility website more provider-friendly,
- Develop a financial statement that is appropriate for a residential program,
- Utilize the provisional license criteria in Part I, Chapter 429, F.S.,
- Require assisted living facility surveyors to take core training and the required 12 hours of continuing education,
- Re-evaluate the Assisted Living Facility training requirements for administrators and caregivers,
- Properly vet on-line training with DOEA, trainers and other stakeholders,
- Develop language in rule which will give enforcement authority to deal with non-compliant trainers and,

- Require trainers to meet a minimum number of trainings per year, as required by rule, and include in rule provisions that non-compliant trainers will be decertified.

Florida Association of Homes and Services for the Aging (FAHSA). Carol Berkowitz, Esq., Sr. Director of Compliance and Legal Affairs presented the following recommendations on behalf of FAHSA:

- Survey Process: Improve survey consistency; implement joint training for providers and surveyors, focus on Assisted Living Facilities with serious regulatory problems and implement an abbreviated survey process for better than average Assisted Living Facilities
- Consumer information: Strengthen information available to the public to allow informed decision making when selecting an Assisted Living Facility.
- Regulations while providing Quality of Care: Retain provider flexibility to offer diverse service packages and set residency criteria within parameters established by law, recognize that Assisted Living Facilities are not homogeneous, avoid increased regulations, focus on early detection of serious regulatory problems, evaluate current public policy to determine if Assisted Living Facilities should be given authority to provide services, eliminate LNS and allow Assisted Living Facilities with a nurse on staff to provide the same services, encourage coordinated communications among state agencies regarding resident care, increase communication between case managers to coordinate care and require Medicaid case managers to immediately report Assisted Living Facility quality of care problems to AHCA.

Florida Council for Community Mental Health. Dr. Jay Reeve, CEO, Apalachee Center and Chair, Florida Council for Community Mental Health, presented. There is concern about individuals with severe mental illnesses being warehoused in Assisted Living Facilities with limited mental health licenses that provide inadequate care. These individuals lack purposeful, daily activities.

The Florida Council for Community Mental Health recommends:

- Regulation of the Assisted Living Facility industry must be aggressive and by-the-book, and failure should result in fines and moratoriums. Repeated evidence of facility deficiencies should result in the loss of its license,
- Explore alternative mixed-housing models that take advantage of economies of scale, while diminishing the segregation and isolation of older adults and disabled individuals in separate housing,
- Study those facilities that provide excellent care with no more per-resident-revenues than those that provide substandard care,
- Identify and visit successful housing models in Florida and other areas of the country,
- Broaden the housing choices for people with mental illnesses, letting them choose how to use their housing and economic assistance supports,
- Challenge communities and the private housing sector to develop attractive and affordable housing alternatives (e.g., New Orleans new low-income and mixed housing communities) and,

- Revisit the level of OSS or other forms of subsidy needed for decent housing.

Florida Health Care Association (FHCA). Marilyn Wood, President and CEO, Opis Management Resources and FHCA Board of Directors, presented. Factors to consider are: concerns over quality; regulatory requirements and public expectations of long term care; the increasing complexities of residential long term care; consideration of boomers' needs versus available resources; access to services; differences in assisted living services throughout the state; concern that Assisted Living Facilities do not become poorly-resourced nursing home; Medicaid waivers; Florida's managed long term care system; Optional State Supplementation and, Medicaid funding for limited mental health assisted living facilities.

FHCA recommends:

- Consider the possible elimination of multiple licenses, except limited mental health,
- Work together to develop an improved oversight system that focuses the state surveyors' work on the more troubled facilities rather than those Assisted Living Facilities with a history of providing good care and with satisfied residents and staff,
- The Assisted Living Facility "Residents' Bill of Rights" and the decision-making of "appropriate placement" are the hallmarks of the discussion of good care and,
- There is an important need for more data on resident characteristics, services provided, quality of care and costs.

Florida Long Term Care Ombudsman. Colonel Don Herring presented. Colonel Herring offered that problems identified could have been avoided if providers were properly trained, specifically regarding medication administration and the Baker Act. He further stated that many residents are borderline nursing home residents.

Solutions:

- Design a program of instruction using the mental health field as a model,
- Raise the minimum passing score for core training to 80,
- Provide more mental health training.
- Administrators should be responsible for all situations in an Assisted Living Facility,
- Residents should be given appeal rights for terminations,
- All new Assisted Living Facility providers should be required to receive 40 hours of training including a component on culture change,
- License Assisted Living Facility administrators like nursing home administrators and,
- Provide more staff to AHCA to increase the number of surveyors

Florida Peer Network, Lin Rayner, Policy Director for Florida Peer Network, presented Rose Delaney's paper, as Ms. Delaney was unable to attend. Ms. Delaney is a consumer advocate, a peer specialist and has personal experience with the issues.

Ms. Delaney suggests the following recommendations:

- Add consumers and family members to the workgroup. Specifically, four (4) members representing assisted living facilities need to step down and,

- Florida has over 1,000 peer specialists and they should monitor facilities on a monthly basis.
- Peer specialists indicate that peers are afraid to speak up for fear of retaliation.

Joan Andrade, mental health professional and consumer advocate presented on behalf of residents of assisted living facilities. Ms. Andrade's presentation focused on advocacy, safety and well-being of residents, coordination with state advisory council members and ombudsmen, increased training requirements for assisted living facility staff and administrators, specifically relating to limited mental health facilities, residents receiving OSS, assisted living facility administrators as representative payees, residents' fear of speaking out, residents being hungry and dietary issues in assisted living facilities, resident rights and strengthening and enforcing regulations.

National Association of Mental Illness, Florida (NAMI, Florida). Judi Evans, Executive Director, presented. Ms. Evans encouraged the workgroup to speak to Assisted Living Facility residents and look at their quality of life. She provided information on a NAMI pilot program, Personal Outcome Measures, funded by the Department of Children and Families. The findings of the pilot were that assisted living facility staff who had direct contact with persons who had a mental illness were not educated on the illness. They lacked empathy, communication skills, and an understanding of the biology of the illness. There was a lack of understanding that persons with a diagnosis were not in control of their behavior. This often results in frustration and anger. NAMI Florida would like to see better mental health education for Assisted Living Facilities.

Sean Cononie, Director, COSAC Homeless Shelter. Mr. Cononie's presentation focused on homelessness and the needs of homeless people. Some of the issues in homeless shelters include: medication administration, the roles of the Attorney General's Office and of Adult Protective Services investigators, fees paid by residents, health care surrogates and power of attorney.

Mr. Cononie suggests the following recommendations:
- License homeless shelters as Assisted Living Facilities,
- Develop a task force on homeless shelters and,
- Provide training on services provided in homeless shelters.

Florida Life Care Resident's Association (FLiCRA), Charles Polk, President, Florida Life Care Residents Association, presented. FLiCRA has over 13,000 members, living in 53 community care retirement centers throughout the state.

FLiCRA suggests the following:
- Allow the provision of adequate floor plans that will allow an independent living spouse to reside in a living unit with their Assisted Living Facility qualified spouse,
- Consider adding a provision to the Assisted Living Facility statute that establishes a family/resident council similar to what is found in s.651, F.S.,
- Provide transparency of state monitoring reports and,
- Provide transparency of financial reports of provider organizations that own or operate the Assisted Living Facility.

The University of South Florida, Gibbons Alumni Center, Tampa, Florida, hosted the second statewide meeting on September 23, 2011.

The following presentations and public comment were made:

Doug Adkins, Administrator, Dayspring Village provided a presentation on Frontline Forecaster, a joint venture project to bring intuitive technologies to the frontline of care and to use the data to help forecast future trends in assisted living facilities.

Mr. Adkins provided testimony about ALFs with limited mental health specialty licenses. He described the cooperative agreements; the relationship between residents and staff; the use of technology; systems of care; supervision of clinical needs; real time training; identification of best standards/practices; competent qualified administrators; and suggested the workgroup look at other states for a quality regulatory model.

Austin Curry, Resident. Mr. Curry testified that he places the highest value on human life and is repelled by the horrible conditions of some assisted living facilities. He believes licenses should be revoked for a minimum of five years and that facilities and persons responsible for abuse and neglect should be incarcerated.

Susanne Matthiesen, Managing Director of Aging Services, Commission on Accreditation of Rehabilitation Facilities (CARF). Ms. Matthiesen provided a presentation on CARF, an international accreditation organization. She testified that providers that work toward accreditation implement standards within their organizations that address quality of care and good business practices with the goal of improving quality. Almost 800 providers are accredited in Florida in the areas of behavioral health, assisted living, continuing care retirement communities, home and community based services, rehabilitation and employment and community services. CARF is willing to work with the Assisted Living Workgroup, AHCA and all stakeholders to develop approaches that strongly prompt providers in Florida to achieve CARF accreditation as a way to improve the field in the short term and elevate it through performance improvement over the long term.

Henry Parra, Owner, Genesis Care Centers and founder, Assisted Living Member Association (ALMA). Mr. Parra described AHCA as being in disarray and stated ALMA was founded to cover the gaps in AHCA. He stated that Hispanic residents and providers of ALFs have needs that people don't understand. He stated there is a disconnect between providers and further described difficulties he has as a provider working with hospitals that are discharging residents back to the ALF. Mr. Parra appreciates that the next AL Workgroup meeting will be in Miami/Dade. He believes ALFs have been tarnished by the Miami Herald and all providers are not like what was described in the articles.

Lyn Dos Santos, previous volunteer, Long Term Care Ombudsman Council. Ms. Dos Santos testified that conditions in ALFs are deplorable and that the frequency of inspections should be increased. She urged the workgroup to read the Administration on Aging's compliance review

of the State of Florida Long-Term Care Ombudsman Program. She believes the ombudsmen should be autonomous and that ombudsmen are afraid to do their jobs.

Brian Lee, former Ombudsman and current director of Families for Better Care. Mr. Lee testified that the Miami Herald did a comprehensive investigation of ALFs and that there are many good, decent facilities but regulators have looked the other way. He believes that bad providers have soiled the good providers and that there needs to be increased scrutiny of a broken industry. He rejects the notion of an abbreviated survey and questioned the criteria used for determining which facilities are eligible. Mr. Lee testified that sanctions need to be paid within 30 days. He encouraged DOEA to finalize the rule regarding the Ombudsman assessment and recommends there be an assisted living facility guide.

Gloria Smith, Florida Gulf Coast Chapter of the Alzheimer's Association. Ms. Smith provided testimony about Alzheimer's disease and the impact on residents in ALFs. She stated that one in ten people develop Alzheimer's disease and that 50% of residents in ALFs. She provided examples of residents with Alzheimer's disease specifically with wandering, hiding and residents not answering to their names. She stated that training can prevent and solve many problems.

Roy Gifford, former ALF resident from Tampa, currently in supported living. Mr. Gifford testified that he has been in a number of ALFs through-out his life and he is currently 40 years old. There were a number of issues and some facilities were good and were not. He has also been in adult foster care. He wants his message to be that there needs to be more structured activities and things to do in ALFs. He believes that AHCA should check out facilities more frequently. He lived in an ALF in Dunedin and had a positive experience and believes that there should be a council to look over facilities more often. He is here to share his experience and hopes with ALFs.

Damon Thomas, Senior Regional Director, Emeritus Senior Living and VP Florida Assisted Living Association. Mr. Thomas provided background on Emeritus Senior Living and his personal background with aging family members, specifically his grandfather. He testified that he believes taking care of the elderly is why all stakeholders are here today at the workgroup meeting and he is disheartened to hear of the recent problems in ALFs. He believes better collaboration between all agencies is necessary as well as better enforcement of the regulations.

Charlie Paulk, Florida Life Care Residents Association (FLiCRA). Mr. Paulk testified that he is a resident of The Carpenters in Lakeland and he is president of FLiCRA, a continuing care advisory council. He stated that we need to protect seniors from providers that do not provide good service and the average age of a resident is 85. He urged the AL Workgroup not to make any recommendations that would duplicate s. 651, F.S. He further stated consumer choice is important in deciding where to live.

Krone Weidler, President, Florida Assisted Living Association (FALA) and owner, Royal Sun Park. Ms. Weidler testified that FALA is committed to cooperate. She stated that ALFs are in higher demand than in the past which has resulted in greater scrutiny and that the Miami Herald focused on atrocities and cases of abuse and neglect are unacceptable. She referenced the 84, 000 residents in ALFs and the media focused on less than ½ of 1% of all facilities. Ms. Weidler

testified that the media coverage is unjust and offensive and that FALA has aggressively sought mechanisms to advocate for residents. She believes FALA has been misrepresented and referenced the medical review team legislation. She testified that Ombudsman think they are surveyors and regulators and she supports ombudsman as resident advocates. FALA does not support facilities that don't offer high quality of care.

Judith Turnbaugh, advocate. Ms. Turnbaugh testified from three perspectives; as a family member, advocate and provider of services. She has a brother with schizophrenia and additional family members with mental illness. She is a two term president of NAMI Pinellas County and has a passion for people who cannot represent themselves. She described ALFs as homes for individuals with mental and physical disabilities and that these individuals need a safe, clean home whether they are small ALFs or very elegant senior living facilities. Some residents require more care than others and many ALFs provide excellent care. Threatening residents not to speak up victimizes residents. It is difficult for small ALFs to stay in business and constant education is needed. Staff turnover is high. She recommends that the Ombudsman and Local Advocacy Council be cross trained to do regular inspections. She stated that NAMI could provide training to staff members at the ALFs.

Rose Delaney, advocate. Ms. Delany began her testimony by stating that she is passionate about advocating for individuals with mental illness and feels like pounding her fists. She has lived with her mental illness her adult life and believes she had it since early childhood. She has heard some hurtful remarks about individuals with mental illness and believes they are thought of as cast offs. Ms. Delaney believes there should be a consumer representative on the workgroup and she asked workgroup members if any of them had every had a psychological breakdown, attempted suicide, been arrested, baker acted, homeless or have lost custody of their children because of a mental illness. She stated people with mental illness are human beings and need to be treated equally.

Alvin Dozier, former ALF resident. Mr. Dozier testified that he lived in ALFs all his life and in 2006 was in an ALF in Tampa. He got into an argument with one of the staff and was stabbed in the head with a pen and was Baker Acted. He testified that the facility stated the argument was his fault. He left the facility due to health reasons and is currently living independently and enjoys his freedom.

Jose Dunasso. Mr. Dunasso has lived in retirement homes and has found some conditions to be appalling. He testified that he could not place loved ones there and believes that AHCA fails to enforce regulations. He provided information about an administrator he believed ruled with an iron hand. He stated that the well-being of residents is his priority and advocates for more funding for the nursing home diversion and frail elder programs. He believes that a limited mental health waiver should be created.

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Richard Durestein, professional guardian. Mr. Durstein has 60 wards and he provides independent oversight. He expressed the need for the local advocacy council to coordinate with a statewide council. He believes that ALFs were shut down because of his work as a professional guardian. He described ALFs with roaches throughout and testified that ombudsmen are the answer. He recommends having an ombudsmen council specific to mental health.

Ben Caretenuto. Mr. Caretenuto represents 53 facilities in Florida. He recommends better training and specifically Alzheimer's disease training. He testified that monetary damage is not the answer and that there have been massive cuts to the nursing home industry. He stated it is easy to point fingers unless someone has been where he has worked. He believes in taking care of people.

Anna Small, Assistant General Counsel, Regulatory Care, LaVie Care Center. Ms. Small commented on AHCA's administrative process and she believes the process is fair and that there is a check and balance in the system. She stated all providers that are regulated have the right to challenge any action AHCA takes. She is concerned that we may see the Agency's discretion taken away.

William Teague, former Ombudsman. Mr. Teague believes the vast majority of facilities are helping residents and a minority of facilities has damaged the image of ALFs. He focused on the following issues: lack of training; ALFs having residents that should be in a nursing home and problems with medication administration. He testified that limited mental health residents would historically be in a state hospital.

Sandra Hall. Ms. Hall testified that she owns two ALFs in the Florida Panhandle. She referenced current administrator requirements of being 21 years of age and believes that work experience should be able to substitute. She spoke of Ombudsmen needing to talk to residents

instead of reviewing paperwork and believes the cost of care in an ALF should be higher. She testified that residents pay approximately $9 a day and $1000 per month is the poverty level. She has had residents since 1999 and many have mental health problems. She currently has 75 residents and stated she cannot group everyone together as they are all different. She is currently awaiting approval from AHCA for additional beds.

Susan Lang, advocate. Ms. Lang is working on a system of care and has a mental illness. She has training and expertise in helping mental health residents and believes being a provider is more than being able to just pass a test and that life experience is needed.

Dr. Kathryn Hyer, Director of the Florida Policy Exchange Center on Aging, University of South Florida (USF). Dr. Hyer made a presentation on the University of South Florida's role in long term care and aging studies. She distributed a packet containing abstracts of different studies and policy briefs and stated that USF has the oldest program in the state for long term care administration. The program has been training nursing home administrators since 1983.

Dr. Hyer recommended expanding the jurisdiction and membership of the Board of Nursing Home Administrators to include establishing and enforcing new standards for Assisted Living Facilities.

She described various studies including:

- The type of individuals in nursing homes and,
- The mental health needs of residents, numbers and risk factors for unnecessary hospitalizations in ALFs and nursing homes as well as services needed.

She stated the needs of individuals in ALFs are greater than the number of staff hours required. Dr. Hyer urged the committee to provide consumers with information about making informed choices and to develop a web-site similar to the federal nursing home compare website. She also recommended that during the inspections AHCA collect information that helps consumers such as: name, age, payment source and diagnosis or information on ADL needs. Further, Dr. Hyer stated that Florida needs a minimum standard of ALF care and enough information routinely reported that consumers can use to make the market for assisted living work. She asked that the workgroup create better information, improve the inspections, consider increasing staffing levels, and improve staff training and make administrators more professional.

Douglas Coffee, owner Dunedin ALF/LMH. This facility was previously Rosalie Manor, a limited mental health facility. He testified that providing services to elders and individuals with mental health problems is like comparing apples to oranges. He stated that more focus needs to be on education and support for limited mental health. Mr. Coffee testified that he has received good support from AHCA.

Mr. Valdez, State Fire Marshal's Office, Regional Supervisor, SW Region. The local fire marshal testified that the current standards follow the 1994 code and 69A-40, Florida Administrative Code.

Brad Lamb, ALF resident. Mr. Lamb testified that he has been attending mental health programs for 16 years and he receives treatment for a bi-polar disorder. He currently resides at Castle Court ALF and has been "stuck" there for years. He stated that he would like to get involved with classes at USF and attend work programs.

Benjamin Voss, resident, Shady Oaks ALF. Mr. Voss has lived at Shady Oaks ALF for 3 years and stated he is satisfied he has had a hard time adjusting. He heard of a case in Plant City where a developmentally disabled person stepped in a pile of ants and they "came down" on him.

Terrence Dixon, ALF resident. Mr. Dixon has resided at Castle Court ALF for 8 years and he is satisfied with it. He would like to receive all of his personal needs allowance at one time so that he can purchase items such as soap, towels and rags.

Rosie Adams, ALF resident. Ms. Adams lives at Shady Oaks ALF and has been out of the hospital for 10 years and is proud of it. Her husband died a few years ago and they provided her a place to stay. She has seizures but helps the staff out when they need it. She spends a lot of time in her room alone.

Deon Crouch, resident. Ms. Crouch lives at Jeannette Boston ALF in Tampa and testified that she had a horrible experience this morning. Ms. Crouch receives medications that every four hours as needed. She took her 6:00 am medications and asked the med tech for them at 10:00 and the response was that she did not need it. The med tech looked in the med book and told Ms. Crouch to do it herself and threw the med card at her.

She testified that she called DCF and stated the woman that answered the phone did not take her seriously and did not take the report. She then called AHCA to file the report and to report that the facility does not have a resident phone, only a business phone. She told the staff she was talking with a state agency and the staff member unplugged the phone. Ms. Crouch came from an ALF in Plant City where she was given a 45 day discharge notice. She has been out of one of her medications for 5 days and staff at the ALF failed to notice. Her diagnosis is major depression.

Molly McKinstry, Deputy Secretary, Health Quality Assurance. Ms. McKinstry provided a presentation on AHCA's ALF regulatory and licensure process. She described the state and local government responsibilities and introduced other state agency representatives:
Susan Rice, DOEA, Robert Anderson, DCF, Betty Zahcam, AG's Office, Tom Rice, APD and, Polly Weaver, AHCA.

The presentation included information about:
Assisted Living Growth,
AHCA Inspections,
Regulatory Oversight Revisions,
The revised Assisted Living Survey,
The Abbreviated Survey,
Regulatory Violations and Deficiencies
Regulatory Sanctions

Consumer Information and Outreach and,
Outreach Activities.

Ms. McKinstry also made a Medicaid presentation for Darcy Abbott who was not in attendance. The presentation included information about Medicaid Reimbursements in Assisted Living Facilities, specifically:

Assistive Care Services,
The Assisted Living Waiver and,
The Nursing Home Diversion Waiver.

Robert Anderson, Deputy Secretary, Department of Children and Families, Adult Protective Services. Mr. Anderson provided a high level presentation of the adult protective services law, s. 415, F.S. and the APS system and how it interfaces with AHCA and ALFs.

David Sofferin, Deputy Secretary, Department of Children and Families, Substance Abuse and Mental Health. Mr. Sofferin provided a high level overview of DCFs role in the ALF process. He spoke of the interagency agreement between DCF and AHCA. He stated that housing for individuals with behavioral health issues is the next initiative for the Substance Abuse and Mental Health Program and the goal is community inclusion.

Florida International University (FIU), Miami, Florida, hosted the third AL Workgroup meeting at the Stadium Club at Alfonso Field, November 7-8, 2011.

Public testimony from the following individuals was heard:

Dr. Bill Lanpher, Dr. Lanpher is a resident at Shell Point ALF in Ft. Myers, Florida. Shell Point is a Continuing Care Retirement Community and is the home of twenty-three hundred residents. He reports that he and his wife enjoy high quality of care and he is astonished at the findings in the newspaper articles. Shell Point ALF is a full service retirement community and he has a right to transfer or leave at any time.

Mrs. Jean Field, Mrs. Field has lived the last one and one-half years at Shell Point ALF in Ft. Myers, Florida. She is a Registered Nurse with a Master's Degree and receives great care at the ALF. Mrs. Field works in the store at Shell Point and all of her customers are satisfied. She is "shocked" at the recent press reports. She believes the facilities providing good care should not be tarnished by those that provide poor care.

Jerome Silverberg, Mr. Silverberg is a professional guardian and a second generation Floridian. He believes people in Florida should be protected and that professional guardians need to be in a number of facilities.

Pam Ford, Ms. Ford is a peer services coordinator and works with severely and persistently mentally ill persons. She reports that private providers, not community mental health services, are billing Medicaid for services they have not provided.

Linda McClamma, Ms. McClamma oversees an 83 unit assisted living facility and stressed the importance of the social model, allowing a flexible management process. She spoke of the minimum staffing hours per resident for direct care, nursing services coverage, increased educational requirements for ALF administrators and the bed hold policy.

Stacy Daniels-Dattilo , RN Manager of The Arbor at Shell Point Retirement Community in Ft. Myers, Florida, Ms. Dattilo and supports stronger educational requirements of ALF administrators. She believes nurses should be able to work to the fullest extent of their licenses in a standard ALF.

Jose Duasso, owner and operator, Assisted Living Retiremetn Homes I, II, II and Cutler Bay Village, ALF. Mr. Duasso's facilities total 68 beds and he has been in industry for 19 years. Mr. Duasso has concerns about surveyors and believes he should be in partnership with AHCA. He expressed that the Ombudsman Program was created for resident advocacy and the volunteers should not act as surveyors. He further expressed concern with funding and the need to have better training.

Marlene Hunter, M.S., CHCRM, ALF Trainer, Consultant and Risk Management Expert. Ms. Hunter advocated strengthening ALF administrator training and staff in-service training.

Carol Berkowitz, Florida Association of Homes and Services for the Aging (FAHSA). FAHSA stresses the importance of social model of care for ALFs and the establishment of residency criteria within the law. There is concern about access to care and case management coordination between waivers. ALF provider qualifications should be strengthened and surveyors should be more efficient.

Conchy Bretos, Former Assistant Secretary for Aging and Adult Services. Ms. Bretos represents Mia Senior Living Solutions, providing low income seniors public housing in assisted living facilities. Ms. Bretos recommends centralizing all operations to one agency, giving AHCA the power to act and revoke licenses accordingly and increasing Medicaid reimbursement rates.

Greg Hopcroft, ALF Owner. Mr. Hopcroft advocated for small ALFs that are successful. He believes that life experience should count toward qualifications for an ALF administrator.

Olga Golik. Ms. Golik testified that more housing options are needed for individuals with mental illness and that ALFs are not always appropriate. People need to be offered more choices and conditions need to be improved with provision of necessary services and increased funding. The OSS personal needs allowance of $54 per month is not sufficient.

Scott Eller. Mr. Eller is the owner of Renaissance Manor ALF/LMH in Sarasota. He testified that funding is low and he believes that residents are living at the federal poverty level. He believes providers have been set up to fail and a system should be designed for quality assurance.

Don Herring, Ombudsman Program. Mr. Herring provided testimony about adult family care homes and does not believe that model is the answer. He believes rules must be flexible and minimal.

Berta Jaffee. Ms. Jaffee owns a six bed ALF and advocates for small ALFs that are successful. She receives $670 per month for her residents and states it is difficult to make ends meet with that amount of money.

Jeffery Fenster. Mr. Fenster is a private attorney who represents residents injured in ALFs. He provided testimony that an ALF owner was fraudulent and neglectful and he believes this is a statewide problem.

Artinais Alarcom is an ALF administrator and is very worried about the future of ALFs as they are underfunded.

Henry Parra, owner, Genesis ALF. Mr. Parra testified about patient brokering and how difficult it is for him to obtain residents for his six bed ALF. He stated about the black market in South Florida of receiving residents. Mr. Parra is the founder of an organization that represents small facilities in Miami/Dade with English as a second language. He believes the provider industry needs to be better educated and appropriate information needs to be available for success.

Bill Hearn, Ombudsman Program. Mr. Hearn does not agree with the new Ombudsman assessment forms.

Brian Lee, Families for Better Care. Mr. Lee is a former Ombudsman and provided testimony supporting a more stringent survey and inspection process for facilities.

Soul Chaprich, Century ALF. Mr. Chaprich testified that problems in ALFs are because of lack of vision and foresight to provide a safety net.

Linda Cole. Ms. Cole is the owner of a six bed facility in Central Florida. She testified that ALF owners are under tremendous pressure and have a responsibility to run facilities well. She spoke of the difficulty facilities have keeping residents and she is aware that some companies charge up to $2,000 to place residents. Her facility is CARF certified.

Amerillis Isque, owner of a small 6 bed facility in Miami/Dade. She has difficulty with family members who refuse to pay for her residents.

Ms. Montero. Ms. Montero provided testimony in support of the former owner of Grand Court Village, Mr. Arturo Godinez.

Judy Rosenbaum. Ms. Rosenbaum is a retired AHCA employee and became an ombudsman. She saw gross negligence in ALFs when she was a volunteer.

Axel Mercado. Mr. Mercado is a physician assistant, wound clinician. He provided testimony in support of ALFs accepting residents with stage III or IV pressure ulcers.

Adine Kaufman. Mr. Kaufman is the administrator of Anchin Pavilion in Sarasota. Anchin Pavilion has an excellent reputation and is always full. He does not believe there should be an appeal process for discharges and the notice of relocation should be 30 days.

Ralph Garcia. Mr. Garcia owns a six bed ALF and disputed earlier testimony that ALFs are not required to have liability insurance. Liability insurance is required for licensure.

PHASE 2 ISSUES

Consumer Information

1. Develop, in an electronic format, a consumer ALF guide similar to the nursing home guide, and considering inclusion of an ALF rating system and an ALF watch list. These documents will assist people by providing important facts such as deficiencies found at inspection, the number of beds, the languages spoken, inspection results, rates charged for a standard set of services and whether the facility accepts Medicaid waivers.

ALF Administrator Qualifications

1. Create a workgroup of providers and stakeholders to evaluate the current educational requirements and curriculum for certification as an administrator of an ALF, education and training requirements for staff, continuing education requirements, and training and education requirements for administrators and staff of specialty licensed ALFs.

2. Require administrators to have a two year mentorship under an ALF administrator with no Class I or II violations.

3. Increase administrator requirements for an ECC facility. Allow a registered nurse license to satisfy the requirement.

4. Create ALF administrator licensure with a Department of Health board to track and monitor discipline and core training. No exceptions for small facilities.

5. If there are increased requirements for ALF Administrators, consider accepting licensure as a nursing home administrator or a registered nurse to satisfy requirements.

6. Prohibit facility administrators from owning or serving as administrator of any facility if an action to revoke or deny a license is upheld at a facility where they were previously employed.

Licensure

1. Seek legislative changes to s. 429, F.S. that are resident-care focused (Alzheimer's secured units, safekeeping of residents funds) and ensure that regulations are appropriately and consistently enforced (keep violations in s. 429, F.Ss) yet streamlined where appropriate (advertising – use of "ALF", combined adverse incidents reporting).

2. Revise regulations to be appropriate for specific persons served in an ALF including persons with serious mental illness and those serving geriatric or medical needs.

3. The ALF licensure and regulatory provisions be placed back into Part I of s. 429, F.S.

4. Examine the current array of ALF specialty licenses and determine if they are still needed or should be modified.

5. Evaluate expectations for quality of life and care in an ALF. Focus cannot be limited to physical health and safety – it must extend to other quality of life factors, including staff who are kind and focused on the individual wants / needs of each resident. Consider questions raised during public testimony "Would I want to live in this facility?" or "Would I place my mother in this facility?" No lower expectation should exist for other individuals.

Resident Admission

1. Hold state and local hospitals accountable for discharge planning that matches individual needs and desires to an appropriate and available setting that best integrates individuals into the community. Modify Chapter 395, F.S., to require hospital document consideration of an individual's choices in discharge placements. Address hospitals that do not consider the individual's preferences and community integration in discharge planning.

2. Adopt an ALF pre-admission screening process implemented by an independent body (a simplified and expedited version of PASRR). This "single point of contact" would permit choice counseling and referral to an ALF most appropriate to align with the individual resident needs.

Resident Discharge

1. Enact legislation that provides ALF residents a formal appeal process for disputed discharge.

2. Afford ALF residents discharge protection that mandates specific reasons for relocation, provides ample notice to residents, and provides residents with an administrative appeal hearing process.

Resident Safety and Rights

1. Increase amount and quality of activities made available to ALF residents. Require ALFs to seek out individualized activities and services independent of the facility that are chosen by each resident and expedite participation in these activities and services. Activities must be meaningful activities and allow residents the opportunity for productive learning, life skills, and job experience. This may include meaningful part-time work or volunteer activities, depending on the preferences of the resident. Some structured and meaningful activities can be provided in the ALF, but those integrated in the community with non-disabled persons should be encouraged.

2. Examine ALF staffing ratios.

3. Prohibit ALF related staff from serving as Representative Payees. This creditor / debtor relationship places the resident under the control of the ALF for all aspects of their life, preventing them from moving to another ALF or a more independent living environment.

4. Prohibit any binding arbitration agreement language in resident contracts. These contract clauses limit a resident's right to access due process whenever care disputes arise.

5. Enact legislation that encourages residents and families to establish independent groups within each ALF focused on improving conditions and care for residents without interference from staff.

6. Ensure an anonymous method of regularly seeking input from ALF residents about the nature of the care received in a facility without relying only on complaint investigations or on-site surveys. CARF provides such a mechanism, as does the LTCOC.

7. Clarify in statute that the ALF administrator is responsible for ensuring that the resident receives adequate care and services.

8. Enact public record exemption for AHCA complaints. Complaints filed with AHCA are not protected from disclosure. Consider adding confidentiality to AHCA complaints equivalent to that of the Ombudsman.

ALF Information and Reporting

1. If ALFs are required to report to the Agency occupancy rates and resident acuity, they need to have an online reporting system that requires no more than 30 minutes per quarter for data entry. ALFs will also need to be able to pull up congregate occupancy rates and resident acuity compilation data for their area in order to compare their facility demographics to the average.

2. Require AHCA to investigate the types of technology currently available for cost effective methods of collecting, reporting, and analyzing client information and allow facilities to select the type of technology most appropriate to each individual facility. Easy to use swipe / scan handheld devices may be available. The fiscal impact of equipment, software, training, and staff time must be considered.

3. Require all ALF staff to collect and identify client information that would indicate a change of condition and notify the resident's case manager to enable early intervention and prevent escalation of symptoms that might result in a transfer, discharge, Baker Act, police involvement, injury to staff or resident, or other adverse event. Electronic collection and sharing of this information will improve timely response.

4. Require AHCA to examine the "Dashboard" technology used by DCF in measuring the outcomes of Community Based Care agencies serving dependent children. Some aspects of this oversight should be applicable to long-term care settings.

5. Use a document vault where all critical documents can be stored related to an individual resident. This prevents the loss of such documents, increases access to them by authorized persons to prevent duplication of effort, and reduces costs. Protection of such documents and criminal sanctions for misuse needs to be considered to prevent fraud by unauthorized persons or for unauthorized purposes.

Enforcement

1. Utilize existing regulations to evict unethical or incompetent providers from the system. Recognize that most ALF residents are currently being well taken care of under the current regulatory environment. Do not undermine a social model of care that works.

2. Maintain current law that fines will only be imposed for low-level citations if uncorrected, to focus penalties on poor performers without adverse impact on competent providers.

3. Evaluate the ALF enforcement process beyond a punitive approach. Although the punitive approach is necessary for chronically poor performing facilities, it is not he best way to elevate quality across the ALF community. Examine the Wisconsin model for ALF regulation which is similar to the AHCA abbreviated survey with the addition of a consultative/collaborative regulatory model.

4. Give AHCA more power if necessary to place sanctions, fines, moratoriums, as well as deny, revoke or suspend licenses for poorly performing facilities. Fines for non-compliance should be increased and immediately paid. Such sanctions would be subject to due process through existing appeal processes. Agency discretion on sanctions should be discouraged or eliminated as such discretion creates the appearance or reality of unequal application of regulatory powers.

5. Evaluate discretion of sanctions and determine if some should be removed, but allow some AHCA discretion. Removing discretion more broadly may cause unintended consequences and needs to be discussed much further.

6. Revocation or denial of renewal license should be mandatory for certain violations including resident death at a facility because of intentional or negligent conduct on the part of the facility. Consider the degree of culpability.

7. Allow the monies from administrative fines to be used in the facility to correct the deficiency allowing the facility to enhance the standard of resident care.

Funding

1. Evaluate the actual cost of the current regulatory program and any proposed changes and determine full costs of any law changes before raising fees.

2. Provide AHCA the necessary resources to apply the statutory and regulatory measures necessary to protect vulnerable persons. These include political support by the Legislature through substantive laws and financially through appropriations to hire sufficient numbers and quality of staff in its field offices to provide the intensity and frequency of surveys and complaint investigations necessary to protect the public.

3. Consider options in the Senate Committee on Health Regulation Interim Report 2012-128, to fund required inspections including some combination of additional fees, especially higher fees for facilities that require greater regulatory oversight.

4. Require licensure fees for OSS beds. Florida law exempts facilities that designate their beds as OSS from licensure fees. The current fee for non-OSS beds is $61 per bed in addition to the $366 standard licensure fee. Some of the facilities that receive this exemption for the majority of their licensed beds require significant regulatory resources. There are currently 15,678 OSS beds in Florida, so revenues generated would be $478,179 annually (15,678 x $61/bed every 2 years for biennial licensure).

5. Increase the per-bed, per facility, and/or specialty licensure fees for all providers to offset program deficits.

6. Assess higher fees at renewal for those facilities that required greater regulatory oversight based on the number of complaint inspections, violations cited, follow up visits required to determine correction of violations, and adverse sanctions such as moratoria, suspension, fines, or other actions.

7. Remove the prohibition on imposing an administrative fine when a Class III or Class IV violation is corrected within the time specified.

8. Reevaluate the assisted living fee structure as it relates to paying the cost of regulation.

9. Prohibit fines from going back to the Agency to offset the costs of the licensure program.

10. Address the 15,000 people on the waiting list when asking for additional "nursing home diversion."

11. Provide more financial support for ALF care and services including increased per diem rates and more funded slots/beds.

12. Evaluate the actual cost of assisted living facility care and apply for access to federal funds through Medicaid. Utilize the pay for performance methodology.

Resident Advocacy

1. Increase funding for the Centers for Independent Living to expand the numbers of persons served and recognize the Centers for Independent Living as an essential part of the ALF statute. Their roles of information and referral, peer monitoring, independent living skills training, advocacy and other services are ideally suited for persons who are living in ALF's and those who wish to live more independently.

Mental Health

1. Require more education and experience for LMH facility administrators with a greater focus or specialization in mental health care such as a two year degree and two years of experience or a

four year degree with coursework in a mental health related field seems reasonable. Consider a grandfather provision for current administrators.

2. Recognize the shift of placements for persons discharged from state hospitals, now residing in ALFs.

3. Identify the features or characteristics of a good LMH for model of programs that best meet the needs of persons with serious mental illness and the associated behaviors.

4. Provide more case management services and advocacy for residents which could contribute more to the resident's quality of care and life.

5. Clarify oversight responsibilities of private case management and mental health treatment providers as it relates to community living support plans and cooperative agreements. Not all individuals in ALFs are served by DCF funded mental health providers, making DCF oversight of those providers difficult.

6. Maintain the independence between mental health services and case management in assisted living facilities. Shifting services and case management to a facility-based model instead of resident-based may place the needs of the facility over the needs of the resident, and limits resident choice in case managers and living arrangements.

7. Retain role of the designated mental health providers to manage mental health clinical issues and do not shift this role of the ALF. While close working relationships between the ALF and the mental health provider are essential, it is equally essential that no inducements or other devices limit the choice of residents as to where or from whom they receive their mental health services.

8. Do not move the Medicaid case management program from community mental health centers to the ALF. The Medicaid program is limited to eligible services for Medicaid clients. It requires extensive psychiatric oversight and linkage only available within a clinical context. This is not the "social service" program ALFs desire nor should it be facility-based and dependent on the residence where an individual lives.

9. Do not require DCF to contract with specialized community mental health centers to provide case management and other mental health services to residents of ALFs. This would more likely meet the needs of the facility at the expense of the resident. Residents often move between ALFs or to more independent settings and they need to retain the continuity of care possible through the trusted relationship with their case manager.

10. Require DCF/Managing Entity evaluate the cooperative agreements in place to ensure that they are sufficient to meet the mental health needs of LMH facility residents and that the circuit plans are consistent with the DCF/substance abuse and mental health district plans related to case management services, including access to consumer-operated drop-in centers, access to services during evenings, weekends, and holidays, supervision of clinical needs of residents, and access to emergency psychiatric care.

11. Require DCF/Managing Entity review a sample of the community living support plans at each LMH facility to ensure they represent adequate mental health supports as well as activities and services that represent the preferences of the consumers.

12. Require DCF/Managing Entity verify that each mental health resident is assigned a case management and that face-to-face contact has been documented as required by law and rule.

13. Require staff at the DCF to ensure consistency of LMH facility services and increase the monitoring responsibilities of mental resident case managers.

14. Amend s.400 and 429, F.S., to require that before an ALF or nursing home or its agent can initiate an involuntary examination under the Baker Act that it must document a series of efforts have been attempted to prevent this action. The statutory amendment would require DOEA, AHCA and DCF to collaborate in the promulgation of rules defining what these efforts would be. The Florida Health Care Association's Quality First Credentialing Foundation has adopted a Best Practice Tool governing "behavior management/aggression control & involuntary Baker Act guidelines". This Tool is incorporated in the state's Baker Act Handbook (Appendix E-9 through E-12); it could provide the basis of such rules.

15. Develop a process for persons with severe and persistent mental illness whose care is subsidized to allow that subsidy to follow that person in alternative residential settings.

16. Conduct a study to explore the methods of enhancing care for persons with severe and persistent mental illness in assisted living facilities.

Multiple Regulators

1. Form a workgroup of all agencies involved in ALF regulation and stakeholder groups to develop a new organizational structure streamlining the regulatory process. Designate AHCA as the lead agency for all regulatory activities in the interim.

2. Improve coordination between the various federal, state and local agencies with any role in long-term care facilities oversight; especially ALFs. This includes the Agency for Health Care Administration; the Long Term Care Ombudsman Program; local fire authorities; local health departments; the Department of Children and Families', Adult Protective Services and Substance Abuse and Mental Health Programs; the Department of Elder Affairs Area Agencies on Aging; local law enforcement; and the Attorney General's Office.

3. Agency responsibilities and lines of communication, coordination, and cooperation between agencies with oversight/regulatory responsibility for ALFs be clearly defined and formalized in written inter-agency agreements.

4. Limit the role of AHCA to regulatory oversight – consultation needed by the industry and its members can be obtained from organizations of their choice and at their own expense. AHCA

should promulgate rules establishing quality standards in collaboration with DOEA and DCF, and survey licensed facilities for full compliance with those laws and rules.

5. Allow AHCA to use DCF Adult Protective Services findings and pursue sanctions for repeated verified abuse findings in a facility.

6. Authorize for AHCA to deny, revoke or suspend a license if the licensee is a named perpetrator in a verify report of abuse, neglect, or exploitation, similar to APD licensure authority in s. 393.0673, F.S.

7. Authorize use of DCF Adult Protective Services finding and investigations in employment matters. s. 415.107(8), F.S., states that "...information in the Central Abuse Hotline may not be used for employment screening." The current statutory construct allows for the verified perpetrators of abuse, neglect, or financial exploitation to continue working with vulnerable populations as long as none of those cases subsequently result in prosecution and conviction (under a disqualifying criminal offense). Allowing ALFs (and other providers) to use the information from the abuse registry to screen out such employees during the hiring process would necessitate a change in this law. Such a legislative change would require that DCF offer due process hearings for perpetrators prior to the closure of all abuse investigations with verified indicators.

8. Modification of existing administrative rules should also be considered so that any licensee, direct service provider, volunteer, or any other person working in a residential facility who is an alleged named perpetrator in an active protective investigation of abuse, neglect, or exploitation of a vulnerable adult under s. 415, F.S., or abuse, abandonment, or neglect of a child under part II of s.39, F.S., are prohibited from working directly with residents or being alone with residents until the investigation is closed. The only exception to this prohibition would be if the alleged perpetrator is under the constant visual supervision of other persons working in the facility who are not also alleged named perpetrators in the same investigation. This provision would only be applicable in situations where the licensee has been made aware of the investigation.

9. Enhance DCF Adult Protective Services electronic case management system (Florida Safe Families' Network) to identify trends in abuse, neglect and exploitation by modifying the system to coding investigations by resident setting (facility type). Currently, all institutional reports are lumped under one category. The system could be modified to capture discrete types of facilities, which would enhance our ability to look for patterns and plot frequencies.

10. Consider a document vault to allow off-site compliance review and share information between regulatory agencies.

11. Retain multiple visitors in non-compliant facilities.

Home and Community Based Care

1. Enable housing choices beyond ALFs including independent and supported living settings with supports necessary to ensure success through the following:

    - Approve AHCA to implement the Money Follows the Person (MFP) funding and authorize the use of Medicaid-financed assistive care payments in facilities other than ALFs.
    - Allow Optional State Supplement (OSS) funding currently spent in facility settings to follow the person into the community.
    - Reinstate money cut from DCF institutional budgets and allow it to follow the person into the community.
    - Fund the Affordable Housing Trust Fund and eliminate funds sweeps.
    - Make supportive housing services available under Medicaid.

2. Create incentives for placement of disabled residents in Adult Family Homes and supported / independent living settings that may not have the economy of scale available to larger ALFs, but do have the ability to provide individualized attention to resident needs in a home-like setting.

3. Eliminate the waiting list for waiver programs and have open enrollment for Medicaid waiver providers. Make assisted living funding readily available similar to how institutional care is funded through the long-term care system (Medicaid reimbursement for nursing homes). Expand the assisted living waiver program and focus on facilities that prove they meet significantly higher quality of care standards.

A Losada

From: Craig Lewis
Sent: Wednesday, September 14, 2016 4:16 PM
To: A Losada
Subject: Fwd: ALF

Craig R. Lewis, Esq.
Vincent F. Vaccarella, P.A.
401 SE 12 Street, Suite 300
Fort Lauderdale, FL 33316
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Begin forwarded message:

From: "RICK .YUNE" <ryune8@gmail.com>
Subject: Fwd: ALF
Date: September 14, 2016 at 12:38:14 PM EDT
To: Vincent Vaccarella Panthers <vincent@v-law.net>, Craig Lewis <clewis@v-law.net>

---------- Forwarded message ----------
From: **Mooney, Thomas** <ThomasMooney@miamibeachfl.gov>
Date: Monday, 8 February 2016
Subject: Fwd: ALF
To: "RICK . YUNE" <ryune8@gmail.com>, Daniel Veitia <daniel@urbanresource.com>

Sent from my iPad

RM-1,2 or 3:
The conditional uses in the RM-1 residential multifamily, low density district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages.

Adult congregate living facility means any state licensed institution, building, residence, private home, boarding home, home for the aged, or other place whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it

holds itself out to the public to be an establishment which regularly provides such services.

Hospital means an institution licensed by the State of Florida as a hospital, having facilities for in-patients, providing medical or surgical care for humans requiring such treatment, and which may include accessory uses, related facilities such as nursing homes, convalescent homes, home health agencies, hospice facilities and other accessory hospital facilities as described in subsection 142-452<https://www.municode.com/library/fl/miami_beach/codes/code_of_ordinances?nodeId=SPBLADERE_CH142ZODIRE_ARTIIDIRE_DIV10HDHODI_S142-452PEUS>(2).

Institution means a use, building or organization of a public character or providing a public or semipublic service.

Nursing home means a facility licensed by the state as a nursing home and providing long-term care of the chronically ill, the physically disabled, and the aged who are unable to move about without the aid of another person or device.

[Cropped-for-E-signature-MiamiBeachLogo_Green250px]
Thomas R. Mooney, AICP
Planning Director

PLANNING DEPARTMENT
1700 Convention Center Drive, Miami Beach, FL 33139
Tel: 305-673-7000 ext. 6191 / Fax: 305-673-7559 /
www.miamibeachfl.gov<blocked::http://www.miamibeachfl.gov/>
We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.
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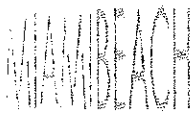

A Losada

From: Craig Lewis
Sent: Wednesday, September 14, 2016 4:16 PM
To: A Losada
Subject: Fwd: PLANNING DIRECTOR DECISION !! NORMANDY LIVING OPERATIONAL PLAN

Craig R. Lewis, Esq.
Vincent F. Vaccarella, P.A.
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Begin forwarded message:

From: "RICK .YUNE" <ryune8@gmail.com>
Subject: PLANNING DIRECTOR DECISION !! NORMANDY LIVING OPERATIONAL PLAN
Date: September 14, 2016 at 12:48:11 PM EDT
To: Vincent Vaccarella Panthers <vincent@v-law.net>, Craig Lewis <clewis@v-law.net>

---------- Forwarded message ----------
From: **Mooney, Thomas** <ThomasMooney@miamibeachfl.gov>
Date: Thursday, 21 April 2016
Subject: NORMANDY LIVING OPERATIONAL PLAN
To: "RICK .YUNE (ryune8@gmail.com)" <ryune8@gmail.com>
Cc: "Boutsis, Eve" <EveBoutsis@miamibeachfl.gov>, "Kallergis, Nick" <NickKallergis@miamibeachfl.gov>, Michael Larkin <MLarkin@brzoninglaw.com>, Justin Karr <jkarr@brzoninglaw.com>, "Belush, Michael" <MichaelBelush@miamibeachfl.gov>

Hi Rick

As I mentioned on the phone, I discussed with Nick Kallergis from the City Attorney's Office. As long as any medical procedures that would otherwise be considered hospital or medical office level are conducted off site, based upon the proposed operational plan below, you would fall under the category of an ALF, and can file an application for Planning Board review. As Planning Board review and approval is discretionary, we would recommend in engaging in community outreach as soon as possible.

We are scheduled to meet with your legal team regarding the application next Tuesday.

Let me know if there is anything you would like to discuss further.

Tom

From: RICK .YUNE [mailto:ryune8@gmail.com]
Sent: Tuesday, April 19, 2016 5:42 PM
To: Boutsis, Eve; Mooney, Thomas; Justin Karr Mia Lawyer; Gregory Fontela; Chris Cuomo; Mark Epley
Subject: NORMANDY LIVING OPERATIONAL PLAN

Normandy Living will be a state licensed residence providing services 24 hours per day 7 days per week, 365 days per year for a minimum of 12 residents not related to any of the owners or administrators.

Breakdown of hours of operation according to service type (e.g. meals served at which hours; recreation and activities at these hours)

Meals will be served as follows:

Breakfast	8:00 AM – 8:30 AM
Lunch	12:00PM – 1:00 PM
Dinner	5:00 PM – 6:00 PM

Snacks and beverages will be available 24/7

Typical Daily Activities Schedule (including group and individual) will be as follows:

6:00 to 8:00 am wake-up, personal hygiene, administration, clean room

8:00 to 8:30 am breakfast

8:30 to 9:00 am morning meetings

9:15 to 10:30 am group activity

10:45 to 11:45 am workshops men\ recreation women

12:00 to 1:00 pm lunch

1:15 to 2:15 pm educational programming

2:30 to 3:30 pm educational programming

3:45 to 4:45 pm men's recreation\Women's workshop

5:00 to 6:00 pm dinner

6:15 to 7:15 pm evening workshop

7:30 to 8:45 pm group activities/exercise options

9:00 to 11:00 pm evening individual and group residential activities

11:00 pm lights out

Groups will be available in the morning and afternoon on Saturday's. Recreational activities will be scheduled for Saturday afternoon and Sunday all day. Staff will be available Monday through Saturday. Support staff will be scheduled 24/7 and will lead and supervise all recreational activities.

At intake each resident will meet with Staff and Director to assess Individual Resident Protocols ("IDP") set by the off-site Medical Director. Medical director standards will comply with department of children and families residential detox. The IDP will include support for daily living (taking medication, daily hygiene), health consciousness, mental health and positive mind set awareness. Staff and Resident director will monitor resident IDP progress. Check-ups and services for progress monitoring will be supported for outcome reports. Close attention will be paid to residents' compliance with substance abuse treatment, medical care, psychiatric care, mental health treatment. Residential Director and staff will monitor daily medication and activity schedule. Level of service will seek consistently to be in harmony with the surrounding residential area

Resident directors and staff will coordinate residents to desired off-site substance abuse treatment, medical services, mental health services, and counseling services.

Transportation/Offsite programs & services

To the extent possible services will be provided on-site. Transportation to off-site services will be provided by the program as necessary.

Residents – composition/description of residents

Residents are age 18 and over, males and females who have been assessed by qualified health care professionals to determine if they meet criteria for admission. Individuals who are too medically compromised and/or have been diagnosed with significant mental or health issues will be referred to Mount Sinai Hospital. Normandy Living does not discriminate based on sex, race, color, religion, creed or sexual orientation.

Housing - Bedrooms and bathrooms

Each room is designed to house two patients with a private bath in each bedroom.. Normandy Living will foster peer support for community based interaction. Each resident will have a single bed, desk, chair, lamp, Anwar dresser, mirror and a secure area to lock personal belongings.

Dining & nutrition

A nutritious meal plan including three healthy, well balanced meals. These meals will be provided through an off-site food service vendor. Fresh, healthy snacks along with beverages will be available 24 hours a day.

Security Guards: Security is staffed 24 hours a day, 7 days a week, 365 days a year. There will be a minimum of 2 security staff at night time and 3 during the day time to assist with admissions.

Housekeeping staff: 2 per shift

Each employee will have the qualifications and credentialing as required by the scope of their service. Security Guards will hold a Florida Security license. All staff will be trained as required by regulations and including the following:

- --Universal Precautions
- --Exposure Control
- --HIV
- --CPR
- -- First Aid
- --De-escalation techniques

Deliveries/Pickups – service and loading plans:

Deliveries and significant maintenance such as carpet cleaning, etc. will be done during normal business hours. Garbage pickup will be done daily. Recycling of all paper and plastic goods will be mandatory.

Parking policy and plan

Parking will be as designed on the proposed site plan.

Maintenance & Waste

Trash room, recycling, refuse pick up:

Garbage pickup will be done daily. Recycling of all paper and plastic goods will be mandatory.

Housecleaning and property maintenance provision:

All linens, towels, and laundry will be maintained by the facility. Rooms and building will be will be cleaned daily.

No Loitering Policy

Once admitted residents will not be allowed to loiter outside the property. Card readers at access points: there will be a card reader system to enter and exit facility at all access points.

Security guards: hours, location onsite:

Security is staffed 24 hours a day, 7 days a week, 365 days a year. There will be a minimum of 2 security staff at night time and 3 during the day time to assist with admissions. Cameras will be installed around the property and in the hall ways for monitoring. All fire safety requirements will be met as per state and local law. Access will be through the main lobby with a receptionist. All guests will be required to sign in and show identification Guest will have to sign the HIPAA waiver and Federal Confidentiality statement.

Security guard responsibilities: secure and monitor the property; respond to calls for assistance; perform internal patrols; supervise parking area

Security alarm system: Facility is staffed 24/7. There will be a fire alarm system installed as per regulations.

Security cameras: Cameras will be installed around the property and in the hall ways for monitoring. All fire safety requirements will be met as per state and local law.

Compliance

Compliance with Government occupational regulations: Normandy Living and it's staff will attain the necessary state licenses to provide any services.

Planning Commission Staff Report

Date:	July 11, 2012
Case No.:	5.1265 ZTA
Type:	Zone Text Amendment
Location:	Citywide
Applicant:	City of Palm Springs
To:	Planning Commission
From:	Craig A. Ewing, AICP, Director of Planning Services
Planner:	Ken Lyon, RA, Associate Planner

PROJECT DESCRIPTION

The City Council, during a recent public hearing, directed staff to develop a draft amendment to the Zoning Code, establishing a definition and development standards for regulating substance abuse recovery centers. Based on direction provided, a draft ordinance will be prepared for the Planning Commission and a public hearing will be scheduled.

RECOMMENDATION

That the Planning Commission discusses the parameters of the proposed zone text amendment and gives staff direction.

PRIOR ACTIONS

On May 18, 2011, the City Council held a public hearing on Case 5.1249 PDD 358 to consider approval of "Michaels House", a substance abuse recovery center at 1910 South Camino Real (the former "Tiki Spa Hotel"). At that hearing the council requested staff to review the definition and regulatory standards for substance abuse recovery centers.

BACKGROUND

Zoning Ordinance Text Amendments (ZTA's) may be initiated by City Council or Planning Commission pursuant to procedures outlined in Zoning Code Section 94.07.01. A public hearing is required.

It may be helpful for the Commission to consider the following in initiating discussion on this ZTA:

- Definitions
- State Law limits on local zoning.
- Problems needing to be solved.
- What other cities are doing.

Definitions: Substance Abuse Recovery Center or Assisted Living Facility?
The Palm Springs zoning code does not currently provide a specific definition, (or development or performance standards) for substance abuse recovery centers. Historically, applications for substance abuse recovery center uses have been evaluated and processed using the definition and development standards for "assisted living facility" ("ALF's"). This approach has thus far provided an adequate legal and zoning basis for regulating these businesses. The current definition for assisted living facilities is as follows:

> *"Assisted living facility" means a special combination of housing, supportive services, personalized assistance and health care licensed and designed to respond to the individual needs of those who need help with activities of daily living and instrumental activities of daily living. Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs in a way that promotes maximum dignity and independence for each resident and involves the resident's family, neighbors and friends, and professional caretakers.*

State Law: Limits on Local Zoning.
Several years ago, the State of California legislature established policies to encourage the development of "sufficient numbers and types" of alcoholism or drug abuse recovery or treatment facilities "commensurate with local need"[1]. This initiative was aimed at persons with mental and/or physical disabilities, persons with chronic disease or illness and the elderly. The effort was to provide a "non-institutional environment" where individuals could be integrated into society and the community while receiving assistance and treatment.

The State of California Health & Safety Code Section 11834 established regulations to

[1] The Lanterman Developmental Disabilities Act of 1977

encourage the establishment of such treatment centers with six (6) beds or less in residential neighborhoods. State law requires that residential care facilities that serve six or fewer residents be considered a residential use of property. These facilities must be treated the same as a single-family home and the residents (clients) and operators are considered a family for zoning purposes. Furthermore, it goes on to state "*...an alcoholism or drug abuse recovery or treatment facility which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees or regulations to which any other single-family dwellings are not likewise subject.*" Furthermore,

Thus Cities are essentially left with the ability to regulate substance abuse recovery centers with seven beds or more and extremely little ability to regulate such facilities with six beds or less.

What are the Problems that Need to be Solved?
The overarching public policy issue seems to be how to best balance the rights of individuals with special needs with other individuals and members of the community. Neighbors of substance abuse recovery centers sometimes fear these facilities threaten the safety and value of their families and property. Advocates and facility licensees point out that care and treatment facilities have to be put in *someone's* neighborhood. They argue that neighbors' fears are largely unfounded and they point to examples of facilities peacefully coexisting with neighbors. They also note that studies conclude that residential care facilities do not have a negative affect on neighborhood safety and property values. In addition, advocates find that neighbors are often uninformed about the facility program and residents, which leads to misconceptions and fears. In speaking with Dennis Graham from the Palm Springs Police Department, it is reported that there are a variety of incident calls made to the Police Department involving clients from the existing treatment centers and sober living homes. Dennis notes that the number of incident calls vary widely from facility to facility.

While the City may choose to establish specific regulations and development standards for substance abuse recovery centers when there are greater than six (6) beds, it is questionable whether sites with six patient beds can be regulated at all at the City level (other than life safety, maintenance and building code related issues). It is also these smaller facilities in single family zones that seem to generate the greatest number of complaints from adjacent residents and businesses: notably, noise, smoking, loitering, littering, and increased amount of vehicular traffic and parked vehicles. Some residents have expressed concerns about the lack of information about the character and/or possible criminal backgrounds of clients and residents[2].

Recently, the City has received complaints from residents in multi-family zones where multiple recovery and treatment "centers" of six beds or less were being operated from

[2] Clients may be parolees, sex offenders, or individuals with other sorts of social challenges; however staff is not aware of serious crimes or other incidents occurring involving parolees, criminals or sex offenders who may also have been residents or clients of a substance abuse recovery center.

multiple dwelling units within a single apartment complex (this may be an issue of over-concentration of such facilities).

Generally, the City has received few complaints from residents near the larger "CUP-based" substance abuse recovery centers. Public comment at public hearings for possible award of CUP's for these uses has brought neighbors out to express concerns about noise, clients gathering in the street, and vehicular (van) traffic, but the management of these centers has responded to the concerns by changing procedures, drop off points, and creating rules of conduct for clients. Clearly, when substance abuse recovery centers are well managed, they are an asset both for the City, the community, as well as the clients whom they serve.

Thus, most complaints (noise, smoking, loitering, littering, increased amount of vehicular traffic and lack of knowledge about the criminal history of clients) seem to stem from inadequate management oversight, lack of adequate communication with the neighbors, or overconcentration of the six beds or less group homes that treat substance abuse – the same ones that the State prohibits the City from regulating.

What other Cities are doing.
Other California cities have wrestled with the challenge of regulating and balancing the concerns and interests of treatment centers and neighbors, especially the "six beds or less" facilities.

- Costa Mesa, Laguna Beach and Newport Beach have developed aggressive ordinances to regulate treatment centers (excerpts of various codes and reports are attached).
- Cathedral City does not list substance abuse recovery centers or assisted living facilities as permitted uses. Aside from the state mandate on facilities with six beds or less, this use is simply prohibited in Cathedral City.
- Palm Desert: Handles substance abuse treatment use requests under "mental sanitarium" or "social institution" uses and utilizes conditional use permits to impose site-specific controls.
- La Quinta: Allows them under the definition of "congregate care facility".
- Riverside County: Currently working to re-write their ordinance on these uses.

ANALYSIS:

In drafting a zone text amendment for substance abuse recovery centers, the Planning Commission may want to consider and incorporate the following factors:

1. Definition(s) for substance abuse recovery centers.
2. Zone in which it is a permitted use.
3. Type of approval (by right, by Land Use Permit (LUP), or by Conditional Use Permit (CUP)).

4. Development standards.
5. Special conditions of approval (COA's)
6. Performance and maintenance standards.
7. Licensing, inspection and enforcement actions and regulations.
8. Mechanisms for filing complaints.

Discussion and recommendations for each of the above items are outlined below.

1. Definitions.

As noted above, applications for substance abuse recovery centers are currently evaluated as Assisted Living Facilities ("ALF's"). To build a zoning code section on substance abuse recovery centers, staff considered the various types of recovery centers, or "community-based residential facilities" that are recognized by the State and what distinguishes one from the other.

Types of community-based residential facilities. The State Department of Social Services recognizes several different types of residential community facilities:

1. *Group Home.* Generally, a term used for both large and small facilities that provide supervision and services in a structured environment primarily for children and youth including those in the foster care system. (This type of facility is licensed by the Department of Social Services and does not include substance abuse recovery centers or sober living homes.)

2. *Community Care Facilities.* These may be community-based residential care facilities for the elderly or "Adult Residential Facilities". Residents of these facilities are typically unable to care for themselves or provide for their own daily needs. (Licensed by the Department of Social Services and does not include substance abuse recovery centers.) These are generally the type of facilities that fall under the City's present definition of "assisted living facilities".

3. *Alcohol and Drug Abuse Recovery or Treatment Facilities.* Typically licensed by the Department of Alcohol and Drug Programs (DAPD) in addition to clients who may enroll in these facilities from the general public, the state Department of Corrections uses DAPD licensed facilities to provide community-based drug treatment and recovery services to offenders, (however all residents in these types of facilities are not necessarily within the State Correctional system.) The offender population in community residential facilities typically includes inmate mothers and their young children, and homeless parolees who need multiple services.[3]

[3] Pursuant to State Governmental Code 1522.01, any person required to be registered as a sex offender under Section 290 of the Penal Code shall disclose this fact to the licensee of a community care facility before becoming a client of that facility.

4. *Sober Living Homes.* These facilities provide a supportive environment in which persons with substance abuse issues can live. Residents typically are enrolled in licensed treatment programs, however treatment programs are not typically offered on the premises of Sober Living Homes and they are not considered *Residential Care Facilities and because they do not provide on-site treatment, they are different from substance abuse recovery centers.* (These facilities are also not required to be licensed by the State.)

5. *Community Residential Health Care Facilities.* Licensed by the Department of Health Services, these facilities provide skilled nursing care on a continuous or intermittent basis. Residents of these types of facilities could include those with severe physical or mental developmental disabilities, terminally ill, and the elderly and do not include substance abuse recovery centers. (Also referred to as "congregate care facilities")

*Staff recommendation: In establishing the definition of a "Substance Abuse Recovery Center, **seven beds or more**", incorporate some of the criteria, (definition, etc.) that the State uses for Alcohol and Drug Abuse Recovery or Treatment Facilities. Furthermore, it may be useful to also establish a definition for "Community Residential Care Facilities, **six beds or less**" for purposes of addressing issues related to those facilities over which the City has limited regulatory jurisdiction.*

Staff recommendation: Establish a distinct definition for "Sober Living Facilities" which are not subject to licensing and at six beds or less, that CAN be located in single family zones. The definition should note that within sober living homes treatment programs and detoxification or recovery programs are NOT permitted in these types of uses. (this is because these facilities are unlicensed and by State definition, may provide accommodation, but not provide treatment.)

Here is a proposed definition for substance abuse recovery centers (from the State of California Health and Safety Code Section 11834.02):

> *Any premises, place or building that provides 24-hour residential non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.*

Here is a proposed definition for sober living homes and facilities:

> *Any residential premises, place, or building that allow residents to live in a drug-free, alcohol-free supportive environment. Sober living homes by definition, are not eligible to be licensed by the State and while residents may participate in substance abuse recovery treatment services from an off-site treatment facility, such treatment programs are NOT provided on site.*

2. Suggested Zones.

Currently, the zoning code allows ALF's (assumed greater than six patient beds) with approval of a Conditional Use Permit (CUP) in the following zones: RGA6 and 8, R-2, R-3, R-4, and R-4-VP. They are not generally permitted in single family residential zones, mobile home parks, commercial, professional, or industrial zones. The State's requirement that jurisdictions treat community care facilities, substance abuse recovery centers, sober living homes, and group homes with six (6) beds or less no differently than a single family residential unit, effectively opens single family residential zones to these uses as well.

Staff recommendation: Establish that "Substance Abuse Recovery Centers, seven or more beds", are permitted with a Conditional Use Permit in the following zones: RGA8, R-2, R-3, R-4 and R-4-VP. (We will work with the Tribe regarding the equivalent "zones" for the Section 14 Specific Plan, which would presently be MR (Medium Density Residential; similar to R-2), MBR (Medium Density Residential Buffer; similar to RGA8), and HR (High Density Residential; similar to R-3, R-4).

Although sober living homes are different than substance abuse recovery centers, Staff recommends that the Commission determine whether the same zones might apply in which sober living homes may be permitted.

3. Type of Approval required.

There are three types of approvals presently used in the Zoning Code:

- "permitted by right of zone",
- permitted with a land use permit, (LUP), and
- permitted with a conditional use permit, (CUP).

"By Right" does not allow any conditions to be imposed beyond what is outlined in the development standards for the zone (also referred to as a "ministerial action"). "LUP's" require the application be approved in the zones in which it is permitted, but conditions may be imposed (also a "ministerial action"). "CUP's are "discretionary actions". They allow an application to be denied based on environmental or other factors in which the stated "CUP findings" in the zoning code (Section 94.02.00) cannot be met. As its name implies conditions may also be imposed upon the approval.

Staff Recommendation:

a. *Permit the "seven beds or more" type of uses and facilities, subject to a CUP, in all residential zones except R-1, in which they would be prohibited.*
b. *Permit the six beds or less residential care facilities (including substance abuse recovery centers and sober living homes) in residential zones no differently than a single family home. Note that in all residential zones except R-1, single family residences are permitted "by right" subject to the R-1-A development standards.*

4. Development Standards

Development standards are organized in the Zoning Code by zone and are applicable to all projects within a particular zone. Here is a typical list of factors or headings for which development standards can be found for most zones listed in Chapter 92 of the zoning code:

Section A. Lot area
Section B. Lot dimensions
Section C. Density
Section D. Building height
Section E. Yards
Section F. Distance between buildings
Section G. Lot coverage
Section H. Walls, Fences, Landscaping
Section I. Access
Section J. Off-street parking
Section K. Loading and trash
Section L. Signs
Section M. Other factors such as Antennas, Public Art, etc.

A brief discussion and recommendations for each development standard heading are provided below:

Section A., and B. Lot Area and Lot Dimensions.

Staff Recommendation: Keep lot area and lot dimensions as is for each zone, regardless of type of use.

Section C. Density
Currently, the zoning code limits density for assisted living facilities based on average household size in the City:

(PSZC 93.23.06 (A): The number of beds permitted in a facility shall be determined by multiplying the number of units permitted under the applicable zoning/general plan standards by the average household size for the city of Palm Springs according to the latest census figures.

Tying allowable density to the latest census figures can lead to fluctuations in allowable density from one facility to another depending on changes in demographics in the City over time. A possible alternative method of determining density for substance abuse recovery centers and other types of community residential care facilities is to simply establish a fixed number of beds based on the density of the zone.

Staff Recommendation: Suggested maximum density for substance abuse recovery centers:

- R-1 - maximum six beds. *(In addition State law notes that staff members, owners or operators of the facility may reside in the home in addition to those being served)*
- RGA-6 – 6 du/ac times 2 = 12 beds/acre
- RGA-8 – 8 du/ac times 2 = 16 beds/acre
- R-2 – 15 du/ac times 2 = 30 beds/acre.
- R-3 – 30 du/ac times 2 = 60 beds/acre
- R-4 – 45 du/ac (for hotels) times 2 = 90 beds/ac

Section D. Building height:
Section E. Yards.
Section F: Distance between buildings.
Section G: Lot coverage.
Section H: Walls, Fences, Landscaping.
Section I: Access (this means access from a parcel to a public street)

Staff Recommendation: Keep these development standards as is for each zone, regardless of type of use.

Section J: Off-street parking
Currently the zoning code has two different methods for calculating parking for assisted living facilities as noted below. Many local operators of substance abuse recovery centers prohibit clients from using their cars during treatment. Also, many clients come from out of town and do not bring cars. Staff believes requiring a lower amount of off-street parking that is presently required for assisted living facilities may be possible without causing adverse impacts to others in the zone.

(PSZC 93.06.00 (D)(14). Homes for the Aged, Sanitariums, Children's Homes, Asylums, Nursing and Convalescent Homes. See Section 94.02.00(H)(7) (now 93.23.06). One (1) space for each two (2) beds or one (1) space for each one thousand (1,000) square feet of gross floor area, whichever provided the greater number, plus one (1) for each three (3) employees.

(PSZC 93.23.06(B). Parking. The number of off-street parking spaces shall be no less than the following, unless otherwise permitted by the planning commission:

1. *Independent Living Facilities. Three-quarter (3/4) primary space per unit, plus one (1) designated guest space for each five (5) units.*
2. *Congregate Care, Assisted Living and Board and Care Facilities. One-half (1/2) primary space per bedroom, plus one (1) space for each three (3) employees.*
3. *Intermediate Care and Skilled Nursing Facilities: One-quarter (1/4) primary space per bedroom, plus one (1) space for each*

three (3) employees.

Staff Recommendation: Establish off-street parking requirements for substance abuse recovery centers at a rate of one (1) space per every three beds plus one (1) space for each three employees.

Section K; Loading and Trash, L; Signs, M; Antenna, Public Art, etc.

Staff Recommendation: Keep these development standards as is for each zone, regardless of type of use.

5. Conditions of Approval.

If the Commission believes substance abuse recovery center uses should be conditioned upon approval, the following discussion on "standard conditions for substance abuse recovery centers" could be considered applicable to ALL substance abuse recovery center approvals, regardless of the zone in which it is proposed, in addition to any site-specific conditions that may be imposed by the Commission:

Overconcentration of Facilities
State law requires that new health and community care facilities – group homes, adult residential care, and social rehabilitation facilities – be sited at least 300 feet from another residential health or community care facility. Congregate living health facilities are to be sited at least 1,000 feet from any other facility. Residential care facilities for the elderly and alcoholism or drug abuse recovery or treatment facilities are excluded from overconcentration provisions.

Staff recommendation: Distance between facilities should be be consistent with the state limit of 300 foot limit for both "Substance Abuse Recovery Centers, seven or more beds", group homes, adult residential care facilities, and social rehabilitation facilities, and 1,000 feet for congregate living health facilities. (note: for clarity, the commission may want to include definitions for these terms "group homes", "adult residential care facilities", and "congregate living health facilities". The code should also identify that pursuant to State law, distance restrictions do not apply to residential care facilities for the elderly and "substance abuse recovery or treatment facilities, six beds or less".

Staff recommendation: On lots in single family zones on which there are two legal dwelling units, a maximum of one (1) community residential care facility, six beds or less, is permitted.

Staff recommendation: Consider adapting the Costa Mesa definition of integral uses and integral facilities to avoid the over-concentration of six bed or less treatment facilities operated by the same entity in single family neighborhoods. (see "Ordinance 2008" attached)

Professional management is an important component to successful integration

Successful integration of substance abuse recovery centers into residential neighborhoods is a function of good management and constant outreach and relationship-building with neighbors and local interest groups. The Department of Alcohol and Drug Programs (DADP) publishes a "Good Neighbor Guidelines" manual to establish minimum "common sense" management standards for treatment facilities (copy attached).

Staff Recommendation: Require the inclusion of a written copy of the DADP's latest edition of "Good Neighbor Guidelines" in any conditions of approval for CUP's for "Substance Abuse Recovery Centers, seven beds or more". Make the Good Neighbor Guidelines available at the Planning Counter for all others.

The Planning Commission may wish to consider incorporating some of the following conditions of approval for all substance abuse recovery center uses:

Staff Recommendation:
For facilities of seven beds or more, carry over the current requirement from Zoning Code Section 93.23.06 (Conditions for Specific Uses – Assisted Living Facilities), requiring annual review of the state license (this might be a requirement that can be coupled with, and reviewed at the time they renew their Palm Springs Business License).

PSZX Section 93.23.06 (C). Annual Review.
The operator of the facility shall submit to the city of Palm Springs, on an annual basis, a copy of the facility's current state license at the time of renewal of the annual Palm Springs business license. The city may require review of the CUP at the time of such review to determine continued compliance with the conditions.

6. Performance and Maintenance Standards.

The zoning code sets performance standards for each zone, such as minimum area requirements for usable open space and landscaping on the lot.

Staff Recommendation: Keep these performance and maintenance standards as is for each zone, regardless of type of use.

Other performance and maintenance standards that the Commission may wish to consider are as follows:

Staff Recommendation: Establish performance and/or maintenance standards, (e.g. No loitering or congregating in the public right-of-way, no evidence of second hand smoke from cigarettes and other smoking material in the public way, or immediately adjacent parcels), conformance with the City's Noise Ordinance, and so on. The City's Municipal Code Chapter 11 "Peace, Morals, and Safety already provides ordinances on noise, public

gathering, disorderly conduct, civil disputes, abuse language, and so on, which could also be referenced in conditions of approval.

Staff Recommendation: Carry over the existing reference under Property Maintenance Standards that refers to zoning code Section 93.19.00 (Property Maintenance Standards).

7. Licensing, Inspection, and Enforcement Actions

State law also requires that licensed group homes with six or fewer residents have written neighborhood complaint procedures that include a method of immediate response to complaints and incidents. It also requires that the licensee must be available at a specific time each week to meet residents and learn of neighborhood problems.

Staff Recommendation: For facilities that are licensed by the State, require that these neighborhood compliant procedures and practices be delineated in writing at the time of application or annual renewal of a City Business License.

8. State Oversight and Handling of Complaints.

As noted above, there are various State agencies that provide oversight and licensing of various types of community residential care facilities - the Department of Health Services (DHSS) and the Department of Alcohol and Drug Programs (DADP). These same agencies are responsible for investigating complaints and addressing concerns of neighbors and the community. For those facilities that have distance requirements to limit over-concentration, the State must notify the local jurisdiction when considering granting a license to a community residential care facility. The local government can request that an application for licensure be denied on the basis of overconcentration. Prior to approving a license the agency must notify the city about the new facility's location to allow it the opportunity to object or dispute the overconcentration determination.

Staff Recommendation: For facilities that are licensed by the State and are permitted to be licensed by the City, require that evidence of current state licensing be provided to the City by the applicant along with their application or annual renewal of their City Business license.
Furthermore, it is recommended that the City provide written notice to the DHSS and DADP, demanding written notice be sent to the City Planning Director when new license applications are received.

CONCLUSIONS

- State law limits the City's ability to regulate substance abuse recovery centers with six beds or less (and certain other types of community residential care

facilities).

- It may be useful to distinguish facilities "six beds or less" and "seven beds or more" in any proposed regulatory text for purposes of differentiating which facilities are subject to City versus State regulation.
- Conditions of approval incorporating performance and maintenance standards may create a mechanism for encouraging "problem" sites to improve.
- Clarifying with the State when the City has review authority on possible new licenses for substance abuse recovery treatment may create a means for the City to address (file a complaint with the State) over possible overconcentration concerns PRIOR to the issuance by the State of the license.
- Establishing regulations for substance abuse recovery centers will provide an opportunity to define density and off-street parking requirements that are more appropriate for this type of use.

ENVIRONMENTAL DETERMINATION

Staff has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act. The proposed amendment does not result in any changes in land use or density.

NOTICE

At the time the draft ordinance is presented to the Planning Commission a notice of public hearing will be published.

Ken Lyon, Associate Planner

Craig A. Ewing AICP
Director of Planning Services

Attachments:

- City Council minutes from meeting of May 18, 2011
- References:
  - California Research Bureau, "Residential Care Facilities in the Neighborhood", 2002.
  - State of California, Department of Alcohol and Drug Program *"Good Neighbor Guidelines"*, rev. 2/2000.
  - *"Select California Laws Relating to Residential Recovery Facilities and Group Homes."* (March, 2007, Barbara Kautz, Attorney
  - Ordinance 2008 - excerpt from Costa Mesa, regulating substance abuse recovery uses
  - Reference sheet from Cathedral City (no date or title)

CITY COUNCIL STAFF REPORT

DATE: April 3, 2013 PUBLIC HEARING

SUBJECT: APPEALS BY KEN SEELEY OF INTERVENTION 911 PERTAINING TO THE USES OF THE PALM TEE HOTEL (1590 EAST PALM CANYON DRIVE; APN 508-454-007) AND THE ALEXANDER APARTMENTS (1425 VIA SOLEDAD; 508-344-001) AS SUBSTANCE ABUSE RECOVERY CENTERS/ASSISTED LIVING FACILITIES REQUIRING A CONDITIONAL USE PERMIT

CASE: 5.1282 / 5.1283 APPEAL

FROM: David H. Ready, City Manager

BY: Ken Lyon, RA, Associate Planner
Douglas Holland, City Attorney

SUMMARY

The appellant and applicant ("applicant"), Ken Seeley on behalf of Intervention 911 ("Intervention 911"), has filed appeals of decisions of the Planning Commission upholding a determination made by the Director of Planning that the current uses maintained by Intervention 911 at 1590 East Palm Canyon Drive and 1425 Via Soledad are not hotel uses but are substance abuse recovery centers/assisted living facilities that require conditional use permits.

RECOMMENDATION:

Deny the appeals and uphold the decision of the Planning Commission.

BACKGROUND:

The two properties subject to these appeals were developed roughly fifty years ago: The Palm Tee (1590 East Palm Canyon Drive) as a sixteen-unit hotel, and the Alexander Apartments (1425 Via Soledad) as a five-unit apartment building. Each property is briefly described below.

The Palm Tee Hotel

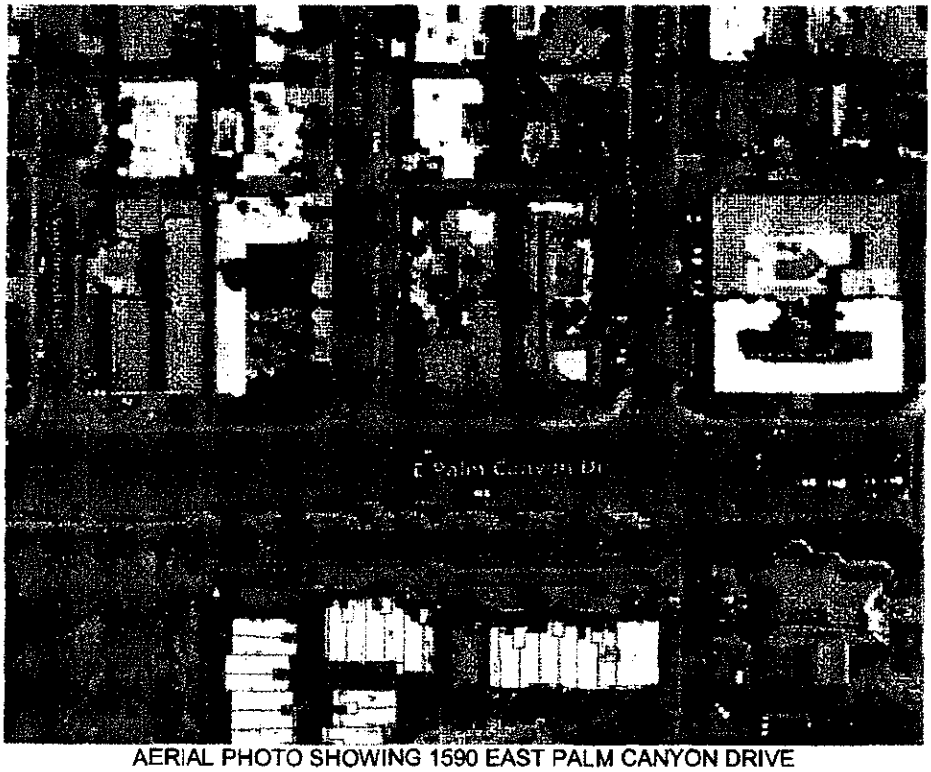
The existing 16-unit hotel at 1590 East Palm Canyon Drive was constructed in 1962. It is at the northeast corner of Calle Rolph and East Palm Canyon Drive. For many years it was operated as the Palm Tee Hotel.

The existing two-story building is roughly 8,379 square feet in area. There are ten (10) existing hotel rooms on the first floor which totals roughly 5,379 square feet. Two of these are one-bedroom units with full kitchens. There are six (6) hotel rooms on the second floor, comprising 3,136 square feet. One of the second floor rooms is configured with two bedrooms and a common bathroom. Most of the rooms are configured with small kitchenettes. There are seventeen (17) bay parking spaces which take access directly off South Calle Rolph. East Palm Canyon Drive is a major thoroughfare on the City's General Plan Circulation Map.

Surrounding Land Uses and Existing Development

The Palm Tee is located on the south side of the city immediately adjacent to the Deepwell neighborhood, in a fully developed area of multi-family units, small hotels and single family homes. The table below denotes the zoning, general plan and surrounding existing land uses.

	Land Use	**General Plan**	**Zoning**
North	Single Family Residential	VLDR (Very Low Density Residential (4du/ac)	R-1-C (Single Family Residential)
South	Condominiums	Tourist Resort Commercial	PD 69A
East	Hotel / Apartments	Tourist Resort Commercial	R-2 / R-3
West	Hotel / Apartments	Tourist Resort Commercial	R-2 / R-3



AERIAL PHOTO SHOWING 1590 EAST PALM CANYON DRIVE

The site of the Palm Tee Hotel is approximately 103 feet in width and 201 feet in depth. For purposes of zoning analysis, the East Palm Canyon Drive frontage is considered the front of the lot and the lot is considered a reverse corner lot (meaning it is a corner lot, the side line of which is substantially a continuation of the front lot lines of the lots to its rear). The parcel has split zoning: the southern half of the parcel is in the R-3 zone and the northern half is in the R-2 zone. It also lies within the Resort Combining Zone. For purposes of density analysis, it is noted that the two-story portion of the building lies roughly in the R-3 zone and the one-story portion lies generally in the R-2 zone.

In its original CUP application, the applicant proposed an occupancy at the Palm Tee of thirty-two (32) patient beds and four (4) staff persons at any time, one of whom would be the resident manager. The applicant proposed on-site therapy and treatment for the clients/guests including on-site individual and group counseling, life skills classes, twelve-step meetings, nursing or doctor-assisted medication management and medical services. In addition, the applicant requested the ability to host events that would be open to the community (both the Alcoholics Anonymous community and the greater neighborhood community).

This facility is currently being operated without planning approval, business licenses, or any other permits.

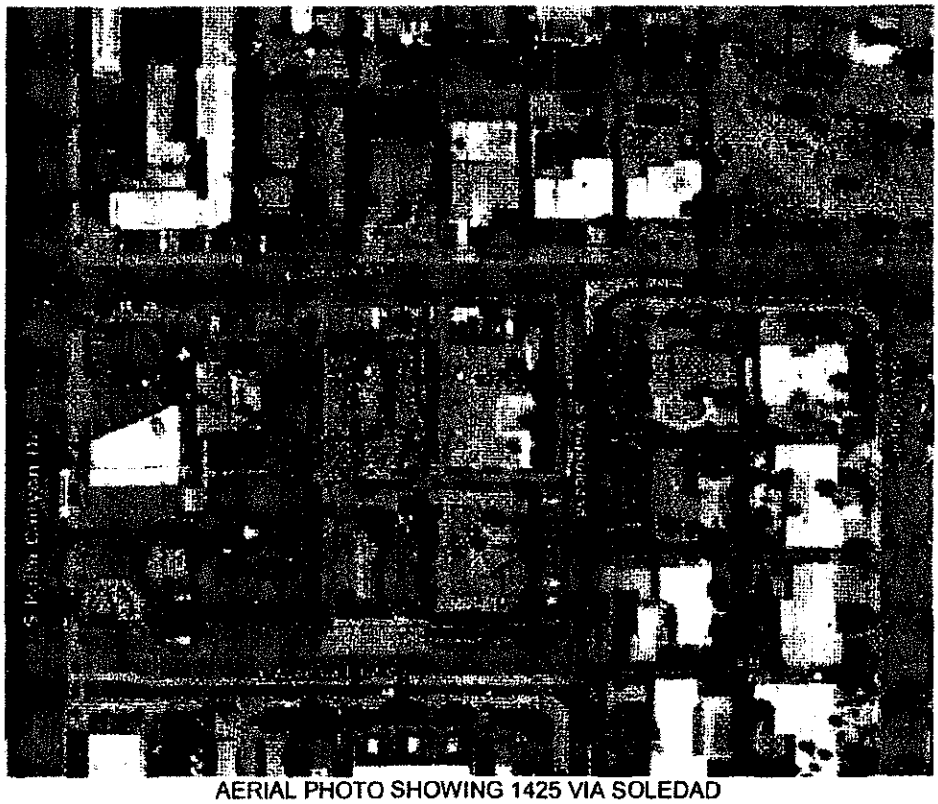
Alexander Apartments

The existing five unit apartment building at 1425 Via Soledad was constructed in 1957. It is at the southwest corner of Sonora Road and Via Soledad. For many years it was operated as the Alexander Inn, a vacation rental. The existing building is roughly 4,895 square feet in area. There are eight (8) bay parking spaces which take access directly off Sonora Road. This segment of Sonora Road is a two-lane local collector street on the City's General Plan Circulation Map.

Surrounding Land Uses and Existing Development

The Alexander Apartments are located on the south side of the city, in a fully developed area of multi-family units, small hotels and single family homes. The table below denotes the zoning, general plan and surrounding existing land uses.

	Land Use	**General Plan**	**Zoning**
North	Single Family Residential	VLDR (Very Low Density Residential (4du/ac)	R-1-C (Single Family Residential)
South	Hotel / Apartments	Tourist Resort Commercial	R-2 (Multi-Family Residential)
East	Single Family Residential	VLDR (Very Low Density Residential: 4du/ac)	R-1-C
West	Hotel / Apartments	Tourist Resort Commercial	R-2


AERIAL PHOTO SHOWING 1425 VIA SOLEDAD

The site is approximately 105.6 feet in width and 136 feet in depth. For purposes of zoning analysis the Sonora frontage is considered the front of the lot.

The applicant's CUP application proposed to change the use from an apartment building to a substance abuse recovery center for persons recovering from alcoholism, drug abuse and other addictions. The current facility is comprised of four, two-bedroom apartments and one, three-bedroom apartment.

The applicant proposed an occupancy of seventeen (17) patient beds and two (2) persons occupying the resident manager's unit. The applicant proposed on-site treatment for the clients/guests including on-site individual and group counseling, life skills classes, twelve-step meetings, nursing or doctor-assisted medication management and medical services. In addition the applicant requested the ability to host events that would be open to the community (both the Alcoholics Anonymous community and the greater neighborhood community).

The applicant initiated the current non-permitted use at the Alexander Apartment under an office use business license, not as a sober living facility or substance abuse recovery center.

LAND USE OVERVIEW

The R-2 zone is "intended to provide for the development of medium-density multiple-family residential." The R-3 zone "is intended to provide for the development of high density apartments, hotels and similar permanent and resort housing and certain limited commercial uses directly related to the housing facilities." The General Plan land use designation for both properties is Tourist Resort Commercial, which provides that the primary use should be that of hotel and tourist-related uses. Residential uses are to be a second use ancillary to the hotel uses.

RELATED PRIOR ACTIONS:

On April 12, 2012, the Department of Building and Safety/Code Enforcement notified the applicant in writing that a conditional use permit (CUP) is required for the two facilities. The applicant was also advised that the facility at 1590 East Palm Canyon Drive was operating without permits, appropriate business licenses, or planning approvals.

On May 3, 2012, the City served the applicant a Courtesy Notice via certified mail notifying them that it was in violation of the City's Municipal Code by operating substance abuse recovery centers / assisted living facilities without approval of a Conditional Use Permit at the subject sites.

On June 25, 2012, the applicant submitted CUP applications for both properties requesting approval to operate them as substance abuse recovery centers / assisted living facilities.

On September 26, 2012, the City received correspondence from the applicant's attorney notifying the City that the applicant was withdrawing its CUP applications and asserting that the two properties were being operated as hotels, not substance abuse recovery centers / assisted living facilities.

On November 1, 2012, the Director of Planning Services sent correspondence to the applicant, advising it that upon review of the uses, its marketing literature, and internet presence, the Director had determined that the uses are not hotels, but rather substance abuse recovery centers / assisted living facilities which require the approval of Conditional Use Permits from the Planning Commission in order to continue to operate.

On November 15, 2012, the applicant submitted an appeal of the Director's decision to the Planning Commission.

On February 13, 2013, the Planning Commission considered an appeal by Ken Seeley of Intervention 911 requesting to overturn the decision of the Planning Director. The Planning Commission voted 6-0-1 to uphold the determination of the Planning Director. In making it's decisions, the Planning Commission found:

a. Each of the properties is being operated as an assisted living facility;
b. Sober living is the same or substantially the same, categorically and

functionally, as assisted living under the Palm Springs Zoning Code;

c. Such arrangement and the peer-supported environment does not qualify as a "family" for purposes of "Dwelling Unit" or "Rental Unit";
d. Different parking requirements apply because of multiple contracts for occupancy and semi-private rooms;
e. Sober living facilities, and the facilities as used on the sites, require a Conditional Use Permit; and
f. Intervention 911 must cease operations or file applications for Conditional Use Permit or Planned Development District.

On February 21, 2013, the applicant submitted an appeal to the City Council of the Planning Commission's action to uphold the determination of the Planning Director.

OVERVIEW OF APPEAL AND STAFF RESPONSE

Staff reviewed the applicant's letter of February 21, 2013, appealing the Planning Commissions' decision and its letter dated November 15, 2013, appealing the Planning Director's determination and the reasons for the appeal.

It is difficult to address Intervention 911's position because it is ever-changing and a moving target. Intervention 911 initially stated its proposed use of the properties was as hotels; it now claims in its appeal that the uses are multi-family uses. Intervention 911 claims the use is not assisted living under the City's Zoning Code, yet the CUP application initially submitted by Intervention 911 and now withdrawn, proposed "onsite therapy, Life Skills classes, 12-step meetings, nursing or doctor assisted medication management and services that would be found at a drug and alcohol treatment center." Notwithstanding this assertion in its CUP application, Intervention 911 now contends it does not provide assisted living services and further that the City's classification of the use as an alcohol or drug abuse recovery facility is not just "erroneous", but "illegal stereotyping on the basis of disability." Nevertheless, Intervention 911's own description of the services it provides and its statement that it will provide services "that would be found at a drug and alcohol treatment center" fits precisely within the City Zoning Code's definition of assisted living facility. It also appears that some of the services that are being proposed may even require state licensing, which Intervention 911 states it does not possess. It is unclear how Intervention 911 can accuse the City of "illegal stereotyping," when the Planning Director and the Planning Commission analysis is based on quotes from Intervention 911's own CUP application and advertising.

The applicant's reasons for its appeals are listed below followed by staff's response.

1. "*The determinations are not supported factually or legally...*"

The Planning Director's determinations which were upheld by the Planning Commission were based on many factors, including the applicant's conditional use permit application, marketing brochures, information on the applicant's website, and meetings with the applicant at the time it received its Building Department / Code Compliance Courtesy Notice. The applicant's marketing materials describe a facility for customers to seek treatment from substance

abuse, and to learn various life skills to aid in re-entering the workplace, among other things. (Copies of the CUP application, marketing material and website information are attached.) Staff believes the determination was supported by review of facts, and the legal authority of the Planning Director to make such determinations is established in the City's Zoning Code.

2. *The determinations "violate state and federal fair housing laws and the City's General Plan..."*

The applicant has not provided information to support the above assertion, and therefore it is unclear how the Director's determination violates these laws. The City permits assisted living facilities in many zones subject to a conditional use permit. Furthermore, pursuant to the Palm Springs Zoning Code (PSZC) Section 92.03.01 and 92.04.01(Uses Permitted in the R-2 and R-3 zones) the City also allows hotels with less than 10% of the rooms having cooking facilities to be permitted "by right" in the R-2 and R-3 zones. Furthermore, hotels in which more than 10% of the rooms contain kitchens (which is the case for both of these properties) are permitted in both zones subject to a CUP. Thus a CUP is required regardless whether the sites are operated as Hotels or some form of Assisted Living Facilities. It is not clear where any fair housing laws have been violated.

No reference to any specific General Plan policy that the applicant believes had been violated was offered. Staff notes that the General Plan land use designation for both parcels is Tourist Resort Commercial. This land use designation notes that the primary use should be that of hotel and tourist-related uses. Residential uses are to be a secondary use ancillary to the hotel uses. Both hotels with more than 10% of the rooms containing kitchens and assisted living facilities are conditionally permitted in the R-2 and R-3 zones, thus it is not clear how the Director's determination that the use at the two sites are assisted living facilities – not hotels – violates any fair housing laws.

3. *The determinations "are discriminatory and based on bad social policy..."*

The Planning Commission upheld the Planning Director's determination that based upon review of all the information available at the time, the proposed use was not a hotel, but rather a substance abuse recovery center / assisted living facility. These facilities are permitted in many multiple family residential zones throughout the City of Palm Springs subject to a CUP. Sober living facilities are not defined in the PSZC nor are they listed as a permitted use in any zone in Palm Springs. The State of California regulations protect the establishment of sober living facilities of six beds or less in residential zones and encourages cities and counties to permit operators to establish such facilities as a means of integrating this population back into the community at large. Neither of the subject properties fall under the regulatory guidelines of the State for sober living facilities of six beds or less: the Palm Tee facility is proposed to have 32 patient beds and the Alexander is proposed to have 17 patient beds. Staff believes the applicant has not provided information to support the assertion of "discrimination" or "bad social policy".

4. *The determinations "are based on misunderstandings, assumptions and speculation..."*

The applicant does not identify or explain where or how it believes "misunderstandings, assumptions or speculation" has occurred. The Director's determination which was upheld by the Planning Commission is based on written material provided by the applicant both in its original CUP applications and its promotional material, as well as the definitions for hotels and assisted living facilities in the Palm Springs Zoning Code. Additional information that was the basis of the Director's determination is described in the Exhibit attached to this staff report.

5. *The determinations "are made pursuant to inapplicable provisions of the City's Zoning Code."*

The Director identified PSZC Section 91.00.08(B) "*Conflicting or Ambiguous Provisions*" as the provision for the review and identification of the proposed use. This section states that "*where there may be conflicting or ambiguous provisions within this zoning code, the director of planning and building, or his authorized representative, shall determine the applicability of such provisions.*" The applicant has asserted that its proposed uses of the two sites are "hotels." The Director, however, determined that the proposed uses of the facilities were most similar to "assisted living facilities" as that use is defined in the Code. Based in large measure on the material presented by the applicant, the Director has determined the proposed uses to be substance abuse recovery centers, which are classified in Palm Springs as "assisted living facilities." The Planning Commission upheld the Directors determination as an appropriate application of the Zoning Code. Staff believes this is an appropriate application of the relevant provisions of the Zoning Code. The applicant has not explained or described why this is an "inapplicable provision" except that it disagrees with the outcome.

6. *"No 'assisted living' services are occurring on site:"*

The examples noted above as well as the description of the proposed use in the CUP application suggest that "assisted living" services are indeed provided on the sites. From its CUP application, the applicant states, "*We would like the CUP application to allow for and include the following: Onsite therapy (individual and group), Life Skills classes, 12-step meetings, nursing or doctor assisted medication management and services that would be found at a drug and alcohol treatment center*". From these statements, the Planning Commission upheld the Director's determination that assisted living services are indeed being offered, thus the facilities are not being operated as "hotels".

7. *"The financial burden upon the applicant if deemed "assisted living" is in excess of $200,000, far out of line in light of the preferred public policy in favor of sober living and affordable housing."*

Analysis of the "financial burden" or conducting due diligence of the viability of a "business model" or of adapting any site to a particular proposed use, is solely the responsibility of applicants and business owners. "Financial viability" is not a finding or requirement of approval, or a factor used in determining whether a proposed use is permitted use in a particular zone. Financial burden was also not a factor that the Director used in making the

determination that the proposed uses are not "hotels".

The applicant's brochure notes that the monthly rate for a "shared occupancy room" is $2,800 per month per patient. Thus a typical room with two beds may rent for roughly $5,600 per month. Staff assumes a single occupancy room would have a higher monthly rate. Pursuant to Table 3-8 of the City's Housing Element in the General Plan (which was updated in 2010); maximum affordable rents for extremely low to moderate income households is between $500 and $1,860 per month in Palm Springs. The monthly rate for the subject properties well exceeds the typical monthly rental for affordable housing. In comparison, the average rate for a monthly hotel stay in Palm Springs is roughly $115 per night or about $3,450 per month[1]; thus the subject properties also generate income greater than the average 30-day hotel stay in Palm Springs. Staff does not believe the subject properties are providing affordable housing for the community.

8. *"At the subject properties, Intervention 911 provides sober living environments – not services or treatment to individuals recovering from the disease of addiction"*

On the applicant's website "welcome page" it states, "*Intervention 911 offers a wide range of **services** in addition to alcohol intervention and drug intervention*". On the applicant's website under "philosophy" it notes "*From the beginning of the **treatment process**, we assess the need of the individual with a clear focus on accountability*". This information seems to contradict the above assertion in the applicant's appeal letter. Furthermore, sober living facilities of seven patient beds or more are not a listed permitted use in <u>any</u> zone in Palm Springs.

9. *"Residents... rely on each other as a family for peer-support in sober living, but participation in any group meeting is purely voluntary and there is no oversight by Intervention 911."*

A written narrative provided by the applicant's representative (dated June 24, 2012), it is noted that the applicant "would like its CUP application to include onsite therapy (individual and group) Life Skill classes, 12-step meetings, nursing or doctor-assisted medication management and services that would be found at a drug and alcohol treatment center". Another set of response to questions from Planning staff received August 8, 2012 notes, "There would be 2 house check in's each day", and "In the first 30 days, many of the residents will attend IOP at MH from 8:30 to 11:30 am" and "During that time we will begin to hold classes on topics such as 12 step in house guidance..." and "There would also be afternoon session classes" and "As people attain a certain length of time in the facility, their involvement in the classes would stop, provided they have work, volunteer, or recovery activities in place of the classes".

Within its "Welcome Packet" for its patients, the following is noted under "code of ethics": "Submit to random drug testing at the request of the Sober Living Head of Household or

1. Pursuant Aftab Dada of the Palm Springs Hotel Association, from a sampling of 3,900 rooms, the average nightly rate is $115/night.

owner". Furthermore, in the "General Agreement" that patients must sign is the following: "I agree to work a Twelve-step program and obtain a sponsor, which is suggested for continued sobriety. AGREE to attend all house meetings." Further in this "agreement" it is noted that "I agree to drug/alcohol testing and/or room and/or property search at any time by staff..." and "I agree that if I violate any part of this agreement, I am subject to discharge..." These statements appear contrary to the assertion that participation in group meetings is "purely voluntary".

10. *"Simply stated, no change of use has occurred, and no conditional use permit is required."*

Upon review of the materials and information in the appellant's CUP application, as well as marketing material and its website, the uses occurring at the two sites does not appear to be that of a hotel. Rather they appear to be some sort of assisted living facility which requires a Conditional Use Permit. Furthermore, in some of the material from the applicant, the applicant asserts they are a "sober living facility". Sober living facilities of 7 patient beds or more are not a permitted use in any zone in the City of Palm Springs. (Those of 6 patient beds or less are deemed residential uses under state law and are permitted in residential zones anywhere in the State, without special permits, fees, and the like).

11. *"Intervention 911 made a reasonable accommodation request to the City of Palm Springs related to (its) use of structures located at 1425 Via Soledad and 1590 East Palm Canyon Drive".*

Intervention 911 seeks "reasonable accommodation" from a number of the City's regulations. First and foremost, it seeks to be relieved of the requirement for a conditional use permit ("CUP"). The basis of this request appears to be the contention that the use of the property is "akin to a family living in a multi-family dwelling" and the contention that "these residences are not assisted living facilities, group homes, boarding houses or halfway houses." If the City were to view Intervention 911's use as multi-family, Intervention 911 would not need a CUP because multi-family is a permitted use under the City's Zoning Code.

Second, Intervention 911 seeks relief from the Fire Code requirements based on the contention that the City's decision to classify the residences as an "alcohol or drug abuse recovery or treatment facility" is erroneous. Intervention 911 is essentially stating that requiring Intervention 911 to comply with requirements of the State Building Code to an already existing structure would interfere with the normal use of the residences and would cause unreasonable hardships and unnecessary inconvenience, and would not result in an increase in fire safety.

A. *The CUP Requirement*

Intervention 911 states that its use is equivalent to a multi-family use and the City Zoning Code's definition of family, which is defined as "an individual or two (2) or more persons living together as a single housekeeping unit in a single dwelling unit." A "dwelling unit" is further defined by the City's Zoning Code as "one (1) or more rooms and single kitchen in a single-

family dwelling, apartment house or hotel designed as a unit for occupancy by one (1) family for living and sleeping purposes." "Dwelling" is further defined to mean a building "designed exclusively for residential occupancy, including one-family and multiple-family dwellings, but not including hotels, boarding or lodging houses....".

Based on the evidence before the City, it does not appear that the use constitutes a single housekeeping unit as defined in the City's Zoning Code or by its commonly understood meaning. Definitions of single housekeeping unit similar to the City's were received favorably in a 2003 California Attorney General Opinion. While Intervention 911's use has some indicia of a single housekeeping unit, the dissimilarities significantly outweigh the similarities. A single housekeeping unit is one in which the occupants are living and functioning together as a family. The members typically have established ties and familiarity with each other and interact with each other. They share meals, household activities, expenses, and responsibilities. Membership is fairly stable as opposed to transient and the members have control over who becomes a member of the single housekeeping unit.

While Intervention 911's tenants may share some of these traits, i.e., they interact with each other and may engage in household activities and share meals, they otherwise do not function as a single housekeeping unit. Based on Staff's understanding of Intervention 911's operations, the tenants do not have established ties or familiarity with each other, i.e., they typically do not know each other until the day they move in and generally are not related to each other in any way. While they may share meals, each is responsible for buying his or her own food. It does not appear that they share any expenses. Each tenant is under a separate month-to-month rental agreement with no obligations whatsoever to share in the rent expense of another tenant. Rent is assessed on a per bed basis and not per dwelling unit. The decision as to who becomes a member of the housekeeping unit is made by Intervention 911, which has no family ties to the tenants. Significantly this decision is not made by the members of the housekeeping unit themselves. In this regard, the properties are operated in much the same way as a boarding house.

While not transient in the sense of a hotel or as defined by building and fire codes, the tenancy is also not stable. It is unknown precisely what the average length of stay is at either location, but at $2,800 a month—to share a room—it could be anticipated that tenants will not choose to stay any longer than they believe necessary. A July 2005 UCLA study which reviewed the impact of the California Substance Abuse and Crime Prevention Act of 2000 stated that as much as 65%-70% of persons who enter drug treatment programs overall do not finish the program. A study of participants in Oxford House, a two year drug treatment program, found that participants spent an average of 256 days in this setting. Of the participants studied, only 5% stayed the entire 24 months of the program and few, if any, of the participants chose to live together after leaving.

Thus, based on the information that has been provided, the tenants do not function as a single-housekeeping unit and do not fit the definition of family.

Nor the does the proposed use fit within the parameters of a hotel use. As noted previously in Intervention 911's prior CUP application, the proposed use offers a number of services that

are not indicative of a hotel. Indeed the mission statement is to "provide those who suffer from addiction...with the necessary resources, services, guidance and support...to live a life free from the bondage of their addiction." In addition, unlike a normal hotel use, Intervention 911's tenants who share a room pay separate rents; they typically do not know each other until they are placed together; who they share a room with is ultimately decided by the operator of the properties and not the occupants; they do not share expenses and typically have separate transportation. Intervention 911 is proposing 32 patient beds in what was a 16-unit hotel and 17 patient beds in what was a 5 unit apartment building. The parking spaces for each property are, respectively, 17 and 8. Each tenant will be of adult age and will presumably drive and own a car, which would overwhelm the on-site parking and cause parking to spill out onto the surrounding residential streets. In addition, in the CUP application submitted by Intervention 911, a number of other services may be provided on site, which would also create parking demand. The potential parking demand of the use would likely exceed what would normally be anticipated for either a hotel or multi-family use.

As has been noted in previous staff reports, the occupancy also does not fit within the parameters of a hotel or apartment use due to the large degree of control exercised by Intervention 911 on the daily lives of the occupants and the various services that are provided. The cost of occupancy is significantly greater than what is typical for a similarly-situated apartment.

Intervention 911 states its residences are clearly not "assisted living facilities, group homes, boarding homes or halfway houses." Staff disagrees. As Intervention 911 noted, the City's definition of an assisted living facility under Section 91.00.01 of the Zoning Code is "a special combination of housing, supportive services, personalized assistance and health care licensed and designed to respond to the individual needs of those who need help with activities of daily living and instrumental activities of daily living. Supportive services are available 24 hours a day to meet ... needs in a way that promotes maximum dignity and independence for each resident and involves the resident's family, neighbors and friends, and professional caretakers."

Intervention 911's website advertises the two properties as "sober living housing" and "Sober Hotels." It advertises services which include "hypnosis, random drug testing, medication oversight, equine therapy, recovery coaches and 12-Step recovery programs." Intervention 911's mission statement is to "provide those who suffer from addiction ... with the necessary resources, services, guidance and support ... to live a life free from the bondage of their addiction." It is a recognized fact that round the clock support is a key ingredient to successful recovery from a drug or alcohol addiction. The above description appears to fit squarely within the City Zoning Code's definition of an assisted living facility.

In addition, while Intervention 911 contends the use is not a boarding house use, the fact that rent is on a per bed basis by occupants who typically have no previous social or family ties is analogous to the manner in which boarding and rooming houses operate. The degree of supervision exercised over the occupants, while perhaps necessary to success, is also unlike any hotel or multi-family use and is more closely aligned to that of a college dormitory or boarding school. The mission statement of Intervention 911 also fits within the definition of a

halfway house, which essentially is housing where services are provided to transition the occupant to be in a position to successfully live on their own. Halfway houses can be voluntary or mandatory. It is also often the case with facilities such as Intervention 911 that its occupants are there to fulfill a condition of probation and thus, the extent to which residency is voluntary is limited. The City does not have any information as to the number of Intervention 911's tenants who are fulfilling conditions of probation. It should be noted that boarding houses, rooming houses and dormitories, uses for the non-disabled which are similar to Intervention 911's use, are not even permitted in the R-2 and R-3 zones. Because the City has indicated its willingness to review the possible use under a CUP, in this regard the City and its Zoning Code actually grant preferential treatment to the disabled over the non-disabled.

Based on the above, it appears that the Staff's conclusions as to the use and the requirement for a CUP are reasonable. The use being proposed is fundamentally different than those permitted as a matter of right under the City's Zoning Code and Intervention has not provided any facts which would substantiate how complying with the City's CUP requirement imposes an undue hardship or would otherwise preclude the disabled from having an equal opportunity to use and enjoy a dwelling. And has been noted in City staff reports, the City has approved a number of CUPs for facilities similar to Intervention 911's throughout the City.

B. *Fire Code Requirements*

Intervention 911 mischaracterizes the requirement by claiming it only applies because of the occupants' status as being disabled. Initially, it is not facially discriminatory under the FHA and ADA to relate fire safety measures to a person's disability. It is beyond question that facilities designed specifically to house individuals whose capability to escape fire dangers is limited due to disabilities need to have enhanced fire safety measures in order to protect their health and safety in a manner similar to the non-disabled. Indeed, license group homes, hospitals and similar uses have enhanced Fire Code requirements based on the recognition that persons housed in these facilities due to disabilities or short-term conditions, are limited in their ability to escape fire. To ignore this reality would be negligent.

In any event, Intervention 911 is wrong when it contends that it is being made to retro-fit the properties to meet today's standards solely because its tenants are disabled. Under the 2010 California Fire Code, the fire code official must make a determination as to whether there is a change in use of the properties that would place the use in a different division or the same group or occupancy or in a different group of occupancies. This determination is not ultimately made based on whether the occupants are disabled (although it could be if such disability was relevant to the occupant's ability to escape) but rather whether there has been a change in the use and its intensity. If so, then the structure must be brought up to the fire standards that would be required as if it was being built new. Thus, the focus is on the change in use, and not the "status of the residents as individuals recovering from the disease of addiction." Retro-fitting to meet existing building and fire codes is not unusual and applies in a number of situations and uses having nothing to do with whether a person is disabled. The focus of the City Fire Marshall's determination was that there was a change in the intensity of the use of the properties that triggered the retro-fit requirement.

As noted above, Intervention 911's use seems to fit squarely within the City Zoning Code definition of an assisted living facility and the use is also more analogous to a group home, boarding home, rooming house or halfway house, than a hotel or multi-family use. All of these uses would have triggered essentially the same retro-fit requirements, whether the occupants were disabled or not and it should be noted that these requirements are the same as would be required of new hotel or multi-family construction. As has been previously noted, this determination is consistent with how the City has historically classified such uses. Given the above, the Fire Marshall's determination that Intervention 911's use resulted in a change in use or occupancy that placed it in a different division or different group of occupancies which require the structures to be brought up to current fire codes appears infinitely reasonable and correct.

It is unclear how requiring Intervention 911 to bring the properties up to existing fire code standards would "interfere with the normal use of the residences and would cause unreasonable hardships and unnecessary inconvenience, and would not result in an increase in fire safety." There are no facts presented to support these contentions and the contention that it would not increase fire safety is directly contradictory to the determination of fire experts that these measures do in fact increase fire safety and the very purpose for which the requirements were enacted. While Staff agrees that financial hardship to Intervention 911 can be a factor in considering whether to make a reasonable accommodation under the ADA or FHA, Intervention 911 has presented no evidence to suggest that it is financially incapable of making the modifications or why it should be exempted from Fire Codes which will make its occupants safer. In fact, based on the rents Intervention 911 charges, which are anywhere from nearly double to 10 times the amount that would be charged for an apartment or hotel, it appears that Intervention 911 is in a much better financial position to make these changes than would a person who was proposing some other, but similar change in use for the non-disabled.

To the extent that these requirements may temporarily interfere with Intervention 911's existing use, Intervention 911 only has itself to blame. Intervention 911 chose to occupy the properties without seeking the City's approval and with respect to the Via Soledad property, actually misrepresenting the use as "offices for rehab intervention" on its business license application. It was only after the City discovered the use being made of the properties did Intervention 911 seek approvals from the City, but even then it abandoned its application for a CUP, which CUP was required by the City based on Intervention 911's own written description, albeit changing, of its use. Courts have consistently held that the refusal of a sober living facility to give a City a chance to accommodate the facility through the City's established procedures is "fatal" to a reasonable accommodation claim. Neither the ADA nor FHA exempts disabled individuals from having to seek approvals that would be required of similarly-situated uses involving the non-disabled. The CUP process serves the purpose of enabling the City to make a reasonable accommodation in its rules, policies and practices and to impose reasonable conditions to ensure that the use does not detrimentally impact the surrounding land uses.

Notwithstanding the state's definition of assisted living facilities or sober living facilities, what is paramount in the CUP context is the definition of assisted living facility in the City's Zoning Code, into which Intervention 911's use squarely falls. It is the City and not the state, which possesses the constitutional authority to enact zoning laws and to define the uses that are permitted, permitted with a CUP and prohibited. Except in limited circumstances involving 6 or fewer residents which are not applicable here, state law definitions do not preempt the City's Zoning Code.

The City recognizes that it is obligated under state and federal law to make a reasonable accommodation from its generally applicable regulations when such an accommodation is reasonably necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling and that recovering addicts, who are not current users, are considered disabled. However, this is tempered by the proviso that the accommodation does not create a fundamental alteration in the City's zoning scheme. The use being proposed is fundamentally different than those permitted as a matter of right under the City's zoning scheme. The proposed use, however, is similar to an assisted living facility use as defined by the City's Zoning Code, which is permitted with a conditional use permit.

Based on the evidence currently before the City, the City has not violated either the ADA or FHA. The City is treating Intervention 911 in the same manner as it would treat a similar use housing the non-disabled. Staff is recommending the Council consider the proposed use as a use that is permitted subject to consideration and approval through the CUP process.

CONCLUSION:

Staff believes that the applicant has not submitted material in its appeal letter that would support an argument for overturning the Planning Commission's decision to uphold the Planning Director's determination. Staff recommends the City Council uphold the decision of the Planning Commission, upholding the determination of the Planning Director, that the current uses at the two subject sites are not hotels, but are a form of assisted living facility (substance abuse recovery treatment) for which submission and approval of a Conditional Use Permit is required.

FISCAL IMPACT: None

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