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November 19, 2024

Scott Reale, AICP
Principal Planner
City of Pompano Beach, Planning and Zoning
100 West Atlantic Boulevard
Pompano Beach, FL 33060

RE: 505 N Ocean Boulevard, Townhome Development
Variance Justification

Dear Mr. Reale;

505 N Ocean LLC (“Applicant”), through undersigned counsel, hereby requests variances for a 3-unit condominium project proposed for the property located at 505 North Ocean Boulevard on the City of Pompano Beach’s barrier island (“Property” or “Site”). Specifically, Applicant requests four variances to reduce the perimeter landscape buffer; reduce the required driveway width; and to permit the proposed building to encroach into the rear setback and into the side setbacks and stepbacks. These variances should be granted because the Property is a legal nonconforming lot lacking in sufficient depth or width which frustrates Applicant’s ability to develop a 3-unit project in a zoning district which explicitly calls for multifamily and townhouse developments.

Background

Applicant recently purchased the Property measuring approximately 6,862 square feet or 0.16 acres, located on the west side of North Ocean Boulevard north of NE 5th Street and just south of the Silver Thatch Atlantic Plaza condominium. The Property is currently developed with a single-family dwelling. The Property is approximately 50 feet wide and ranges from 133 to 141 feet in depth. It should be noted that the Property’s depth will be reduced by 15 feet due to the required Trafficways Plan right-of-way dedication. The Property has a future land use designation of H-High 25-46 du/acre and a zoning designation of RM-45 (Multiple-Family Residence 45). Section 155.3212.A of the City’s Land Development Code (“Code”) states, “The Multiple-Family Residence 45 (RM-45) district is established and intended to accommodate primarily multifamily

dwellings (including townhouse development) including community residences and recovery communities at high densities.”

Naturally, multifamily buildings and townhouses surround the Site on the north, south, and west sides, with Ocean Boulevard and the beach on the east side. Notwithstanding the prime location directly across the street from the beach, the Property has one of the few remaining single-family dwellings along this portion of Ocean Boulevard and thus is prime for redevelopment. A townhome development was recently approved less than a block away at 499 North Ocean Boulevard.

Proposed Project

The Applicant proposes a 4-story, 50’6” tall (64’ to the top of elevator shaft) multifamily building with 3 individually owned condominium units (“Project”). The first story would consist primarily of covered, unenclosed parking with a small lobby and elevator room. Each unit would be located on its own floor (floors 2-4), would have 3 bedrooms and 2 bathrooms, and would have approximately 2,000 square feet of air-conditioned space. Finally, there would be a shared open roof deck with a trellis structure.

The Property would be accessed via a new curb cut and 24’ wide driveway on N Ocean Boulevard. Six parking spaces would be provided, five would be on the ground level underneath the cantilevered building and the remaining space would be on the north side of the driveway closer to the entrance.

Description of Variances

Due to the small size of the lot, it is not possible to redevelop the Property while complying with all of the zoning regulations. Given the 0.16-acre size of the Property and the land use designation which permits up to 45 units/acre, 7 units are permitted on the Property. The Property owner is proposing only a small 3-unit multi-family building, which is still infeasible to build without the variances as outlined below:

1. Landscape buffer – reduce from 5’ to 4’
2. Drive aisle width – reduce from 24’ to 17.83’ in one area
3. Side setback and stepback – reduce from a range of 10’-18’ to 8’

4. Rear stepback – reduce from a range of 10’-18’ to 10’

Variance 1– Landscape buffer

Code Section	Required	Provided
Sec. 155.5203.D.3.c.iii Vehicular Area Landscaping – Perimeter Landscaping Strips - Width	Five feet in [all other] developments on lots no more than 100 feet wide	4’ along the southeast property line; meets Code requirement elsewhere

Variance 2 – Drive Aisle Width

Code Section	Required	Provided
Sec. 155.5101.G.7.a.ii Vehicular Access and Circulation – Driveway Layout and Design – Driveway Width	Two-way driveways shall be at least 24 feet wide , as measured between the edges of paving.	17.83’ where the driveway first goes underneath the building; meets Code requirement elsewhere

a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;

The Property is insufficiently wide (50’ whereas the Code requires 75’ for a multifamily lot). The required right-of-way dedication will further reduce the lot area from 6,862 square feet to only 5,819 square feet. As a result, the Property only has a single-family home on it despite being in a highly desirable area on the beach given the myriad challenges in re-developing it. The Code requires 10 feet of landscape buffer (5 feet on each side) as well as a 24-foot-wide two-way driveway, which leaves only 16 feet for other site features (50 feet minus 34 feet). As described in more detail under *Response c*, the need to provide 18-foot-long parking spaces makes it infeasible to provide a full 5-foot-wide landscape buffer along the southeast property line. The need to center the building in the middle of the Property and to provide

sufficient side setbacks makes it necessary to reduce the drive aisle width to 17.83' in the area where the drive aisle first goes beneath the cantilevered building.

- b) *The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;*

The conditions referred to in *Response a* are not the result of the actions of the landowner as this lot was originally platted in 1946 (Silver Beach plat, Plat Book 22 Pg. 32).

- c) *Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;*

To solve the challenge of providing six parking spaces on a small site, the Applicant has opted for a design which locates five of the six spaces underneath the building with the last space closer to the entrance of the driveway. This design immediately creates the need for the two above variances as follows:

Landscape buffer – The parking spaces must be accessed from and positioned on the side of the drive aisle. There is simply not enough space for everything – providing a 24-foot-wide driveway (plus half a foot of curbing on both sides), 18-foot-long parking spaces, and 10 feet of landscape buffer adds up to 53 feet – greater than the 50-foot width of the Property, as shown in *Exhibit #1*. This issue is alleviated because the Code allows the parking space to overlap slightly with the landscape buffer, i.e., the wheelstop can be positioned right at the curb and the front end of the car can hang over the grass. Nevertheless, the landscape buffer must be reduced to 4 feet along the southeast property line. No buffer reduction is necessary along the southwest property line because that portion of the drive aisle is within a parking lot and the Code treats it differently – it is subject to Code Table 155.5102.I.1 which permits a 23-foot-wide aisle rather than a 24-foot-wide aisle.

Drive aisle width – besides the already mentioned site constraints, a further design challenge is that the drive aisle must go underneath the building to access the parking spaces, but the building is cantilevered on columns above the drive aisle and has specific setback requirements. The building is setback by 8 feet on both sides so there are building columns 8 feet from the south property line, which necessitate the drive aisle to narrow where it first enters the building in order to avoid these columns.

Given these extraordinary dimensional constraints, a literal application of the Code would unreasonably restrict the utilization of the land and result in an unnecessary and undue hardship.

- d) *The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.*

These variances would not confer a special privilege on the landowner. The Property is in the RM-45 zoning district where dense multifamily development is expected and encouraged. Any substandard nonconforming lot with similar dimensional constraints would run into the same design issues that make it infeasible to fully comply with the landscape buffer and drive aisle width requirements on the Property.

- e) *The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;*

The variances requested are the minimum possible given the width of this nonconforming lot in relation to the Code requirements for landscape buffer width, parking space length, and two-way driveway width. The only way to reduce or eliminate the variances would be by requesting a variance for a different site feature. For example, the landscape buffer variance could be eliminated by reducing the driveway width prior to its entry underneath the building from 24 feet to 23 feet. Similarly, the driveway width variance could be eliminated by reducing the building setbacks to the point where the driveway no longer needs to “jog” as it goes underneath the structure.

- f) *The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;*

The driveway width and landscape buffer variances will allow for development of the Project on a Site which is otherwise infeasible for multi-family residential. The Code specifically encourages multifamily and townhouse development on a lot such as this one in this zoning district. However, the small size of the Property frustrates the Applicant's ability to design a multifamily project. The driveway width variance is only requested in one small area where the driveway first goes underneath the building; the rest of the driveway is Code-compliant. Similarly, the landscape buffer would be reduced for only around 25 feet of the 133-foot-long southern property line; the rest of the buffer along that property line would meet Code, and the entire landscape buffer along the northern property line would meet Code as well. The variances are in harmony with the general purpose and intent of the Code.

- g) *The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and*

The driveway is proposed in approximately the same location as the existing driveway serving the single-family dwelling. There is no landscape buffer between the driveway and the adjacent property currently, except for an approximately foot-wide strip of sod. Even with the reduced landscape buffer in the southeast corner of the Property, the proposed landscape buffer will be an improvement over existing conditions. Thus, the landscape buffer variance will not be detrimental to the public welfare. With regards to the driveway width variance, the width is only reduced in a small portion and given there are only three dwelling units, it is unlikely that two cars would be trying to pass through the driveway at the same time. Accordingly, the driveway width variance will not be detrimental to the public welfare.

- h) *The Variance is consistent with the comprehensive plan.*

The variances are consistent with the comprehensive plan. Specifically, they support Goal 01.00.00 which aims for “[t]he attainment of a living environment which provides the maximum physical, economic, and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions. It also supports Objective 01.11.00 which calls for encouragement of infill development and Objective 01.16.00 which tasks the City with promoting “Smart Growth” and redevelopment projects.

This Project proposes an enhancement to the living environment in the City, a new premium residential option for residents or new residents, and infill development of a long vacant site, which is “Smart Growth” as it is an efficient 3-unit multifamily design. The Project will enhance and beautify the neighborhood.

Variance 3– Side Setback and Stepback

Code Section	Required	Provided
Sec. 155.3212.C RM-45 District Table – Interior side yard setback, minimum	10 feet. Portions above 20 feet in height shall be setback an additional 1 ft for each 4ft of height, in this case: <ul style="list-style-type: none"> • 2nd floor – 11’6” stepback • 3rd floor – 15’ stepback* • 4th floor – 18’ stepback* * rounded up	8-foot setback on both sides

Variance 4 – Rear Stepback

Code Section	Required	Provided
Sec. 155.3212.C RM-45 District Table – Rear side yard setback, minimum	10 feet. Portions above 20 feet in height shall be setback an additional 1 ft for each 4ft of height. <ul style="list-style-type: none"> • 2nd floor – 11’6” stepback • 3rd floor – 15’ stepback* • 4th floor – 18’ stepback* * rounded up	10-foot setback

- a) *There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;*

The Property is insufficiently wide (50’ whereas the Code requires 75’ for a multifamily lot) and insufficiently large (5,819 square feet after the right-of-way dedication whereas the Code requires 8,800 square feet for a multifamily lot). As a result, the Property only has a single-family home on it despite being in a highly desirable area on the beach given the myriad challenges in re-developing it. The only workable multiple-unit design on the Property is a multi-family building with a single unit on each floor. As will be described in more detail under *Response c*, the increased setbacks on each higher floor quickly reduce the buildable area below the feasibility threshold.

- b) *The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;*

The conditions referred to in paragraph a. are not the result of the actions of the landowner as this lot was originally platted in 1946 (Silver Beach plat, Plat Book 22 Pg. 32). The right-of-way dedication that is required per the Trafficways Plan is

imposed upon the landowner and places the Property at a disadvantage compared to properties that were developed prior to this requirement and did not have to involuntarily reduce the size of their parcels. On the contrary, the landowner is already choosing to not pursue the maximum number of units that could be developed on the Property (seven), nor the maximum height that is permitted in the RM-45 zoning district (105 feet).

- c) *Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;*

First, it must be clarified that the Code requires an additional foot of stepback for each 4 feet of height, but each story is obviously taller than 4 feet and it is not possible to step a building back mid-story; so, in practice, each floor must be stepped back using the most stringent measurement at the top of each floor (e.g., the entirety of the 3rd floor must be stepped back 15 feet even though its bottom portion technically is only subject to a 12-13 foot stepback).

Next, we should note that the ground floor is not really a story as it only consists of the parking lot and drive aisle; elevator shaft and lobby; and the structural supports (building columns) for the cantilevered building above. The setbacks on this floor are essentially determined by the setbacks on the 2nd floor above.

As shown in *Exhibit #2*, complying with the stepbacks reduces the potential building envelope on each floor to the point where the 3rd and 4th floor units would be unbuildable. The Code-compliant building width on the 3rd floor would be 21 feet and the building width on the 4th floor would only be 15 feet. Since the average bedroom is usually 12 to 15 feet wide, the 4th floor unit would not be feasible since there would be no space for a hallway to access the bedrooms, living rooms, and bathrooms. While the 3rd floor plan would have room for a hallway, all of the rooms in that unit would have to be “lined up” one after the other, creating a very awkward floor plan that would be impossible to sell.

Lastly, the setback needs to be consistent at least on one side because of the elevator core. Centering the elevator core would be a poor design since it would create unusable space on either side, neither of the spaces large enough to be utilized for anything. Positioning the elevator core on the side creates sufficient space for a third bedroom on its other side.

Given these extraordinary dimensional constraints, literal application of the Code would unreasonably restrict the utilization of the land, making it infeasible to build anything other than a single-family home, and result in an unnecessary and undue hardship.

- d) *The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.*

These variances would not confer a special privilege on the landowner. The Property is in the RM-45 zoning district where dense multifamily development is expected and encouraged. Any substandard nonconforming lot with similar dimensional constraints would run into the same design issues that make it infeasible to fully comply with the setback and stepback requirements on the Property.

- e) *The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;*

The variances requested are the minimum necessary to feasibly redevelop the lot with nice, decently-sized units that will sell for a sufficient price to justify the high land values in the area. The economics of re-developing a single-family lot with just 3 units, given the costs of land and demolition, means the proposed units must be at least 2,000 square feet in size. The units are on the small end compared to most of the luxury units that are being built on the beach in Pompano nowadays. As noted under *Response c*, the 4th floor unit is entirely unbuildable if complying with the Code stepbacks while the 3rd floor unit is technically buildable but would not sell with such an awkward floor plan.

- f) *The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;*

The variances are in harmony with the general purpose and intent of the Code, which specifically encourages multifamily and townhouse development on a lot such as this one in this zoning district. The increase from one single-family home to 3 units is an incremental increase in density, far less than the maximum density of 7 units that is permitted on the Property, and is appropriate and desired in this high-value area.

- g) *The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and*

The side setback and stepback reduction on the north would not impact the adjacent Silver Thatch condominium, as that property has a wide driveway separating the condominium building from the subject Property. With respect to the rear stepback reduction on the west from a maximum of 18' to 10' and the side setback and stepback reduction on the south from a maximum of 18' to 8', the proposed building would still be 8' to 10' from the property line, which is appropriate for a dense, urban area on the beach. The setback and stepback variances would not be detrimental to the public welfare or the surrounding properties.

- h) *The Variance is consistent with the comprehensive plan.*

The variances are consistent with the comprehensive plan. Specifically, they support Goal 01.00.00 which aims for “[t]he attainment of a living environment which provides the maximum physical, economic, and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions. It also supports Objective 01.11.00 which calls for encouragement of infill development and Objective 01.16.00 which tasks the City with promoting “Smart Growth” and redevelopment projects.

This Project proposes an enhancement to the living environment in the City, a new premium residential option for residents or new residents, and infill development of a long vacant site, which is “Smart Growth” as it is an efficient 3-unit multifamily design. The Project will enhance and beautify the neighborhood.

Sincerely,

GREENSPOON MARDER LLP

A handwritten signature in blue ink that reads "M.H. Scott". The signature is written in a cursive style with a long horizontal stroke at the end.

Matthew H. Scott, Esq. and Julian Bobilev, AICP

Exhibit #1, Site Plan Constraints

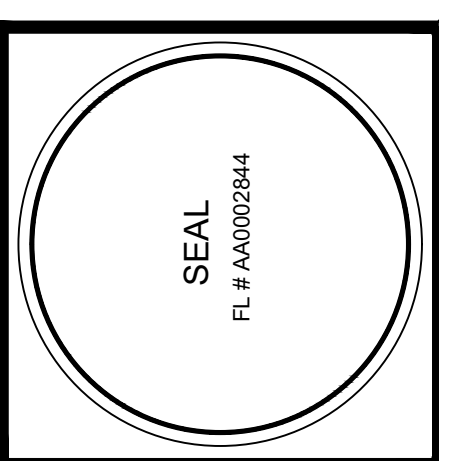
Exhibit #2, Floor Plans with Code Required Setbacks

NOTICE

ALL CONTRACTORS SHALL FIELD VERIFY ALL CONDITIONS AND DIMENSIONS PRIOR TO CONSTRUCTION AND SHALL NOTIFY THE ARCHITECT IMMEDIATELY IN WRITING PRIOR TO THE COMMENCEMENT OF WORK. DO NOT SCALE DRAWINGS CONTAINED HEREIN. WRITTEN DIMENSIONS SHALL ALWAYS TAKE PRECEDENCE. ALL DESIGN IDEAS AND CONCEPTS CONTAINED HEREIN THIS LEGAL DOCUMENT ARE THE PROPERTY AND ARE THE EXCLUSIVE PROPERTY OF ARCHITECTOLOGY LLC & HOLTZ DESIGN GROUP. UNAUTHORIZED REUSE OR REPRODUCTION OF THIS DESIGN, CONCEPTS, DRAWINGS AND/OR DETAILS IN WHOLE OR IN PART WITHOUT THE PRIOR, EXPRESSED WRITTEN CONSENT OF THE ARCHITECT, SHALL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW. ALL DRAWINGS AND SPECIFICATIONS CONTAINED HEREIN COPY WITH ALL EXISTING PROVISIONS OF THE CURRENT APPLICABLE BUILDING CODES IN EFFECT AT THE TIME OF THE DOCUMENT TO THE BEST OF OUR KNOWLEDGE. NO WRITTEN OR EXPRESSED WARRANTY OR FIDUCIARY AGREEMENT IS HEREBY GIVEN.

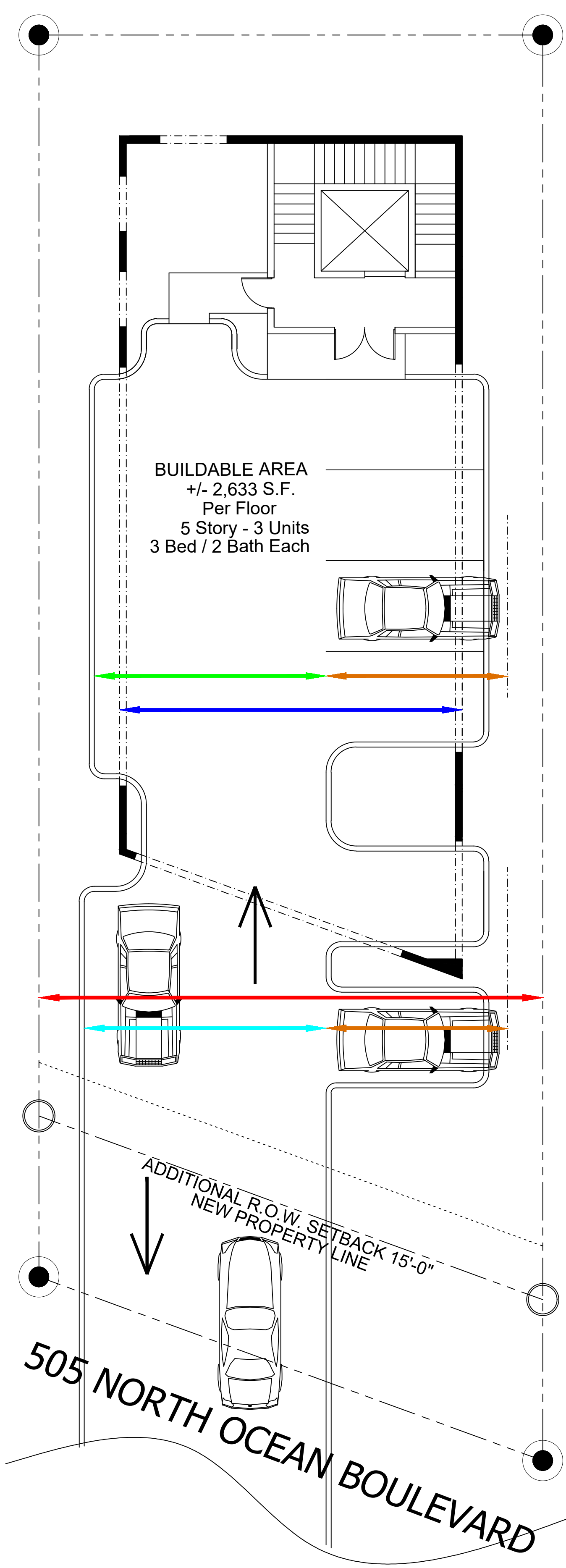
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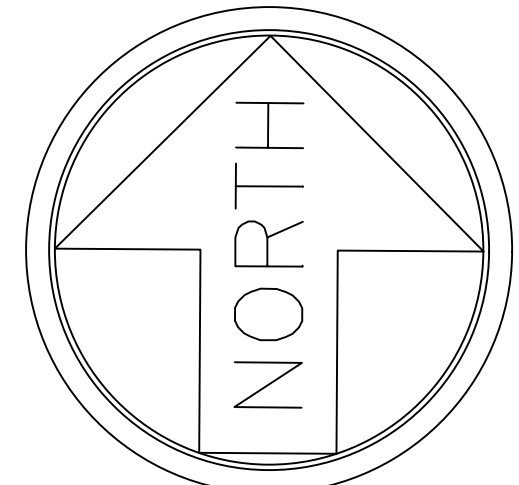


Project Name: **NEW CONDOMINIUM**
 FOR: **505 N OCEAN LLC.**
 505 N OCEAN BLVD.
 POMPANO BEACH, FL 33062

Drawn By: **D.C.E.**
 Approved By: **THIERRY-MICHEL KAWCZYNSKI**
 Issue Date: **10-18-24**
 Scale: **1/8" = 1'-0"**
 Commission No. **24-019**
 Drawing **EX-1**
 Sheet of



- 50' Property Width.
- 24' Driveway Length (Code Min.).
- 23' Vehicular Back out Length.
- 18' Parking space length.
- 34' Building Width.



SITE PLAN

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

Exhibit # 1

SITE PLAN CONSTRAINTS

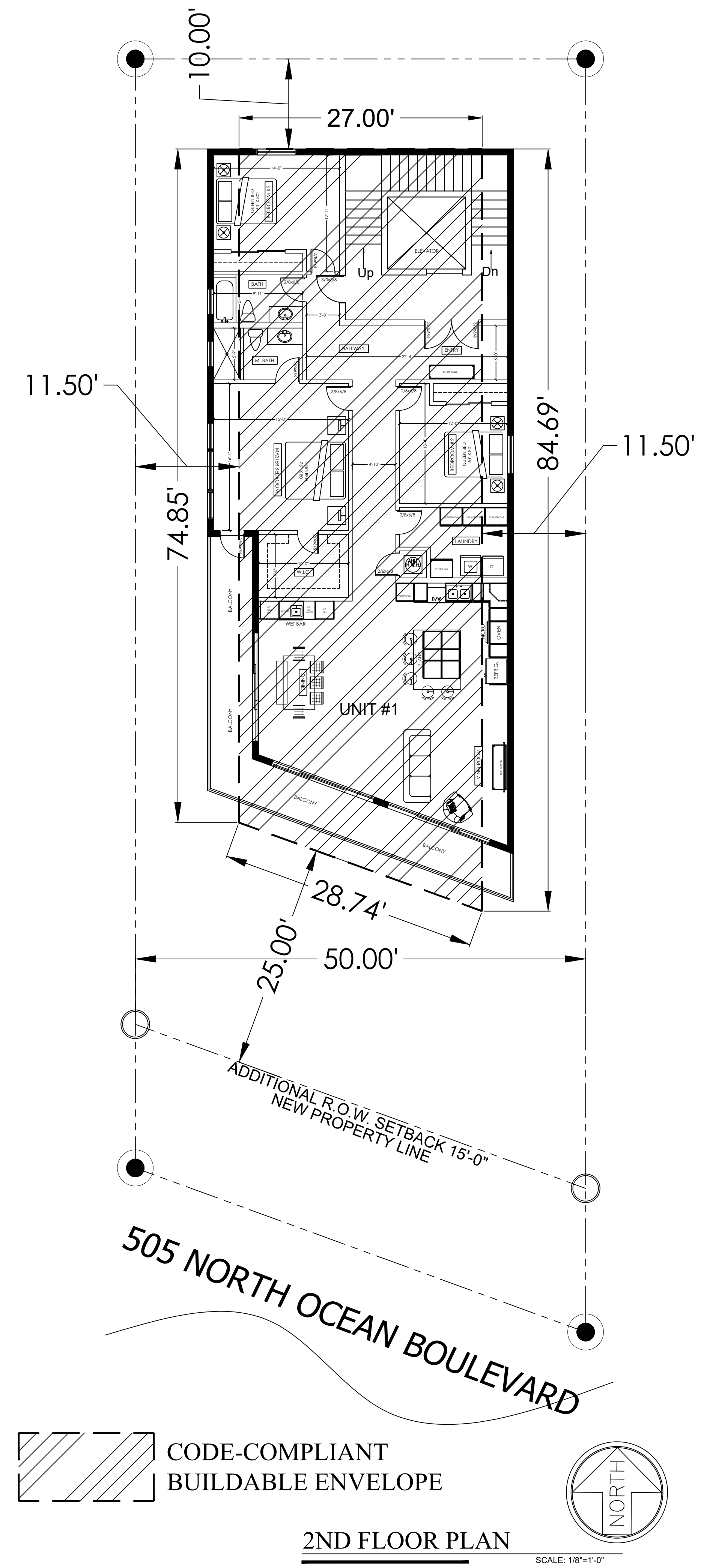
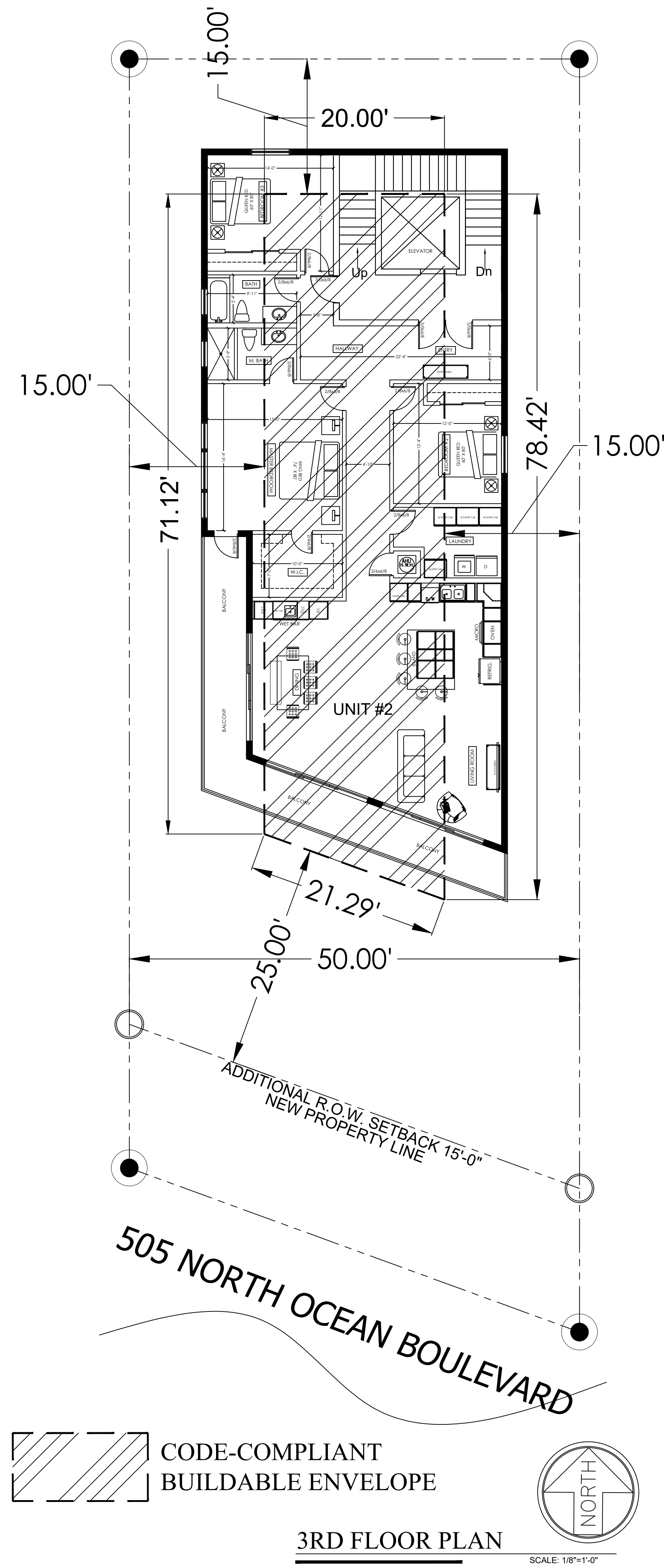
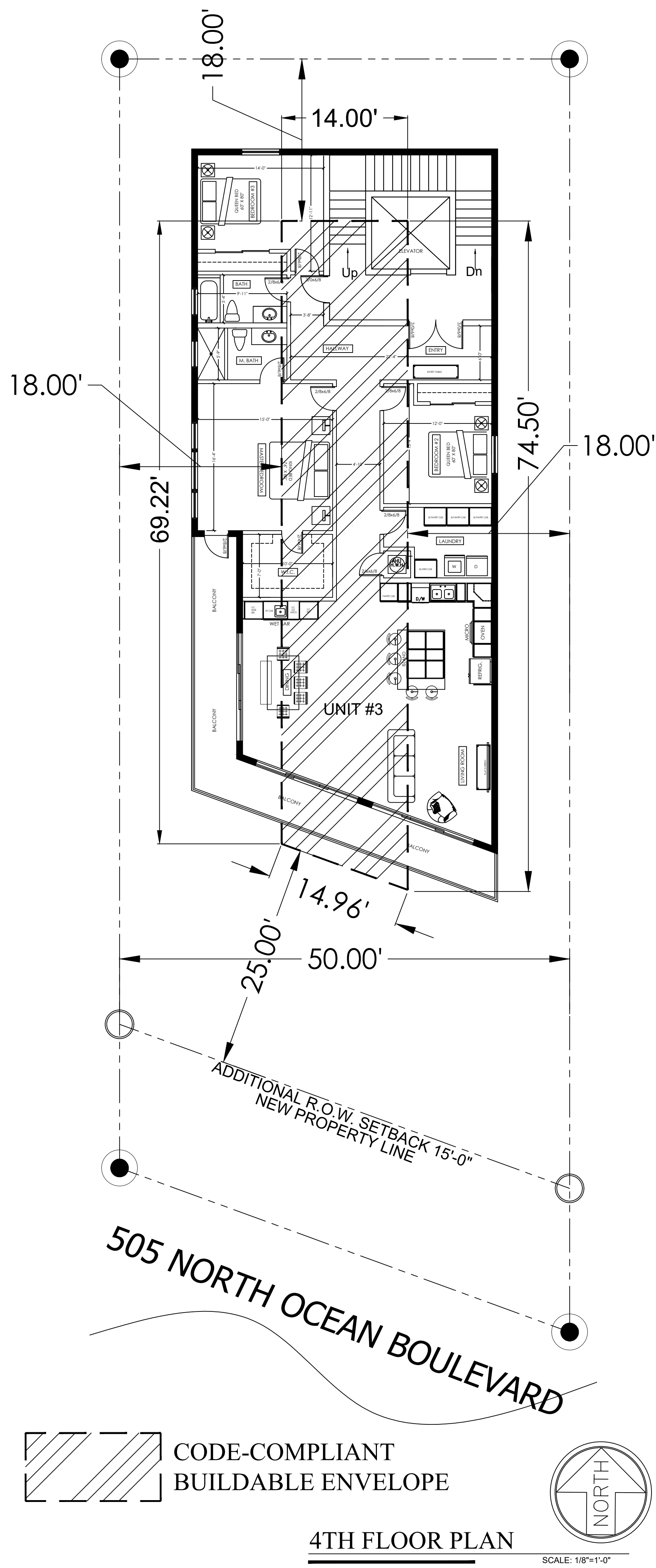


Exhibit #2

FLOOR PLANS WITH CODE REQUIRED SETBACKS

NOTICE

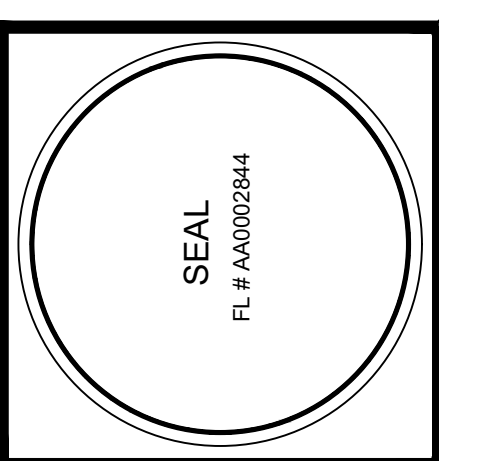
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Drawing EX-2
 Sheet of