



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Development and Environmental Services Group

J.1.

10/22/2019

Subject:

Waiver of Subdivision Perimeter Buffer, Re: Marker 24 Subdivision (19WV00009) (District 2)
Developer: Marker 24 Development, LLC

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicant is seeking a waiver to Section 62-2883(d) which requires a 15-foot perimeter buffer, platted as a common tract separate from individual lots. Instead, they wish to provide a 15-foot landscaped tree preservation easement within the proposed lots along the subdivision perimeter adjacent to the neighboring lots, and a 10-foot landscape and hardscape easement along the northern boundary abutting Wendy Drive. Where the development abuts the existing marina, new lots will be buffered by stormwater management areas.

Summary Explanation and Background:

Section 62-2883(d) requires that subdivisions provide a minimum 15-foot buffer tract along all property boundaries, platted as a common tract, separate from individual lots. The buffer tract is intended to provide separation and screening between the boundaries of residential developments in a natural and undisturbed state, or landscaped with county approval.

Marker 24 subdivision is a new subdivision proposed east of Newfound Harbor Drive, off of Jaren Avenue, containing 15 single family lots on 6.17 acres. The proposed subdivision is a private, gated infill development, located on property that was formerly included in a marina. The lots are required a 20-foot rear yard setback to be measured from the buffer tract. The applicant is requesting to provide a 15-foot landscaped tree preservation easement and rear lot drainage instead of the required 15-foot perimeter buffer tract where the development abuts existing lots, thereby reducing the separation between the proposed houses and the existing development by 15 feet.

By granting this waiver the Board understands that the landscaped 15-foot tree preservation easement will be within the 20-foot rear yard setback, and not in addition to it. As a result, new homes can be built within 20 feet of the existing properties' lot lines without the benefit of a 15-foot buffer tract on the new development. In addition, the easement will encumber 15 feet of the lots, not leaving room for accessories such as pools, sheds, etc. Other observations for this request include:

- Existing homes in this area were built prior to the requirements of Section 62-2883(d), and do not 976

benefit from their own buffer tract.

- In order to meet landscaping requirements, a substantial amount of tree planting and landscape maintenance will be necessary in the tree preservation easement. To accommodate future growth, some trees will be planted close to property lines and have the potential to eventually impact development on existing lots.
- There will be a 5-foot drainage easement with a retaining wall abutting the 15-foot tree preservation easement. In the plan provided, drainage inlets and pipes are not wholly located within the drainage easement and encroach into the 15-foot tree preservation easement. These structures will need maintenance that may require removal and replacement of the landscaping in the tree preservation easement causing possible future removal or damage to the buffer trees planted.
- The rear yard drainage proposed is to provide drainage collection for historical drainage from the adjacent existing residential lots. Failure to accommodate and maintain this historical drainage may cause localized flooding. Due to the retaining wall within the drainage easement and the heavy amount of tree plantings directly adjacent to the drainage inlets, there is little room to provide maintenance cleaning for the rear yard drainage.
- In addition to the retaining wall, new homes in Marker 24 will be built on a stem wall. Finished floor elevations may exceed that of adjacent homes up to a maximum of 4.87 feet. To maximize square footage, there is the potential for two story homes to be built in this subdivision as close as 1 ½ feet from the retaining wall.

The Board may wish to consider the following conditions for granting this waiver:

- Monthly maintenance of the rear yard drainage be required in perpetuity by the HOA and recorded as such in the Covenants and Restrictions.
- Mitigation approved by the Natural Resources Management Department, of any disturbance to the buffer, including preserved and planted trees, as a result of future drainage maintenance or replacement. This shall be required in perpetuity by the HOA and recorded as such in the Covenants and Restrictions.
- Planted and preserved trees in the buffer shall be preserved for screening purposes. Should a tree die, it shall be replaced with Natural Resources Management Department approval. This shall be required in perpetuity by the HOA and recorded as such in the Covenants and Restrictions.

Reference: 19WV00009, 18SD00008

Contact: Rebecca Ragain, Assistant Director, Extension 58250

Clerk to the Board Instructions:

None



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999
October 23, 2019

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

MEMORANDUM

TO: Tad Calkins, Planning and Development Director Attn: Rebecca Ragain

RE: Item J.1., Waiver of Subdivision Perimeter Buffer for Marker 24 Subdivision (19WV00009) – Marker 24 Development, LLC

The Board of County Commissioners, in regular session on October 22, 2019, approved a waiver to Section 62-2883(d), which requires a 15-foot perimeter buffer, platted as a common tract separate from individual lots with the following conditions:

- Monthly maintenance of the rear yard drainage be required in perpetuity by the HOA and recorded as such in the Covenants and Restrictions.
- Mitigation approved by the Natural Resources Management Department, of any disturbance to the buffer, including preserved and planted trees, as a result of future drainage maintenance or replacement, which shall be required in perpetuity by the HOA and recorded as such in the Covenants and Restrictions.
- Planted and preserved trees in the buffer shall be preserved for screening purposes; should a tree die, it shall be replaced with Natural Resources Management Department's approval; and this shall be required in perpetuity by the HOA and recorded as such in the Covenants and Restrictions.
- There will have to be a deed restriction indicating no vegetation or improvements of any kind that would impair drainage.
- Ensure HOA has adequate easements to access the area beyond the retaining wall outside the outer direction of the project so it can be maintained in perpetuity.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

cc: Natural Resources Management Director

BREVARD COUNTY LAND DEVELOPMENT WAIVER APPLICATION

This form should be used for all waiver requests or appeals associated with the Code of Ordinances, Section 62 as it relates specifically to Unpaved Roads, Subdivisions, Minor Subdivisions, and Site Plans.

APPLICATION TYPE

- SUBDIVISION WAIVER
- UNPAVED ROAD WAIVER
- SITE PLAN WAIVER
- OTHER

Land Development Use Only

Request Date: 6/14/2019 Fees \$ 775.00 Board Date: _____
Original Project # 18SD00008 Waiver # 19WV00009
Coordinator Initials: YZ Reference Files: _____
County Manager/Designee approval _____

Tax Parcel Identification: Twp. 25S Rng. 37E Sec. 06 S/D _____ Blk/Par _____ Lot(s) _____ (List all parcels)

Tax Account # ('s): 2514605 _____ (List all account numbers)

Project Name: Marker 24 Residential Property Owner: Marker 24 Development, LLC

Site Address: S. Banana River Dr. Merritt Island, FL

ALL CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THIS ADDRESS:

Name: Yane Zana Company: Marker 24 Development, LLC

Address: 2061 Indian River Boulevard E-Mail yzana@coastmark.com

City: Vero Beach State FL Zip 32960

Phone (772) 532-3418 Fax _____ Cell _____

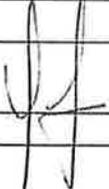
ENGINEER/CONTRACTOR (if different from applicant):

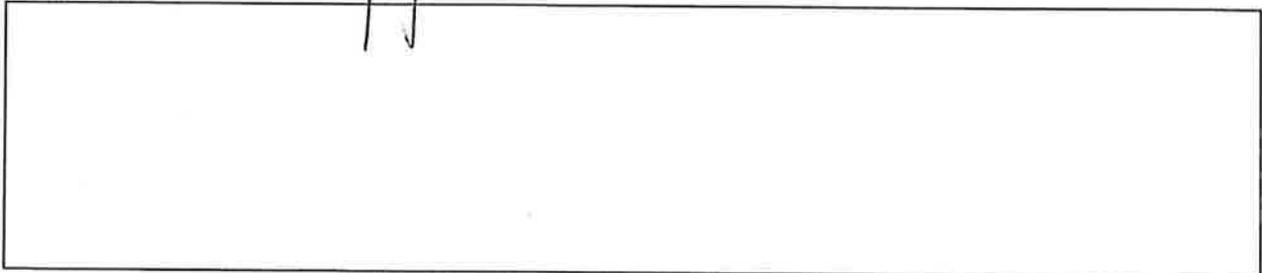
Company Name: B.S.E. Consultants, Inc Eng. or Proj. Mgr.: Scott M. Glaubitz, P.E., P.L.S.

Address: 312 S. Harbor City Blvd. #4 Melbourne, 32901 Ph # (321) 725-3674 Fax (321) 723-1159

DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

Section 62-2883(d) - Waiver of 15-foot perimeter buffer tract to an easement along portions of the property.

Owner/Applicant Signature:  Print Name: Yane Zana



If you wish to appeal any decision made by the county staff on the waiver, you may request the Board of County Commissioners to make a determination. Their decision approving or disapproving the waiver or interpretation is final.

Fees for Waivers are \$775.

APPLICATION FEES: A schedule of fees and charges for review is established and adopted by the Board of County Commissioners of Brevard County, Florida, and may, from time to time, be amended.

PLEASE MAKE CHECKS PAYABLE TO: THE BOARD OF COUNTY COMMISSIONERS

LAND DEVELOPMENT APPLICATIONS – DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Waiver Criteria below	Alternative Plan Design				8 1/2 x 11 vicinity map		Fees
Waiver - Site Plan	1	Y	-		-	-	1	-	Y
Waiver - Subdivision	1	Y	-				1		Y

WAIVER CRITERIA (SUBDIVISION, UNPAVED ROADS & SITE PLANS)
 For a waiver to be considered and approved by staff, your request must comply with all of the following criteria.
 Please explain, in detail, how your request meets the following conditions:

1. The particular physical conditions, shape or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.
A strict application of the code will provide no additional benefit to the County, surrounding properties or the Applicant.
The project is an in-fill project, with development and water surrounding it. A landscape buffer is not needed on the waterfront areas and a tract, adjacent to existing residential homes would not allow enough depth for lots and road right-of-way.

2. The granting of the waiver will not be injurious to the other adjacent property.
The proposed single-family residential project is adjacent to existing single-family homes (like kind development) and in these areas, a 15-foot buffer easement is being provided (same width as the standard tract).

3. The conditions, upon which a request for waiver are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.
The project is an in-fill project, with development and water surrounding it. Providing a tract reduces the overall width of the property such that, lot depths would not meet the County's minimum requirement. The intent of the 15-foot buffer tract is met with the 15-foot buffer easement.

4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan of the county and the requirements of this article.
Yes, the 15-foot buffer easement provides the same width as the tract hence, the intent is met.

5. Delays attributed to state or federal permits.
N/A

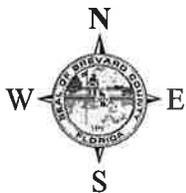
6. Natural disasters.
N/A

7. County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)

LOCATION MAP

19WV00009 MARKER 24 SUBDIVISION

19WV00009_Marker_24_Subdivision

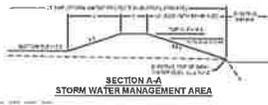
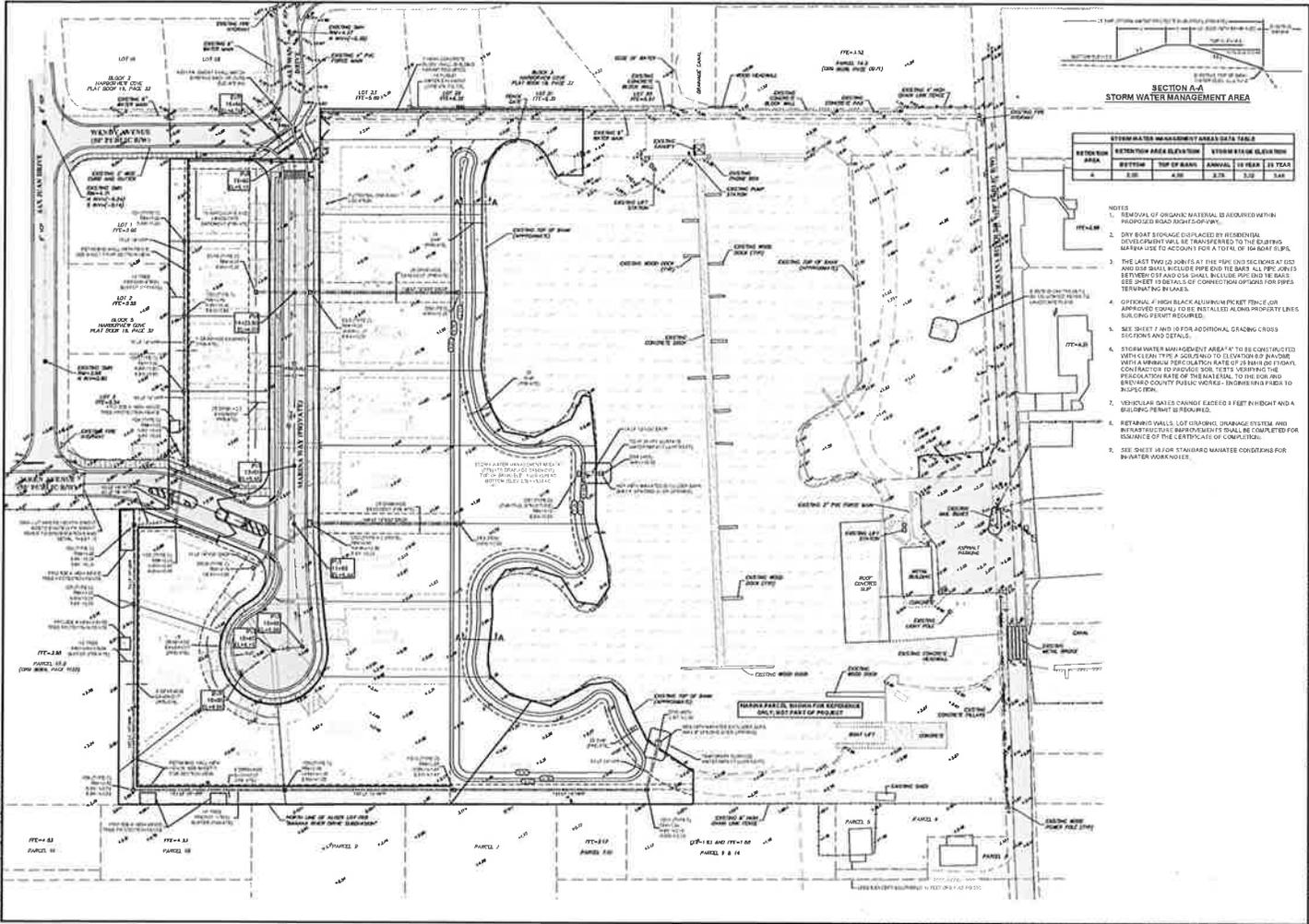


1:24,000 or 1 inch = 2,000 feet

 Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/18/2019



STORMWATER MANAGEMENT AREAS DATA TABLE

RETENTION AREA	RETENTION AREA ELEVATION		STORMWATER ELEVATION	
	AT 5 MIN	AT 15 MIN	AT 15 MIN	AT 30 MIN
1	8.00	8.00	8.00	8.00

- NOTES:**
- REMOVAL OF ORGANIC MATERIAL IS REQUIRED WITHIN PROPOSED ROAD RIGHTS-OF-WAY.
 - DRY BOAT STORAGE UNFRACED BY RESIDENTIAL DEVELOPMENT SHALL BE TRANSFERRED TO THE EXISTING MARINA USE TO ACCOUNT FOR A TOTAL OF 164 BOAT SLIPS.
 - THE LAST TWO JOINTS AT THE PIPE ENDS INDICATED AT 100' AND 150' SHALL INCLUDE PRE CAST BARS. ALL JOINTS BETWEEN 10' AND 10' SHALL INCLUDE PRE CAST BARS. SEE SHEET 10 FOR DETAILS OF CONNECTION OPTIONS FOR PIPES TERMINATING IN BARS.
 - SEE SHEET 1 AND 10 FOR ADDITIONAL GRADING CROSS SECTIONS AND DETAILS.
 - STORMWATER MANAGEMENT AREAS TO BE CONSTRUCTED WITH CLEAN TYPE A SOLENOID TO ELEVATION 8.75 AND WITH A MINIMUM SPECULARITY RATE OF 35 MIN ON TOP. CONTRACTOR TO PROVIDE SOLE TESTS VERIFYING THE PRODUCTION RATE OF THE MATERIAL TO THE SOI AND BRIDGEMOUNT COUNTY PUBLIC WORKS - IN ORDER TO BE PAID TO INSPECTOR.
 - VEHICULAR GATES SHOULD EXCEED 3 FEET IN HEIGHT AND A BUILDING PERMIT IS REQUIRED.
 - RETAINING WALLS, LOT GRADING, DRAINAGE SYSTEM AND INFRASTRUCTURE IMPROVEMENTS SHALL BE COMPLETED FOR COMPLETION OF THE CERTIFICATE OF COMPLETION.
 - SEE SHEET 10 FOR STANDARD MAINTENANCE CONDITIONS FOR IN-WATER WORKABLES.

BSE CONSULTANTS INC.
CONSULTING ENGINEERS
1000 WEST 10TH AVENUE
DENVER, CO 80202
TEL: 303.733.1100
WWW.BSECONSULTANTS.COM

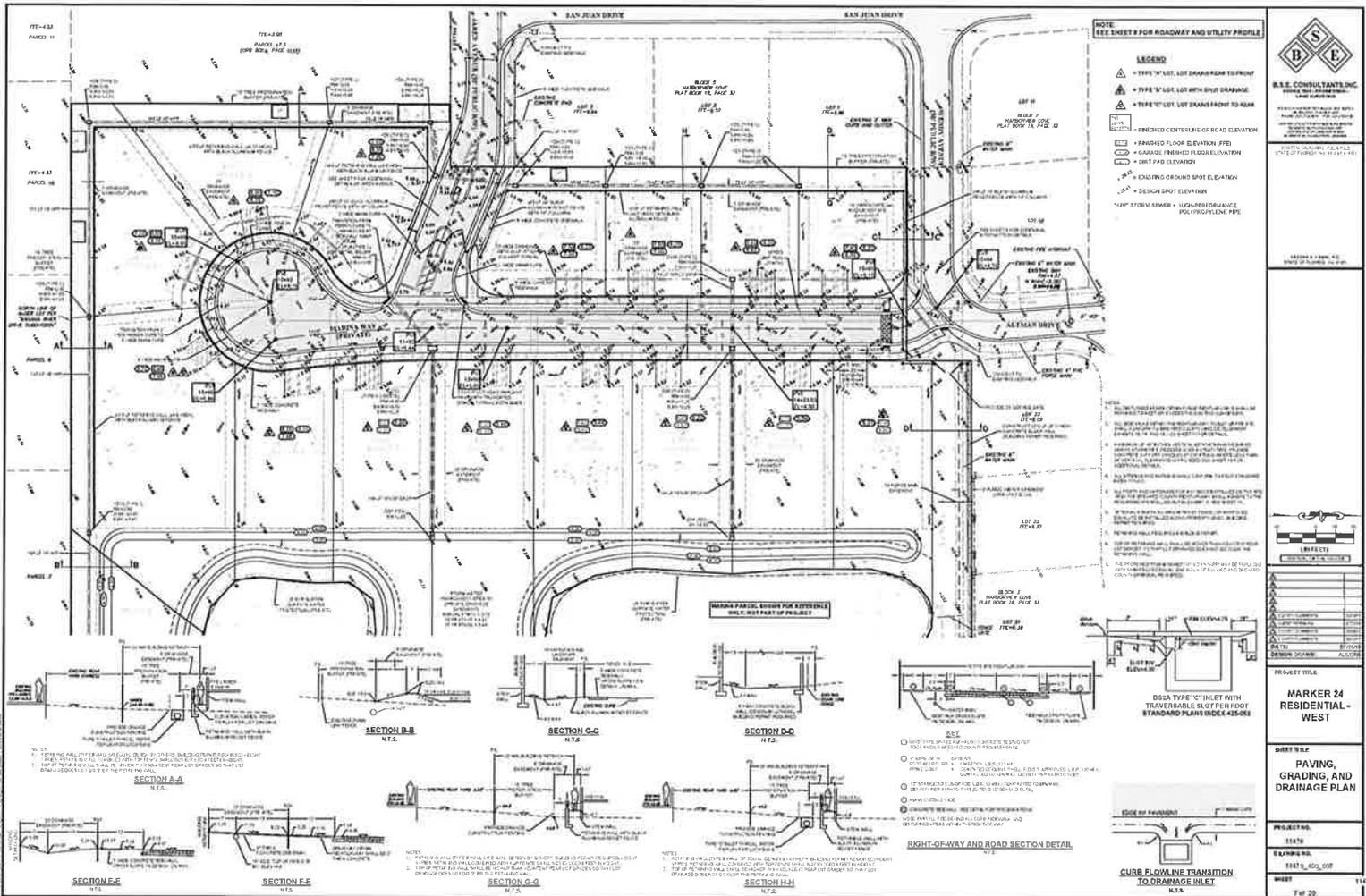
0 50 FEET

PROJECT TITLE	MARKER 24 RESIDENTIAL - WEST
PROJECT NO.	18479
DATE	11/10/2010
SCALE	AS SHOWN
DESIGNED BY	...
CHECKED BY	...
DATE	...

OVERALL PAVING, GRADING, AND DRAINAGE PLAN

PROJECT NO. 18479
DATE 11/10/2010
SCALE AS SHOWN

6 of 20



- NOTE**
SEE SHEET 2 FOR ROADWAY AND UTILITY PROFILE
- LEGEND**
- ▲ TYPE 'A' LOT, LOT DRAINAGE TO FRONT
 - ▲ TYPE 'B' LOT, LOT WITH SEWER DRAINAGE
 - ▲ TYPE 'C' LOT, LOT DRAINAGE TO REAR
 - FINISHED CENTERLINE OF ROAD ELEVATION
 - FINISHED FLOOR ELEVATION (FFEL)
 - GRADE FINISHED FLOOR ELEVATION
 - LOT FFB ELEVATION
 - EXISTING GROUND SPOT ELEVATION
 - DESIGN SPOT ELEVATION
 - 10" STORM SEWER - HIGH PERFORMANCE POLYPROPYLENE PIPE

BSE CONSULTANTS, INC.
 10000 W. 10th Avenue, Suite 100
 Denver, CO 80202
 (303) 751-1100
 www.bseconsultants.com

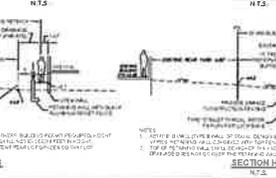
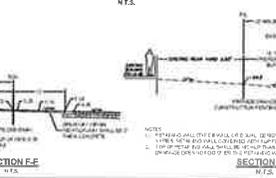
PROJECT TITLE: MARKER 24 RESIDENTIAL - WEST

DATE: 11/15/2018

SCALE: AS SHOWN

PROJECT NO: 18010

SHEET NO: 1147



PROJECT TITLE
MARKER 24 RESIDENTIAL - WEST

SHEET NO.
1147

PROJECT NO.
18010

DATE
11/15/2018

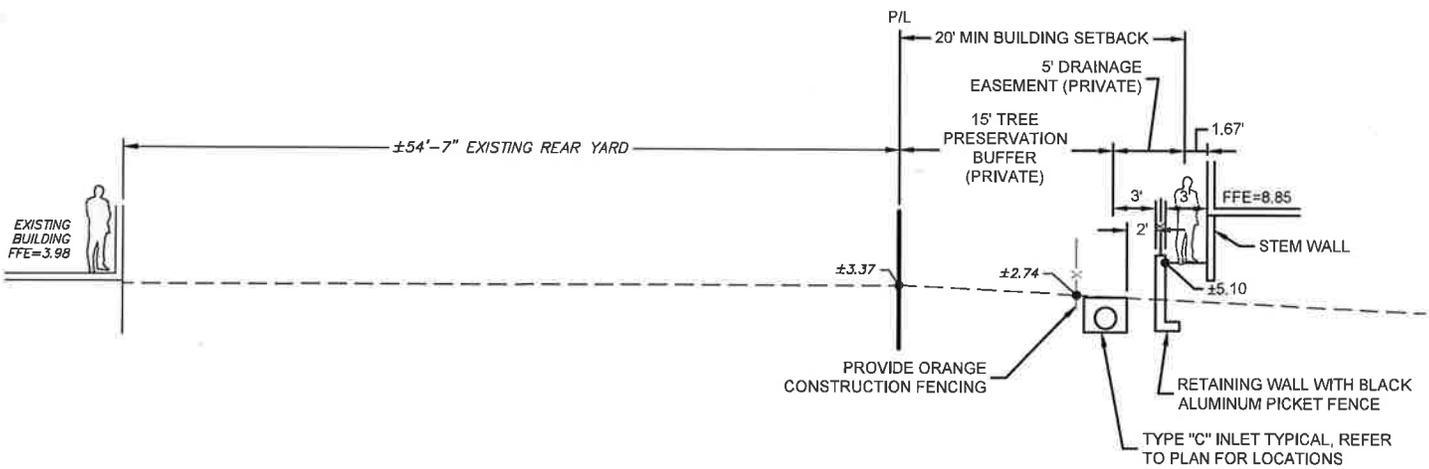
SCALE
AS SHOWN

PROJECT NO.
18010

DATE
11/15/2018

SCALE
AS SHOWN

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NOTES:

1. RETAINING WALL (TYPE II WALL OR EQUAL, DESIGN BY OTHERS; BUILDING PERMIT REQUIRED) HEIGHT VARIES. RETAINING WALL COMBINED WITH TOP FENCE SHALL NOT EXCEED 8 FEET IN HEIGHT.
2. TOP OF RETAINING WALL SHALL BE HIGHER THAN ADJACENT REAR LOT GRADES SO THAT LOT DRAINAGE DOES NOT GO OVER THE RETAINING WALL.

SECTION A-A (LOT 10, BLOCK A)

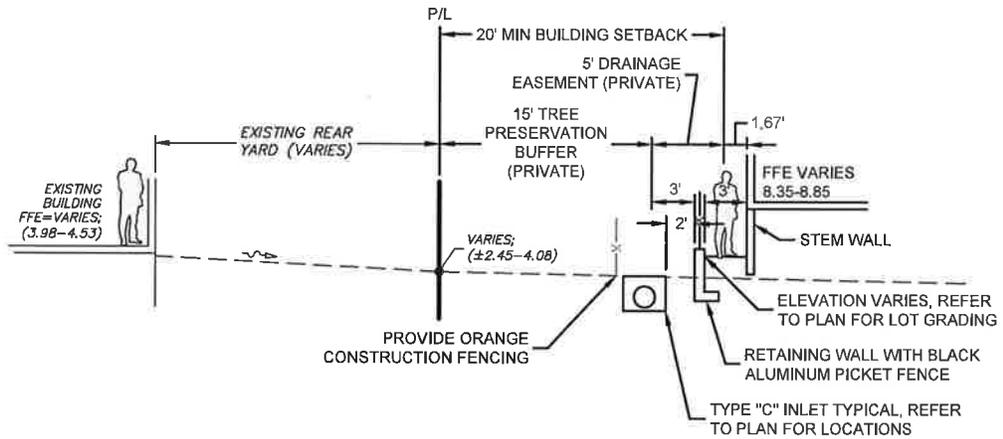


(IN FEET)



B.S.E. CONSULTANTS, INC.
 CONSULTING - ENGINEERING - LAND SURVEYING
 312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901
 PHONE: (321) 725-3874 FAX: (321) 723-1159
 CERTIFICATE OF BUSINESS AUTHORIZATION: 4905
 CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

DATE: 09/25/19
 DESIGN/DRAWN: ALS/DRB
 DRAWING# 11479_200_013
 PROJECT# 11479
 SHEET 1 OF 1



NOTES:

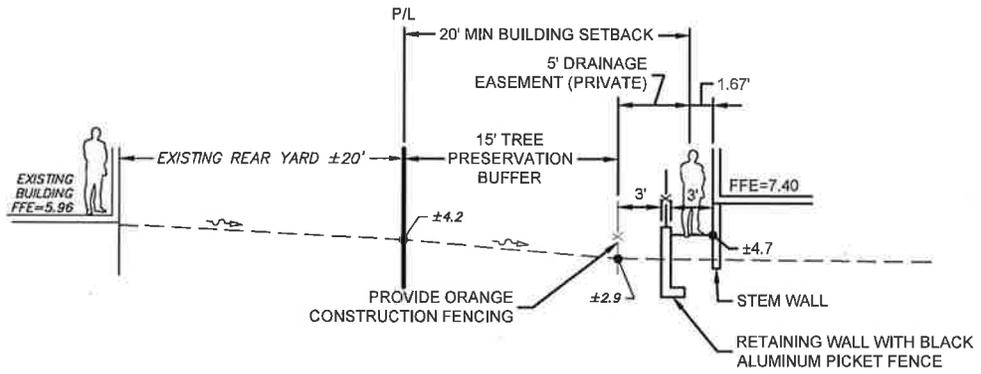
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SECTION A-A



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SECTION G-G



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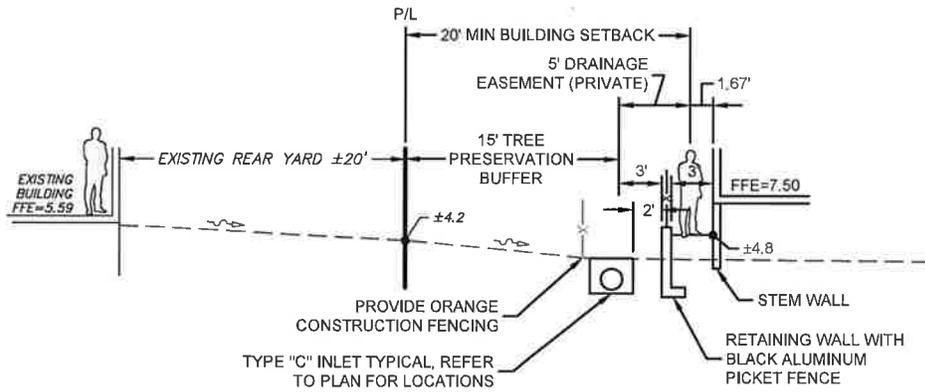


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 SHEET 1 OF 1

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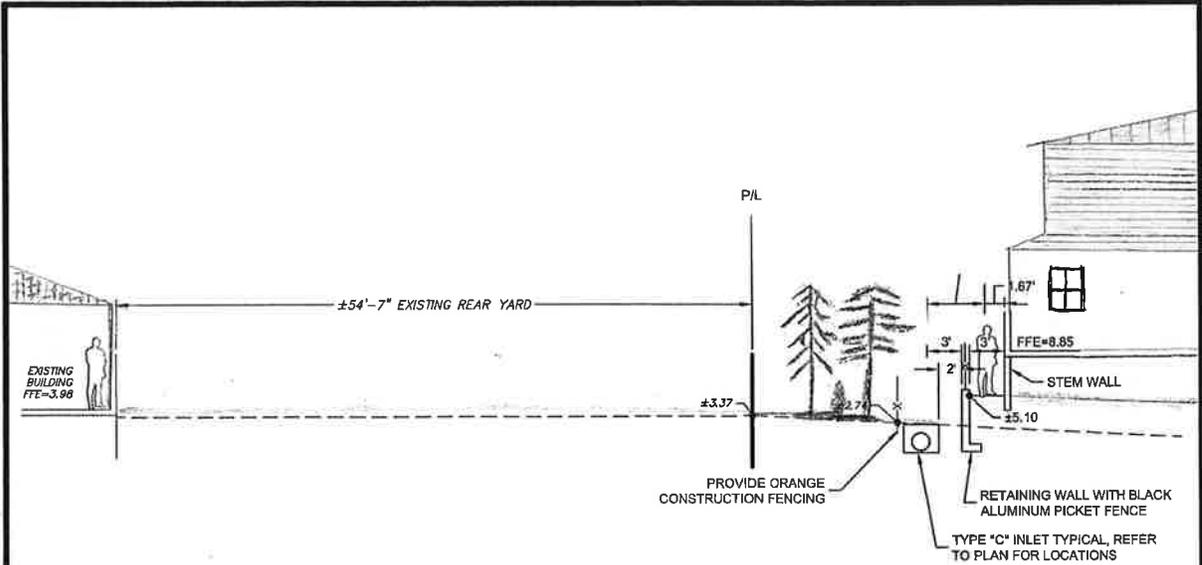
SECTION H-H



B.S.E. CONSULTANTS, INC.

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 312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901
 PHONE: (321) 725-3874 FAX: (321) 725-1159
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 SHEET 1 OF 1



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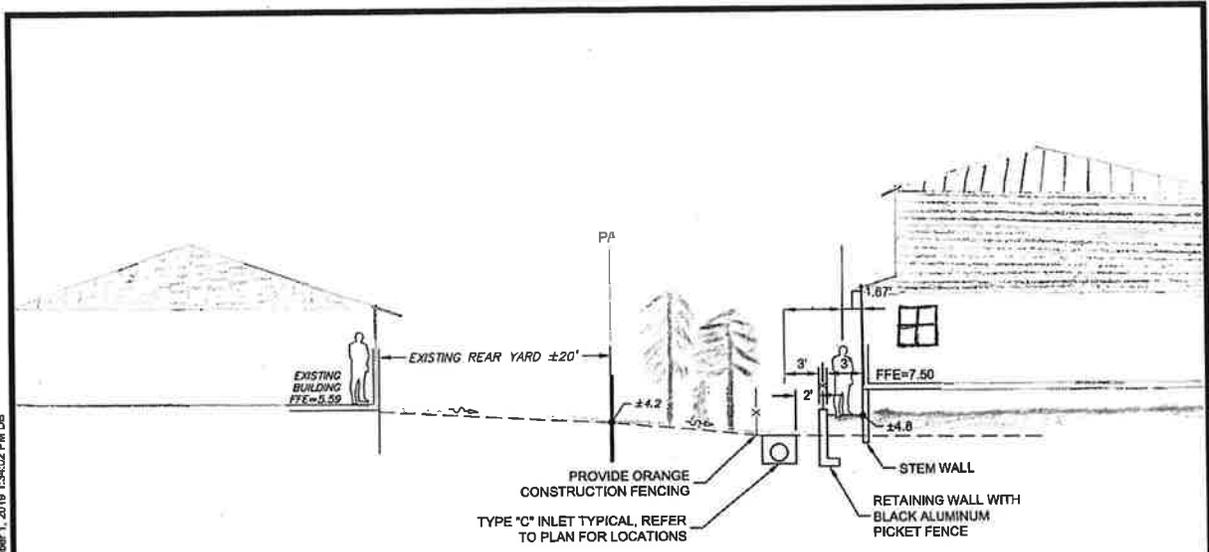
SECTION A-A (LOT 10, BLOCK A)

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 CONSULTING - ENGINEERING - LAND SURVEYING
 312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901
 PHONE: (321) 725-8874 FAX: (321) 725-1198
 CERTIFICATE OF BUSINESS AUTHORIZATION: 4905
 CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004995

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SECTION H-H



B.S.E. CONSULTANTS, INC.
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 312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901
 PHONE: (321) 725-2074 FAX: (321) 723-1199
 CERTIFICATE OF BUSINESS AUTHORIZATION: 4805
 CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004205

DATE: 09/25/16
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