

## **LPA RESOLUTION 2024-007**

**A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240270, REQUESTING SIX VARIANCES FROM THE LDC FOR THE PROPERTY LOCATED AT 1741 ESTERO BLVD., GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0080B.0010 IN FORT MYERS BEACH, TO VARY FROM REQUIRED 1)REAR SETBACK, 2)ACCESSORY STRUCTURE SETBACK, 3)LANDSCAPE BUFFER, 4) OFF-STREET PARKING, 5)SIDE STREET BUILD-TO LINE AND 6)PARKING LOT ENTRANCE WIDTH, TO ALLOW A MIXED-USE COMMERCIAL DEVELOPMENT INCLUDING RETAIL AND LODGING USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER’S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Belger Properties Partnership LLC (“Owner”) is the owner(s) of the property located at 1741 Estero Boulevard (Property), and is requesting variances from LDC 1) Sec. 34-674(b)(1)(a) of 1 foot encroachment into the rear setback for a rear setback of 21 feet from the rear property line for the mechanical equipment, and a variance of 5 feet 7 inches for a rear setback of 19 feet 5 inches for a dumpster enclosure, 2) Sec. 34-677(b)(3) a variance for the non-implementation of a 15 foot landscape buffer between a parking lot and public street, 3) Sec. 34-677(b)(3) a variance for the non-implementation of a required 15 foot landscape buffer between a commercial property and a residential lot, 4) Sec. 34-676(b)(1) a variance for off-street parking to not be situated in the rear yard but in the front, 5) Sec. 34-674(a)(1) a variance of 20 additional feet from the required 5 to 10 feet build to line off of Miramar Street for a street setback of 30 feet, 6) and Sec. 34-2013(a)(3) a variance to exceed the maximum width of a parking lot entrance at the property line of 25 feet to 88 feet along Miramar Street to build a new mixed-use structure in the Downtown zoning district; and

**WHEREAS**, the STRAP number for the subject property is 19-46-24-W4-0080B.0010; and

**WHEREAS**, the Property is located in the “Pedestrian Commercial” Future Land Use of the Comprehensive Plan and the “Downtown” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on December 10, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC; and

**WHEREAS**, in accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA makes the following findings and conclusions:

A. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

D. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

**WHEREAS**, eligible members of the LPA voted unanimously by roll call vote to approve the requested variances with the following conditions:

- 1) Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) Property owner must ensure that they adhere to the maximum FAR of 1.4 and the building does not exceed 18,370 square feet under roof.
- 3) Property owner must screen ground level parking in a manner similar to that presented in the variance application documents and compliant with flood regulations. Live vines on the screening is acceptable.
- 4) The variances shall only apply to the mixed-use structure as shown on the provided site plan. Demolition or substantial damage to the mixed-use structure shall render the variances to be null and void.
- 5) Property owner must have complete visual screening that enclose all mechanical equipment to obscure from the public right-of-way and from the immediate neighbor's property to help mitigate noise; and

**WHEREAS**, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and

2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

**IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

1. The foregoing “WHEREAS” clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.

2. VAR20240270, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on December 10, 2024.

3. This Resolution shall constitute the equivalent of a development order and final agency action, subject to any request for an additional review by the Town Council filed with the Town Clerk within 10 business days of the LPA decision as authorized in Section 34-232(d) of the LDC.

The foregoing LPA Resolution was adopted upon a motion by LPA Member McLean and seconded by LPA Member Eckmann, and upon being put to a roll call vote, the result was as follows:

Anita Cereceda, Chair	Aye
Jane Plummer, Vice-Chair	Aye
Jim Boan, LPA Member	Aye
Doug Eckmann, LPA Member	Aye
Don Sudduth, LPA Member	Aye
John McLean, LPA Member	Aye
Jim Dunlap, LPA Member	Aye

DULY PASSED AND ADOPTED THIS 10<sup>th</sup> day of December 2024.

Local Planning Agency of the Town of  
Fort Myers Beach

By: Anita Cereceda  
Anita Cereceda (Jan 7, 2025 16:46 EST)  
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: Nancy Stuparich  
Nancy Stuparich (Jan 8, 2025 13:25 EST)  
Vose Law Firm, Town Attorney

By: Amy Baker  
Amy Baker, Town Clerk

This Resolution was filed in the Office of the Town Clerk on this 6<sup>th</sup> day of January 2025.

EXHIBIT A: Site Plan

# 1741 ESTERO BLVD, FORT MYERS BEACH, FL

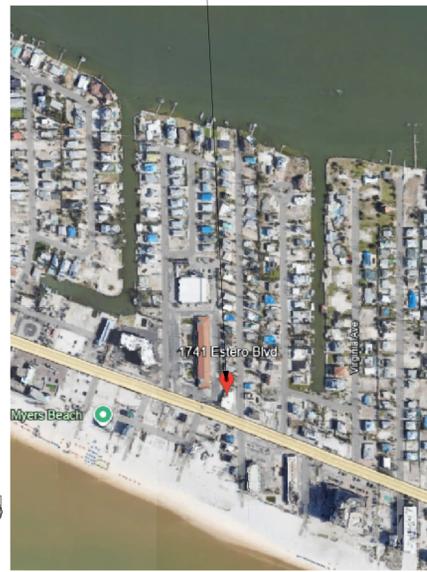
PREVIOUSLY EXISTING STORE:



2 THE GOODZ

- GENERAL NOTES**
- DO NOT SCALE THESE DRAWINGS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO CHECK ALL DIMENSIONS AND VERIFY THE BUILDING POSITION WITH IN THE SETBACK LINES PRIOR TO COMMENCING CONSTRUCTION.
  - FOR ARCHITECTURAL REFERENCE ELEVATIONS SHOWN HEREFTER ARE BASED ON "+EL. 0'-0" EQUAL TO XXX" N.A.V.D ALL INFORMATION SHOWN HEREIN IS TAKEN FROM A SURVEY PROVIDED BY CUSTOMER OR G.C. APPOINTED SURVEYING COMPANY. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL EXISTING CONDITIONS. ALL EXISTING CONDITIONS ARE NOT NECESSARILY SHOWN HEREIN.
  - ALL TRADES SHALL BE RESPONSIBLE TO READ ALL DETAILS AND SPECIFICATIONS, AND PLANS - ARCHITECTURAL, STRUCTURAL, MECHANICAL, ETC. FOR PROPER COORDINATION. IF ANY CONFLICTS EXIST, THAT TRADE SHALL NOTIFY THE CONTRACTOR OF THE SAME, PRIOR TO CONSTRUCTION.
  - THE CONTRACTOR SHALL DIRECT ANY DISCREPANCIES TO THE ENGINEER OR RESIDENTIAL DESIGNER PRIOR TO CONSTRUCTION, AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR WORK WHICH PROCEEDS WITHOUT DUE COURSE AND COORDINATION.

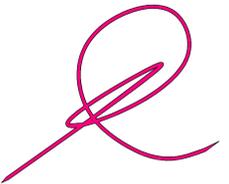
SITE LOCATION



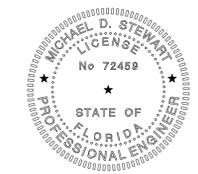
3 RIGHT ELEVATION  
1/4" = 1'-0"

**NOTE:**  
PLANTINGS SHOWN HEREIN ARE CONCEPTUAL AND FOR DISCUSSION PURPOSES ONLY. SPECIFIC PLANTINGS TO BE PROVIDED BY OTHERS.

MICHAEL D. STEWART, P.E. LLC  
PROFESSIONAL ENGINEERING SERVICES



(239)-292-7670  
MStewart@MStewartPE.com  
CA# 33003  
PAMELA PERALTA, P.E.  
FLA REG. #96645  
MICHAEL D. STEWART, P.E.  
FLA REG. #72459



2024.10.28  
REVISION: 2024.11.18

**PROJECT INFORMATION**  
**THE GOODZ - PRELIMINARY DISCUSSION SET**

(PROJECT ADDRESS)  
1741 ESTERO BLVD,  
FORT MYERS BEACH, FL

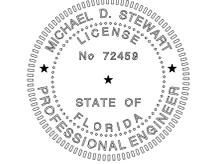
**LOWER LEVEL PARKING**

(DRAWN BY) PSP

(COPYRIGHT 2024)

(SHEET NUMBER)

**A  
0.1**



**PROJECT INFORMATION**  
**THE GOODZ - PRELIMINARY DISCUSSION SET**

(PROJECT ADDRESS)  
1741 ESTERO BLVD,  
FORT MYERS BEACH, FL

**LOWER LEVEL PARKING**

(DRAWN BY) PSP

(COPYRIGHT 2024)

(SHEET NUMBER)

**A**  
**0.2**



② FRONT ELEVATION  
1/4" = 1'-0"

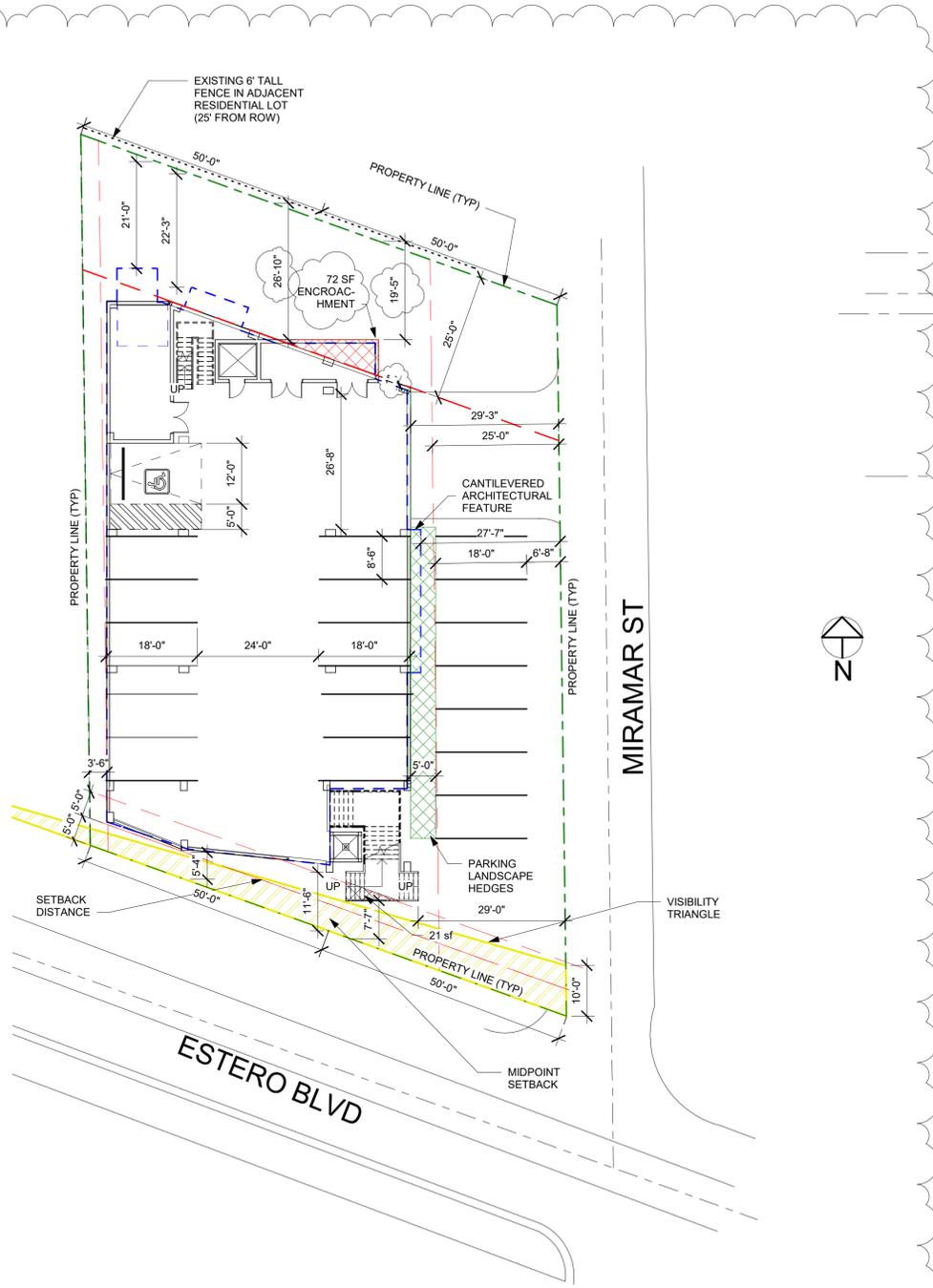
PARKING TABLE		
	REQUIRED	TOTAL
RETAIL SPACE (HARDWARE STORE)	3 SPACES PER 1000 SF	4,987 SF HARDWARE STORE [15 SPACES REQUIRED]
HOTELS	1.5 SPACES PER UNIT	5 UNITS [8 SPACES REQUIRED]
OFFICE / STORAGE SPACE	2 SPACES PER 1000SF STORAGE OR OFFICE	314 SF + 426 SF + 140 SF = 880 SF TOTAL [2 SPACES REQUIRED]
TOTAL SPACES REQUIRED - 25 SPACES --> MULTIPLY BY .67 18 SPACES REQUIRED - 18 PROVIDED		

ZONING REQ's		
	REQUIRED	PROVIDED
MAX BUILDING HEIGHT	30FT FROM BFE, 3 STORIES, LIMITED STORAGE ON LOWER LEVEL	
FLOOR AREA RATIO	1.4	13,122 SF TOTAL LOT AREA, 6,096 + 6,096 + 6,175= 18,367 SF, 18,367 SF / 13,122 SF = 1.3997
PARKING REDUCTION (34-676 (a))	67%	
BUILD TO LINES	5 TO 10 FEET FROM PROPERTY LINE	

\*C/F (15FT WIDE) BUFFERS REQUIRED BETWEEN ADJACENT SF ZONING AREAS.

③ PARKING TABLE  
1" = 20'-0"

**NOTE:**  
INFORMATION SHOWN HEREIN IS PRELIMINARY AND FOR DISCUSSION PURPOSES ONLY.



① SITE PLAN  
1/16" = 1'-0"

# FLOOR PLAN GENERAL NOTES:

**GENERAL:**  
 VERIFY FLOOR ELEVATIONS W/ FLOOD REQUIREMENTS.  
 ALL EXTERIOR WINDOWS & DOORS ARE DIMENSIONED TO CENTER LINE U.N.O.

**\*CONTRACTOR TO VERIFY OF ALL DIMENSIONS.\***

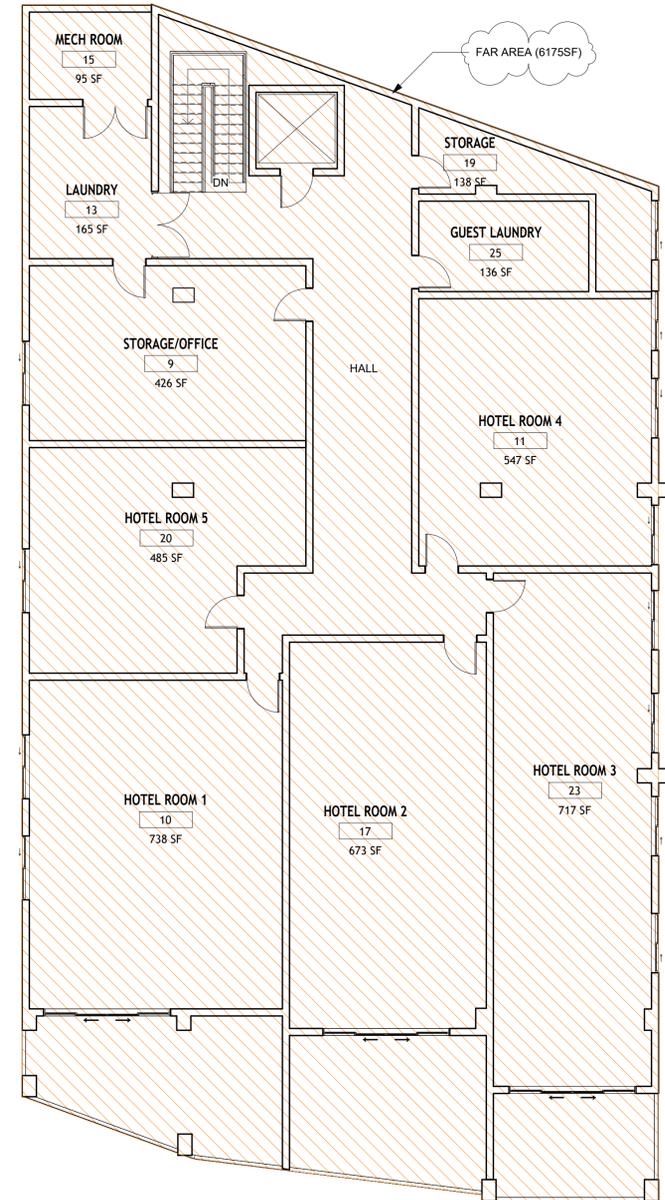
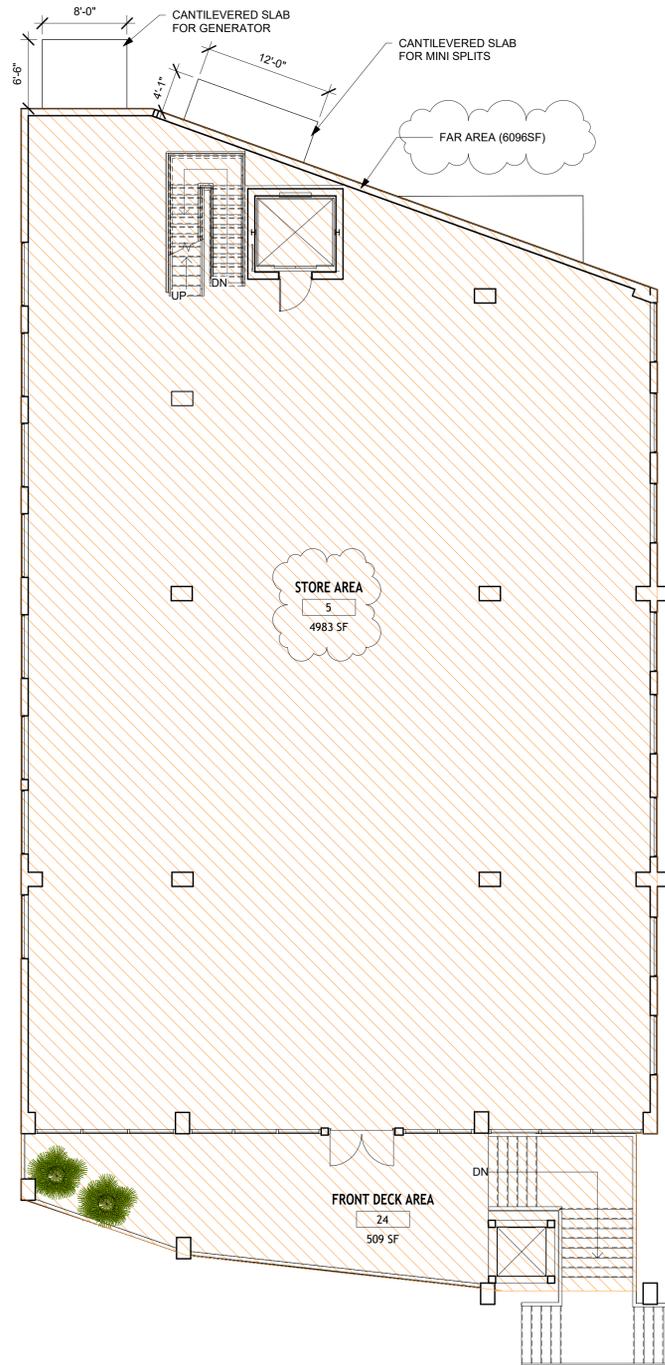
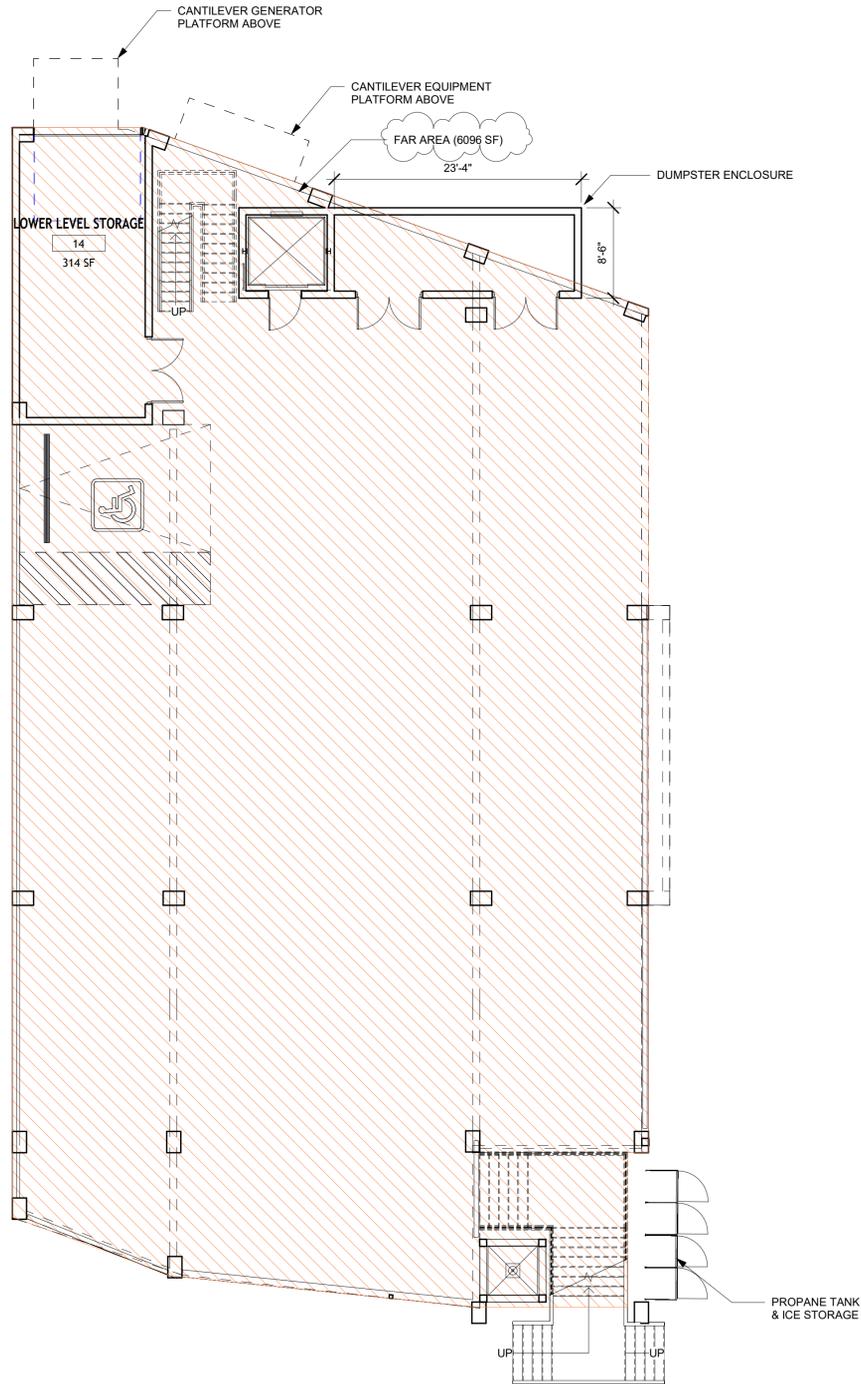
ALL HANDRAILS AND GUARD RAILS TO BE 36" AFF U.N.O. DESIGNED AND INSTALLED TO NOT ALLOW THE PASSAGE OF A 4" SPHERE. PROVIDE TOE RAILING AS REQ'D. MAX 2" A.F.F. COORD. FINAL MATERIAL, DESIGN, AND FINISH WITH OWNER. HANDRAILS AND GUARDS MUST COMPLY WITH ALL THE REQUIREMENTS OF THE FBC.

PROVIDE METAL THRESHOLD (MT) AT DOORS LEADING TO THE GARAGE, ELEVATOR DOOR AND ALL EXTERIOR DOORS, TYP. U.N.O.

COORDINATE ATTIC ACCESS LOCATIONS W/ FINAL TRUSS LAYOUT.

SEE STRUCTURAL DRAWINGS FOR ALL LOAD BEARING WALL, COLUMN AND FILLED CELL LOCATIONS.

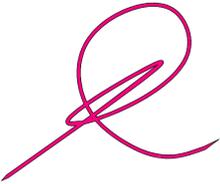
**NOTE:**  
 INFORMATION SHOWN HEREIN IS PRELIMINARY AND FOR DISCUSSION PURPOSES ONLY.



2 GROUND FLOOR PLAN  
 1/8" = 1'-0"

3 FIRST FINISH FLOOR  
 1/8" = 1'-0"

4 SECOND FINISH FLOOR  
 1/8" = 1'-0"



(239)-292-7670  
 MStewart@MStewartPE.com

CA# 33003

PAMELA PERALTA, P.E.  
 FLA REG. #96645

MICHAEL D. STEWART, P.E.  
 FLA REG. #72459



2024.10.28  
 REVISION: 2024.11.18

**PROJECT INFORMATION**

**THE GOODZ - PRELIMINARY DISCUSSION SET**

(PROJECT ADDRESS)  
 1741 ESTERO BLVD,  
 FORT MYERS BEACH, FL

**LOWER LEVEL PARKING**

(DRAWN BY) PSP

(COPYRIGHT 2024)

(SHEET NUMBER)

**A  
 1.1**