



FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK: Brandon Nichols
Date: 4/1/2026
File #:

City of Cape Coral
Department of Development Services

**PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA BUILDING COMMISSION**

March 29, 2026

DS 2026-016

Company: City of Cape Coral
Address: 1015 Cultural Park Blvd
Cape Coral, FL 33990

Petitioner:

Name: Shane Kittendorf
Title: Building Official
Telephone: (239) 574-0598
E-Mail: skittendorf@capecoral.gov

Subject: Floating non-residential structures that are not classified as vessels by the United States Coast Guard

Statute(s), Agency Rule(s), and Code Section(s) on which the Declaratory Statement is sought:

- Florida Building Code – Building, 8th Edition (2023)
- Section 102.2 – Building
- Chapter 2 – Definitions
- Chapter 16 – Structural Design (as applicable)
- Section 1612 – Flood Loads
- ASCE 24-14 – Flood Resistant Design and Construction

Background:

The City of Cape Coral, through its Building Division, is responsible for the enforcement and interpretation of the Florida Building Code (FBC) within its jurisdiction.

The Building Division has encountered a rare project scope regarding the classification, applicability, and enforcement of the Florida Building Code as it relates to floating structures

that are not classified as vessels by the United States Coast Guard and are not defined as “floating residential structures.”

Section 102.2 of the Florida Building Code – Building identifies that the provisions of the code apply to “buildings, structures or facilities, or floating residential structures.” However, the code does not clearly address floating structures of a non-residential nature, nor does it provide a clear framework for how such structures are to be regulated when they are permanently moored, connected to utilities, or function as occupiable structures.

The City of Cape Coral is currently evaluating a proposed project involving a floating structure that is intended to be relocated from the Town of Lake Park, Florida, to the City of Cape Coral.

The floating structure was originally constructed and utilized in Lake Park as a temporary sales center associated with the development of a 25-story high-rise project known as “220 Nautilus,” which was under construction from approximately 2020 through 2026. The floating structure appeared to function as an occupiable commercial space, including sales and model unit components (assumed business use occupancy) .

The same entity, Forest Development, is currently in the pre-planning stages of a new large-scale development project within the City of Cape Coral known as the “Seven Islands/Gulf Gateway Resort & Marina Project.” This project is anticipated to consist of approximately six (6) seven-story buildings and one (1) ten-story building, along with associated site amenities.

All properties associated with the Seven Islands/Gulf Gateway Resort & Marina Project, including the proposed location of the floating structure, are located within a Special Flood Hazard Area (SFHA).

The applicant has indicated that the floating structure is proposed to be transported by tug boats across the state and moored within a canal at the northernmost point of the Seven Islands/ Gulf Gateway Resort & Marina development. The structure is anticipated to remain in this location for an extended duration of approximately eight (8) years and will function as a proposed business use, sales center and occupiable structure in support of the development.

The proposed use and duration of placement introduce additional considerations, including:

- Long-term mooring in a fixed location
- Occupancy by the public and staff
- Potential connection to utilities
- Exposure to flood loads, wind loads, and life safety requirements

The City requested documentation related to the original permitting, construction, and code compliance of the floating structure, including any approvals demonstrating compliance with applicable building, structural, life safety, and floodplain requirements. To date, no such documentation has been provided that clearly establishes compliance with the Florida Building Code or an equivalent regulatory framework.

Documentation provided to the City is limited to architectural drawings and general information, including but not limited to:

- Cover Sheet (A0.1)
- Site Plan Diagram (A1.0)
- Floor Plans (A2.1 – A2.3)
- Elevations and Sections (A3.1 – A4.2)
- Reflected Ceiling Plans (A5.1 – A5.2)
- Window and Door Schedules (A6.1 – A6.2)
- Construction Details (A7.1 – A7.3)
- U.S. Coast Guard correspondence indicating the structure is not classified as a vessel
- Photographic documentation

As a result, the structure is proposed to be placed into service without clear verification of compliance with the Florida Building Code, creating a potential gap in the enforcement of structural integrity, life safety systems, and floodplain management requirements.

The Petitioner is a “substantially affected person” pursuant to Section 553.775, Florida Statutes, as the lack of clarity directly impacts code enforcement, public safety, and uniformity of code application.

Definition:

Floating residential unit. A structure primarily designed or constructed as a living unit, built on a floating base, which is not designed primarily as a vessel, is not self-propelled although it may be towed about from place to place, and is primarily intended to be anchored or otherwise moored in a fixed location.

Issue for Clarification:

The Florida Building Code explicitly references “floating residential structures,” but does not address floating structures of a commercial or non-residential nature.

This omission has resulted in inconsistent interpretations as to whether such structures are regulated under the Florida Building Code as buildings or structures, exempt from the code if not classified as vessels, or otherwise subject to structural, life safety, and floodplain requirements.

Question(s) Presented:

1. **Does the Florida Building Code apply to floating structures that are not classified as vessels and are not defined as “floating residential structures,” but are used for commercial or non-residential purposes and intended for occupancy?**
2. **If applicable, should such floating structures be regulated as “structures” under the Florida Building Code, including compliance with structural, life safety, electrical, plumbing, mechanical, fuel-gas and flood-resistant construction provisions?**
3. **Are floating structures that are permanently moored, connected to utilities, and intended for occupancy required to comply with FBC Chapter 16 (Structural), Section 1612 (Flood Loads), and ASCE 24, including applicable local freeboard requirements??**
4. **In the absence of a specific definition within the Florida Building Code, what is the appropriate regulatory framework for ensuring uniform application and enforcement across jurisdictions?**

Petitioner’s Position / Requested Determination:

The Petitioner respectfully requests that the Florida Building Commission provide clarification and a formal interpretation that:

- Floating structures that are not vessels and are intended for occupancy or commercial use fall within the scope of the Florida Building Code
- Such structures should be regulated as structures or facilities under Section 102.2
- Applicable provisions of the Florida Building Code, including structural, life safety, and flood-resistant construction requirements, are required for compliance
- The long-term placement (approximately eight years), occupancy, and connection to utilities establish characteristics consistent with a “structure” or “facility” as intended by the Florida Building Code

Absent such clarification, jurisdictions are left to interpret the code independently, resulting in inconsistent enforcement and potential risks to public safety.

Summary:

Pursuant to Section 553.775(1), Florida Statutes, it is the intent of the Legislature that the Florida Building Code be interpreted in a manner that ensures uniformity, public safety, and consistent enforcement across the state.

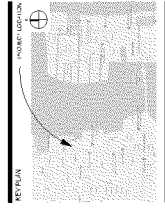
The Petitioner respectfully requests that the Commission provide a clear and concise interpretation regarding the applicability of the Florida Building Code to non-residential floating structures to ensure consistent application and protection of life and property.

Respectfully submitted,



Shane Kittendorf
Building Official
City of Cape Coral
Building Division
239-574-0549
skittendorf@capecoral.gov



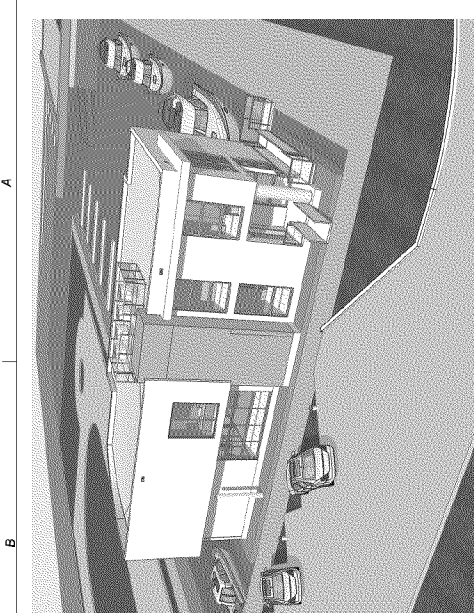


STATE OF FLORIDA
REGISTERED PROFESSIONAL ARCHITECT
NO. 148028145
DATE: 06/11/2022
PROJECT: NAUTILUS 220 SALES CENTER
DRAWN BY: V. B.N.
APPROVED BY: V. B.N.

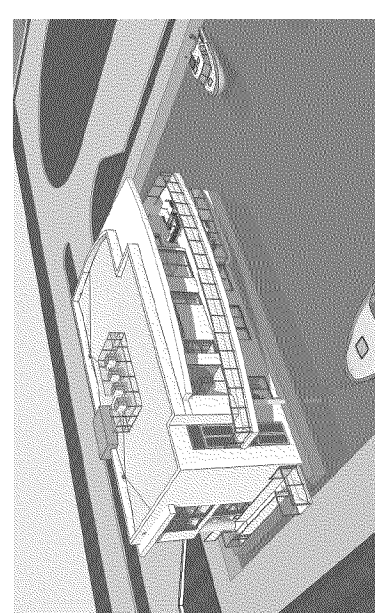
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6	06/11/2022	FINAL DESIGN
7	06/11/2022	FINAL DESIGN
8	06/11/2022	FINAL DESIGN
9	06/11/2022	FINAL DESIGN

RDW Project #: 2020-003
Drawn by: D.E.M.
Approved by: V.B.N.
SHEET INDEX

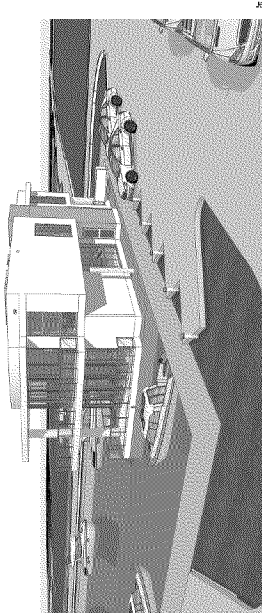
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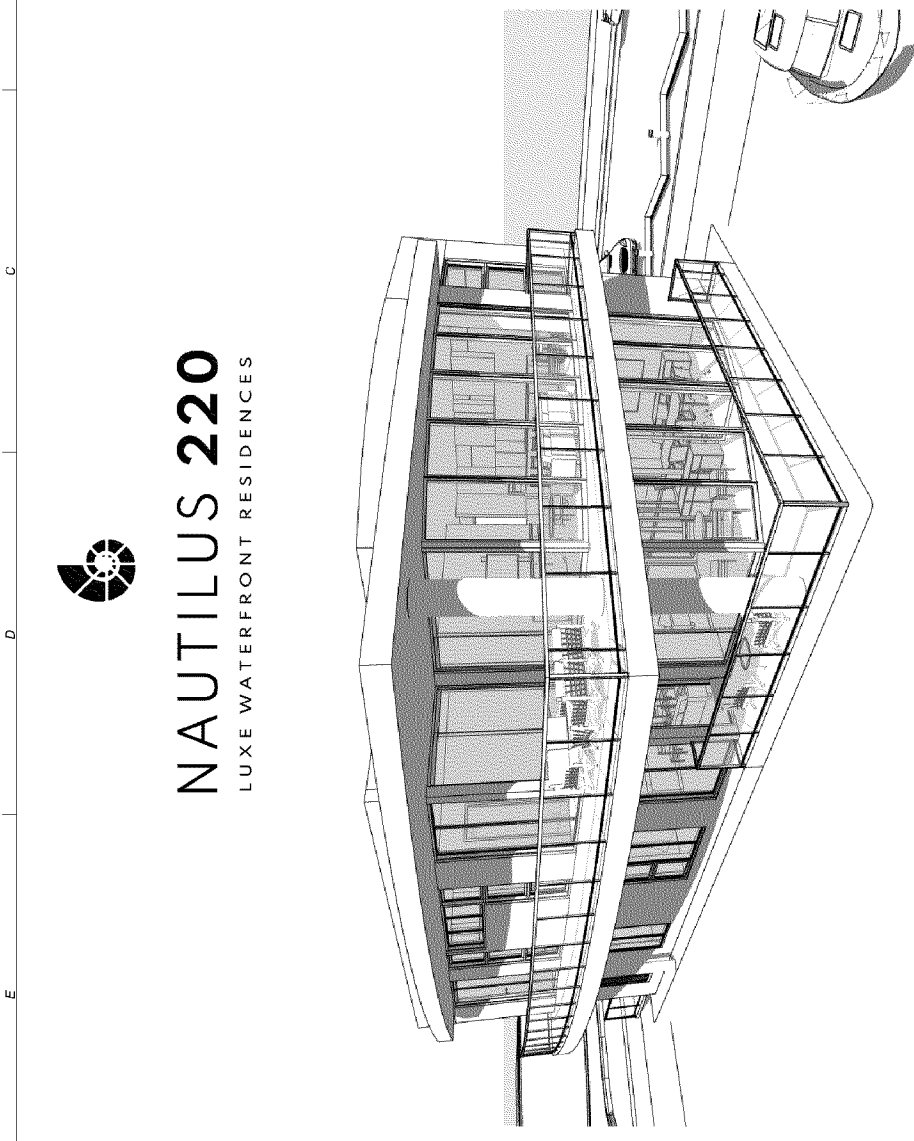
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NW VIEW
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SE VIEW
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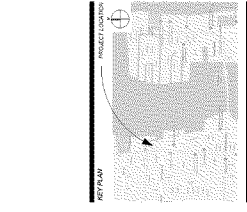


VIEW FROM MARINA

SHEET INDEX

SALES CENTER BARGE

- A0.1 COVER SHEET
- A1.0 SITE PLAN DIAGRAM
- A2.1 MAIN DECK - SALES CENTER
- A2.2 UPPER DECK - MODEL UNIT
- A2.3 ROOF DECK
- A3.1 ELEVATIONS
- A3.2 ELEVATIONS
- A4.1 SECTIONS
- A4.2 SECTIONS
- A5.1 WINDOW SCHEDULE
- A5.2 WINDOW SCHEDULE
- A5.3 UPPER DECK RCP - MODEL UNIT
- A6.1 WINDOW SCHEDULE
- A6.2 DOOR SCHEDULE
- A7.1 DETAILS - CROSS SECTIONS
- A7.2 DETAILS - GLASS RAILINGS
- A7.3 DETAILS - STAIR



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Victor H. Proffinger,
State of Florida # AB0094965

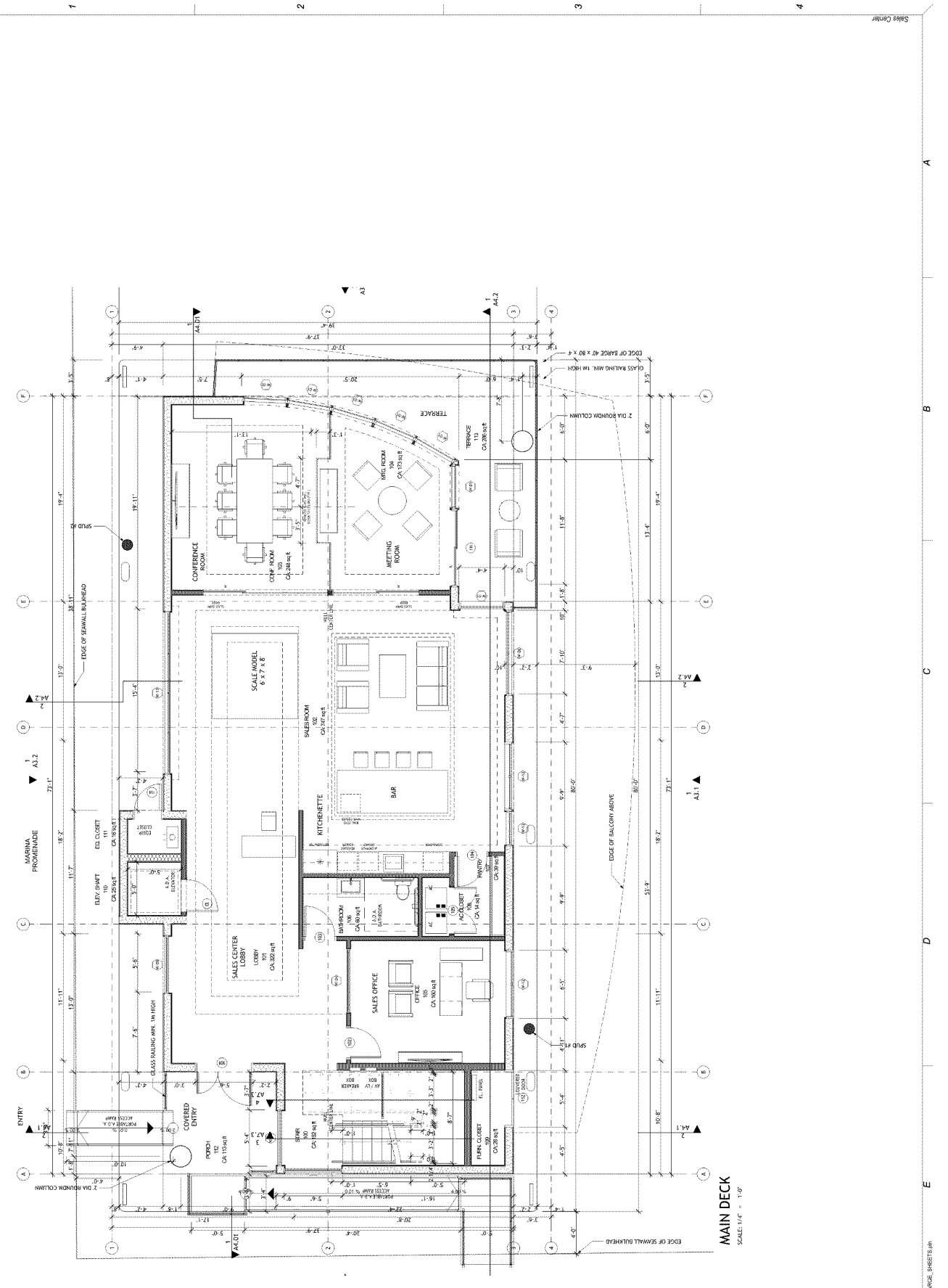
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8	PRELIMINARY DESIGN	PRELIMINARY DESIGN
9	PRELIMINARY DESIGN	PRELIMINARY DESIGN

RDMA Project #: 2019-003
Drawn By: O. E. N.
Approved By: V. E. N.
SHEET INDEX:

MAIN DECK - SALES CENTER

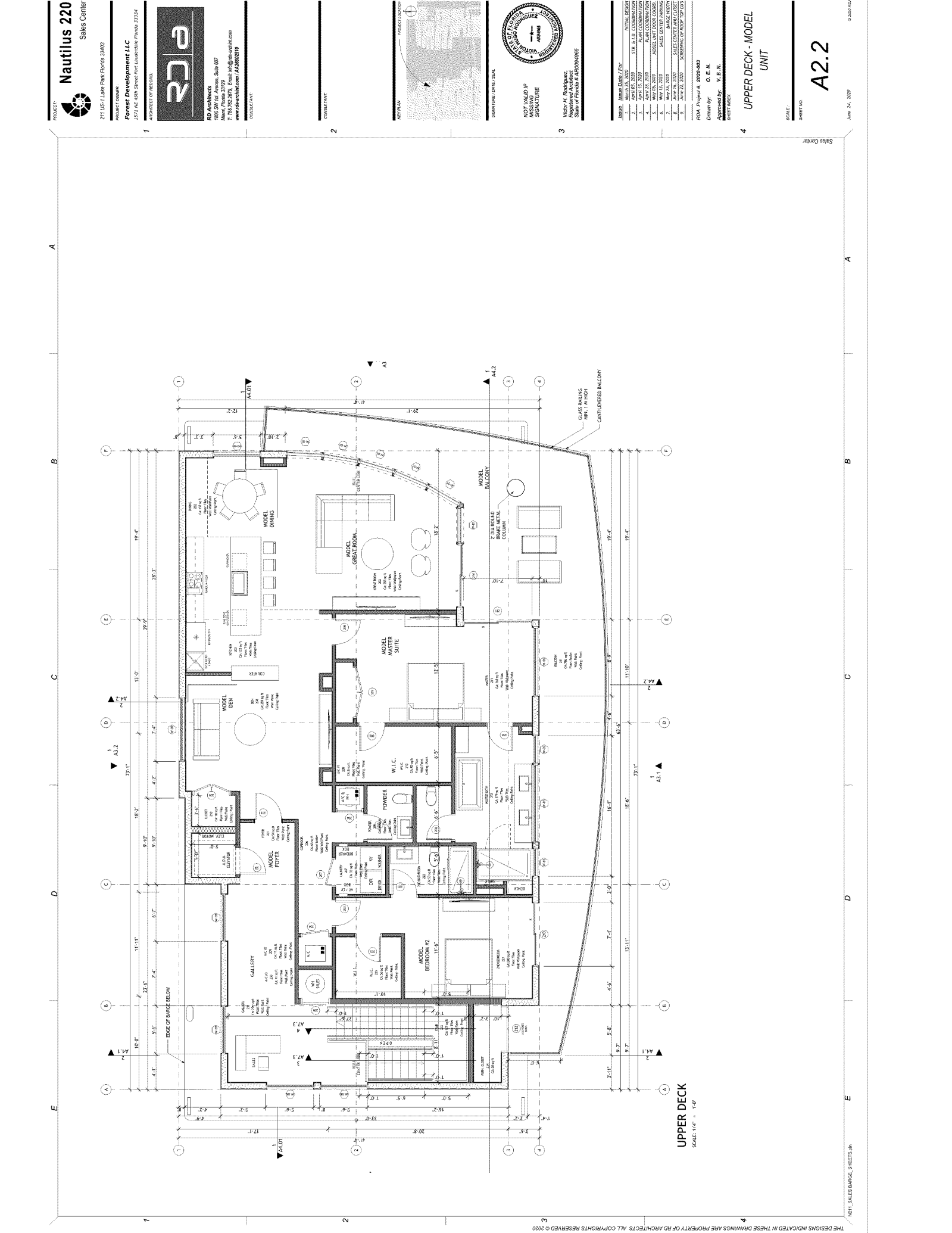
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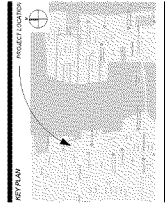


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NOT SALES BAR. SHEET 18H



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State of Florida # AB0094965

1	SEPT 15, 2020	INITIAL DESIGN
2	SEPT 15, 2020	CFR & I.E. COORDINATION
3	SEPT 15, 2020	PLAN COORDINATION
4	SEPT 15, 2020	MECHANICAL COORDINATION
5	NOV 17, 2020	MODEL VIEW FLOOR COORD.
6	NOV 17, 2020	SALES CENTER FINISHING
7	JUNE 16, 2020	SALES CENTER FINISHING
8	JUNE 16, 2020	SALES CENTER FLOOR COORD.
9	JUNE 22, 2020	SCREENING OF ROOF TOP FLOOR

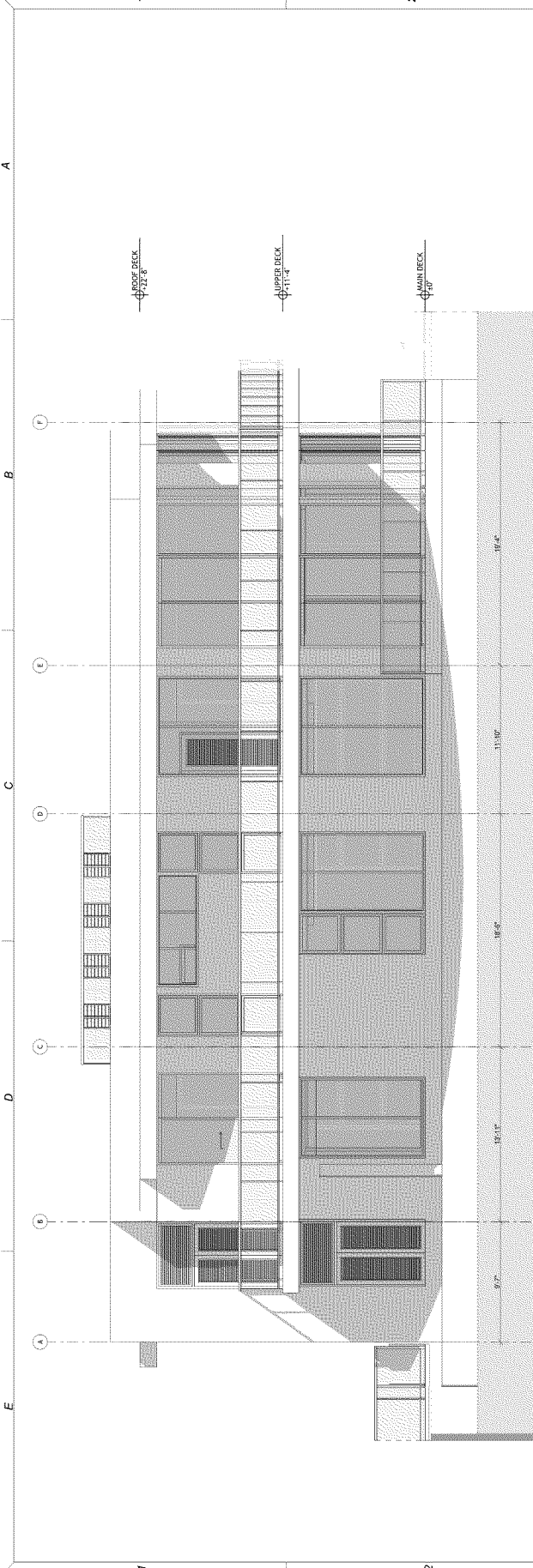
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Drawn By: O. E. N.
Approved By: V. E. N.
SHEET NUMBER

ELEVATIONS

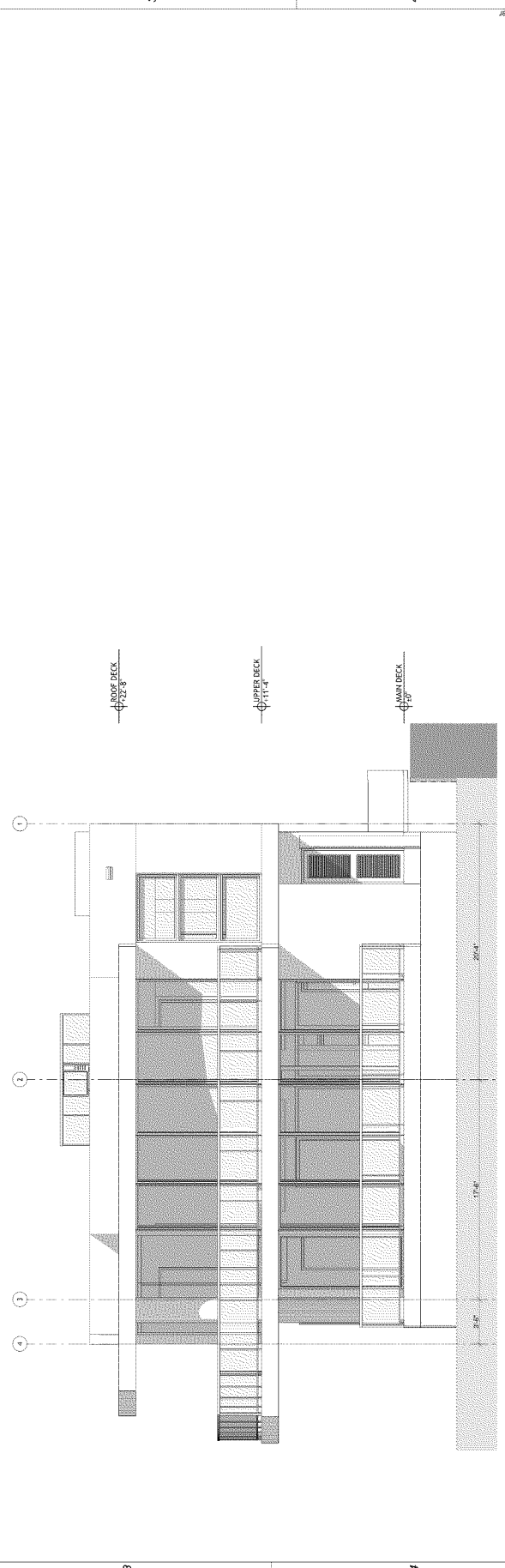
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A3.1

JUNE 24, 2020
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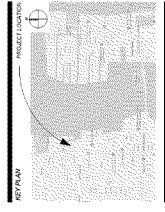
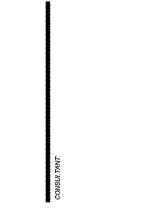


STARBOARD PROFILE - SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



BOW VIEW - EAST ELEVATION
SCALE: 1/4" = 1'-0"

NETI SALES BAR - SHEET 314
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1	DESIGN DEVELOPMENT	INITIAL DESIGN
2	SCHEMATIC DESIGN	STR. & I.E. COORDINATION
3	PRELIMINARY DESIGN	PERMITS COORDINATION
4	FINAL DESIGN	ARCHITECTURAL DRAWINGS
5	CONSTRUCTION PERMITS	MODEL UNIT FLOOR COORD.
6	CONSTRUCTION	SALES CENTER FINISHING
7	CONSTRUCTION	SALES CENTER MECHANICAL
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9	CONSTRUCTION	SCREENING OF ROOF TOP U.S.

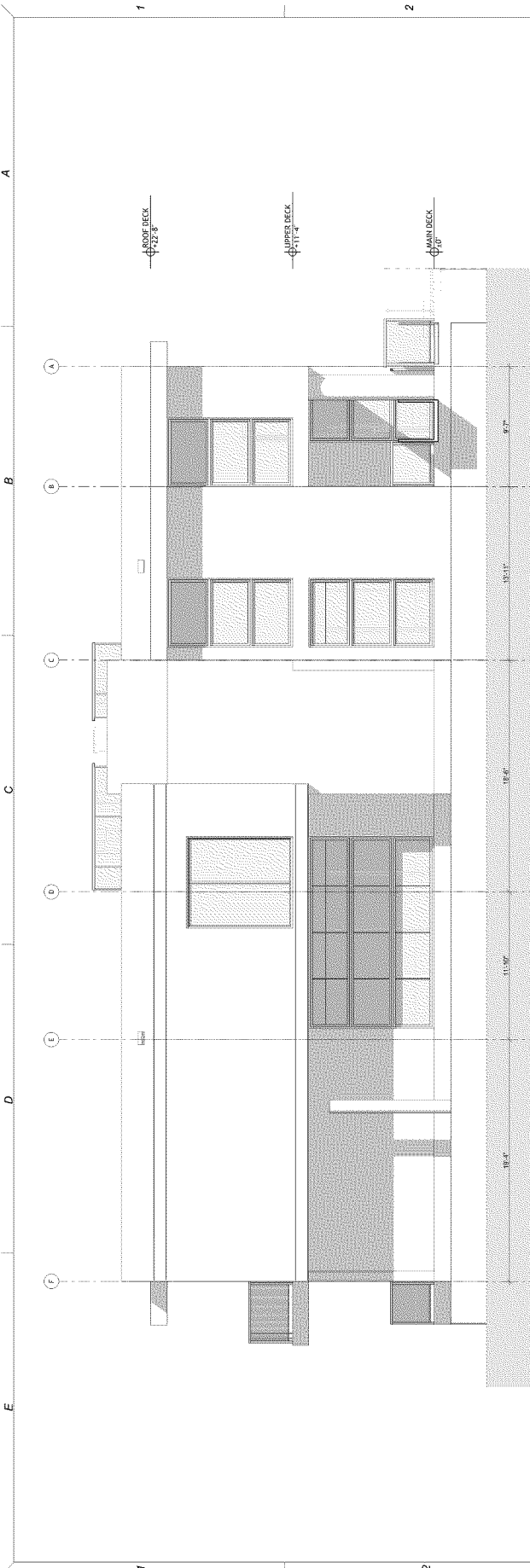
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Drawn By: C. E. N.
Approved By: V. E. N.
SHEET NUMBER

ELEVATIONS

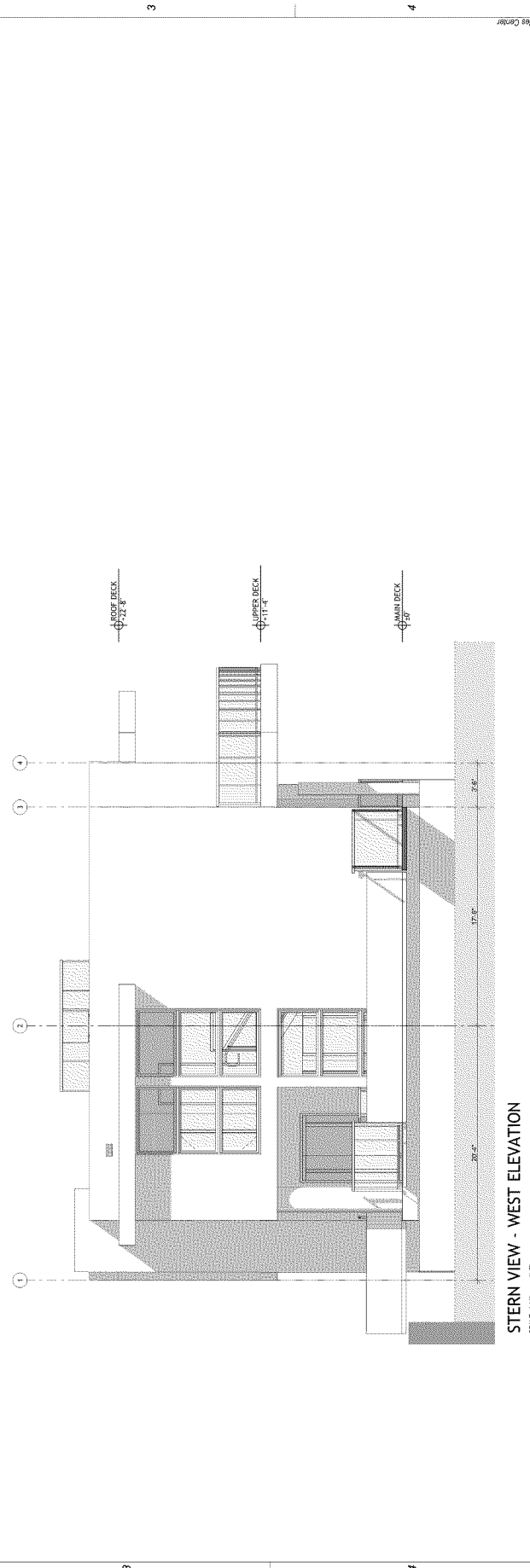
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June 24, 2020
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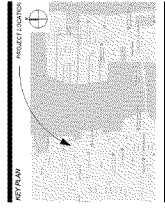


PORT VIEW - NORTH ELEVATION
SCALE: 1/4" = 1'-0"



STERN VIEW - WEST ELEVATION
SCALE: 1/4" = 1'-0"





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Victor H. Hoffmann,
State of Florida # AB0094965

STEP	DATE	DESCRIPTION
1.	APRIL 23, 2020	INITIAL DESIGN
2.	APRIL 05, 2020	CFR & I.E. COORDINATION
3.	APRIL 13, 2020	CFR COORDINATION
4.	MAY 05, 2020	MODEL W/IT FLOOR COORD.
5.	MAY 11, 2020	SALES CENTER FINISHING
6.	MAY 19, 2020	SALES CENTER FINISHING
7.	JUNE 04, 2020	SALES CENTER FINISHING
8.	JUNE 22, 2020	SCREENING OF ROOF TOP F.L.S

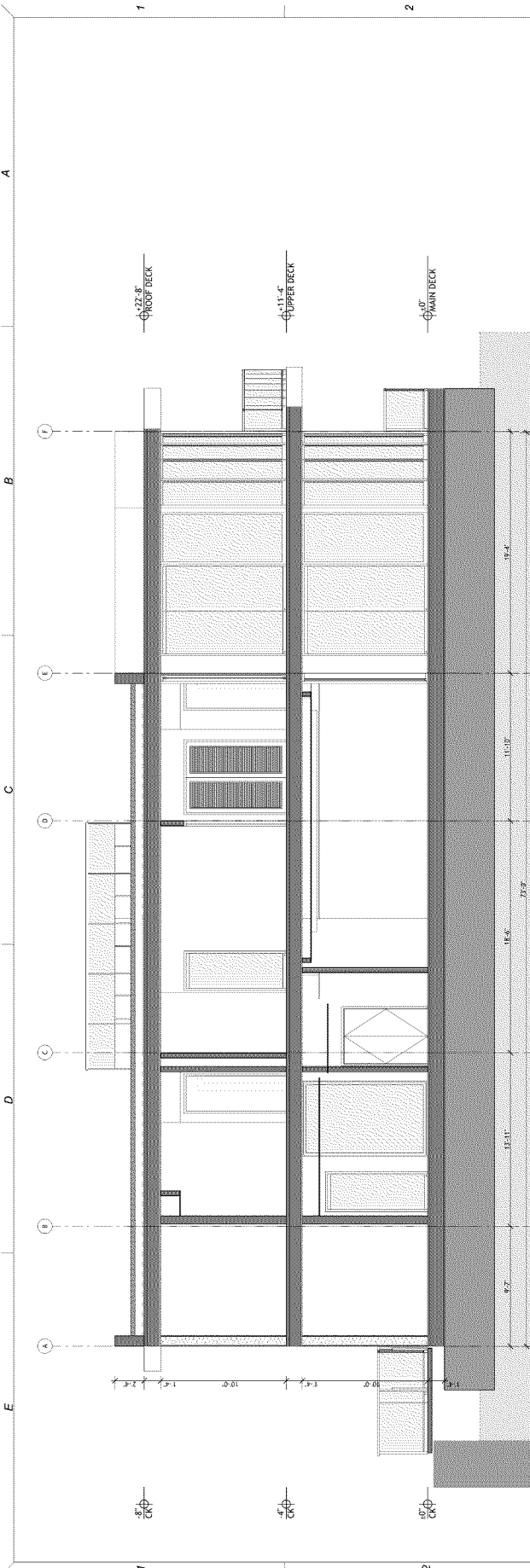
RDA Project #: 2019-003
Drawn By: C. E. N.
Approved By: V. H. N.
SHEET INDEX

SECTIONS

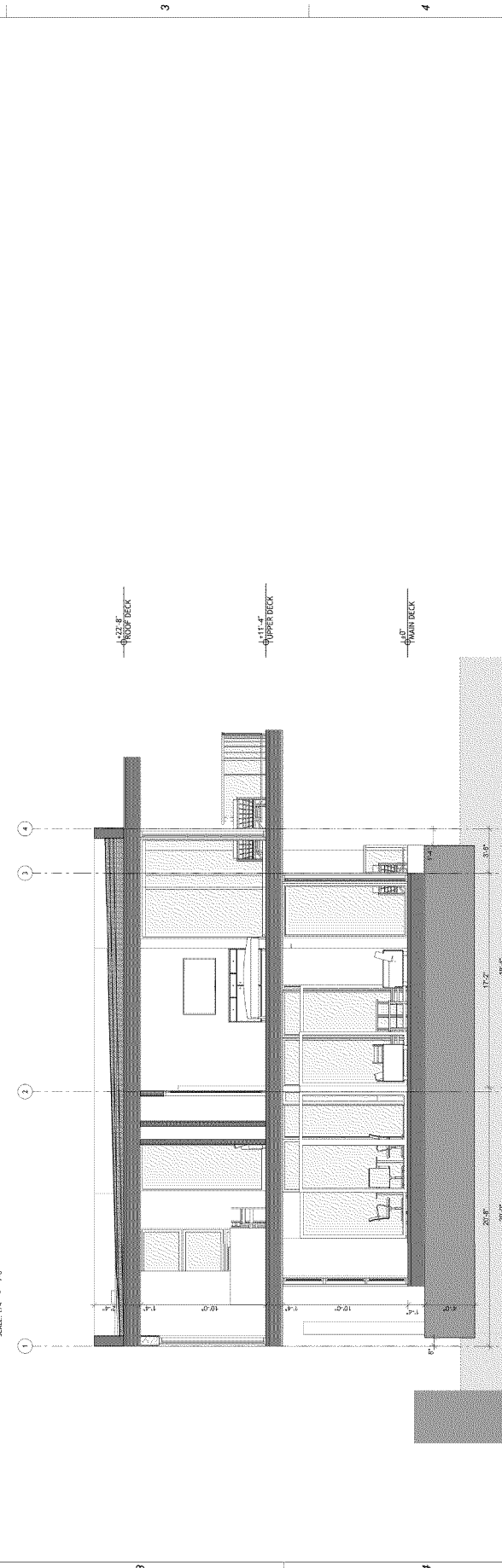
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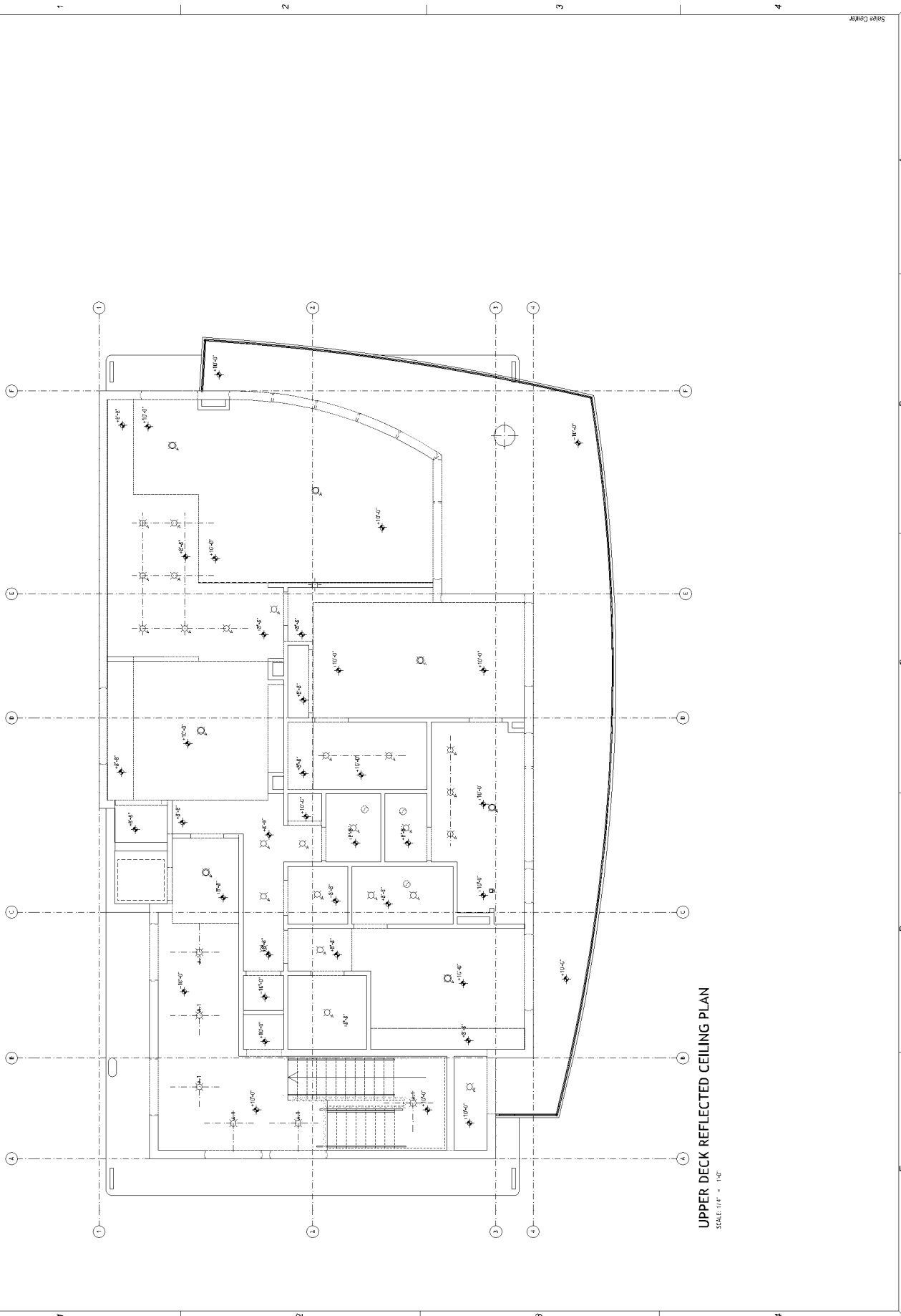
June 24, 2020



BARGE SECTION C
SCALE: 1/4" = 1'-0"



BARGE SECTION D
SCALE: 1/4" = 1'-0"



UPPER DECK REFLECTED CEILING PLAN
SCALE: 1/4" = 1'-0"

**UPPER DECK RCP -
MODEL UNIT**

A5.2



Victor A. Robinson
State of Florida # 170054666

DATE: 01/14/2020
DRAWN BY: V.B.N.

PROJECT NO.:

DATE: 01/14/2020

DATE: 01/14/2020

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DATE: 01/14/2020

DATE: 01/14/2020

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TYPE	Flush	Flush	Flush	Glass 1	Glass 1	Glass 1	Unobstructed 1
VIEW							
DIMENSIONS	2'-10" x 6'-0"	3'-0" x 7'-0"	4'-4" x 6'-3"	2'-10" x 8'-0"	5'-2" x 8'-0"	7'-0" x 9'-10"	5'-0" x 7'-0"
NOTES	A1	A2	A1	D	E	F1	H

DOOR SCHEDULE													
DOOR NUMBER	ROOM NAME	NOMINAL WIDTH	NOMINAL HEIGHT	DOOR LEAF THICKNESS	MATERIAL	TYPE	LEAF DETAIL	JAMB DETAIL	HEAD DETAIL	HARDWARE SET	ACCESSORIES	RATINGS	REMARKS
101	LOBBY	5'-2"	8'-0"	2"	ALUMI / GLASS							Unrated	E
102	SALES ROOM	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
103	OFFICE	2'-10"	8'-0"	2"	SC WOOD							Unrated	D
104	BATHROOM	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
105	RESTROOM	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
106	PLANT	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
107	PLANT	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
108	PLANT	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
109	PLANT	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
110	EL. ELEV. SHAFT	3'-0"	7'-0"	2"	ALUMI / GLASS							20 minubes	A2
111	EL. ELEV. SHAFT	3'-0"	7'-0"	2"	HM							Unrated	K
112	EL. ELEV. SHAFT	3'-0"	7'-0"	2"	ALUMI / GLASS							Unrated	F1
113	TERRACE	7'-0"	8'-10"	2"	ALUMI / GLASS							20 minubes	C
201	FOYER	3'-4"	8'-5"	2"	SC WOOD							Unrated	A1
201	EL. Foyer	3'-4"	7'-0"	2"	ALUMI / GLASS							20 minubes	A2
204	DEN	4'-0"	8'-0"	2"	SC WOOD							Unrated	G
205	POWDER	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
206	CORRIDOR	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
206	204	CORRIDOR	3'-0"	8'-0"	2"	SC WOOD						Unrated	A2
206	207	CORRIDOR	3'-0"	8'-0"	2"	SC WOOD						Unrated	A1
207	204	CORRIDOR	3'-0"	8'-0"	2"	SC WOOD						Unrated	A1
207	207	CORRIDOR	3'-0"	8'-0"	2"	SC WOOD						Unrated	A1
208	MASTER BATH	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
212	MASTER BATH	2'-10"	8'-0"	2"	SC WOOD							Unrated	D
213	W.I.C.	2'-10"	8'-0"	2"	SC WOOD							Unrated	D
221	2ND BEDROOM	2'-10"	8'-0"	2"	SC WOOD							Unrated	A1
221	210	2ND BEDROOM	7'-0"	8'-10"	2"	ALUMI / GLASS						Unrated	F1
222	203	2ND BATHROOM	2'-10"	8'-0"	2"	SC WOOD						Unrated	A1
223	203	W.I.C.	2'-10"	8'-0"	2"	SC WOOD						Unrated	A1
231	205	GALLERY	3'-0"	8'-0"	2"	SC WOOD						Unrated	A2
241	210	BALCONY	7'-0"	8'-10"	2"	ALUMI / GLASS						Unrated	F1
241	211	BALCONY	7'-0"	8'-10"	2"	ALUMI / GLASS						Unrated	F2
241	212	BALCONY	5'-0"	7'-0"	2"	HM						Unrated	H

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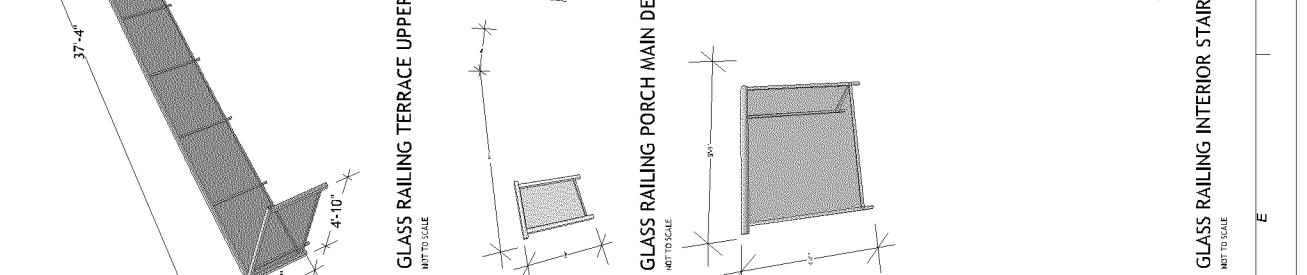
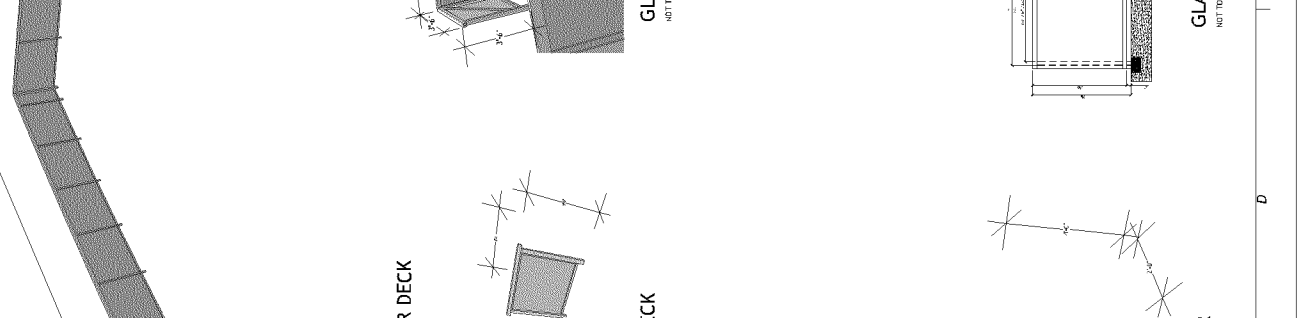
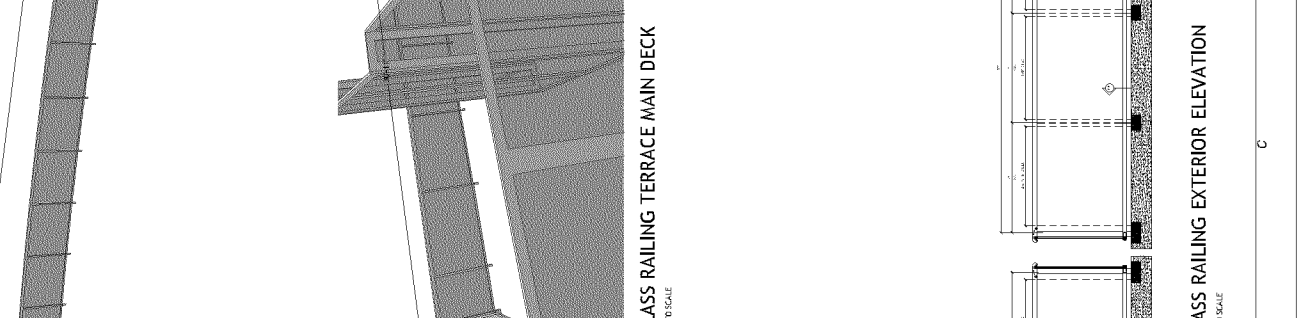
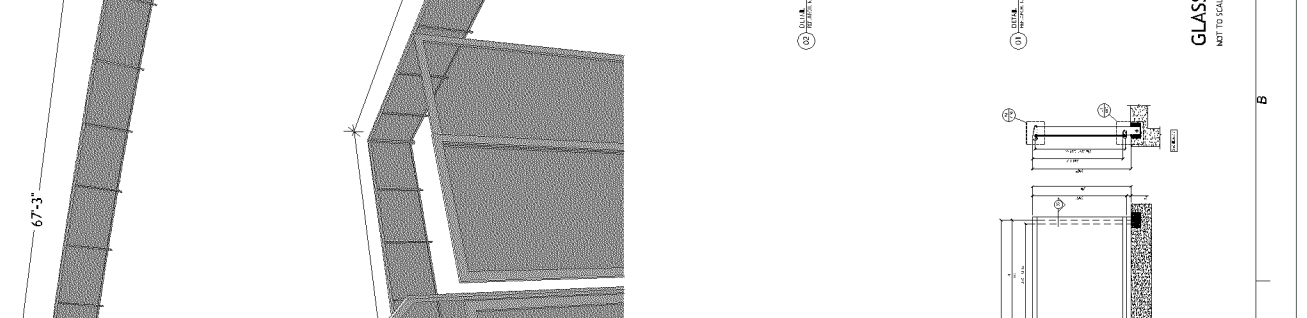
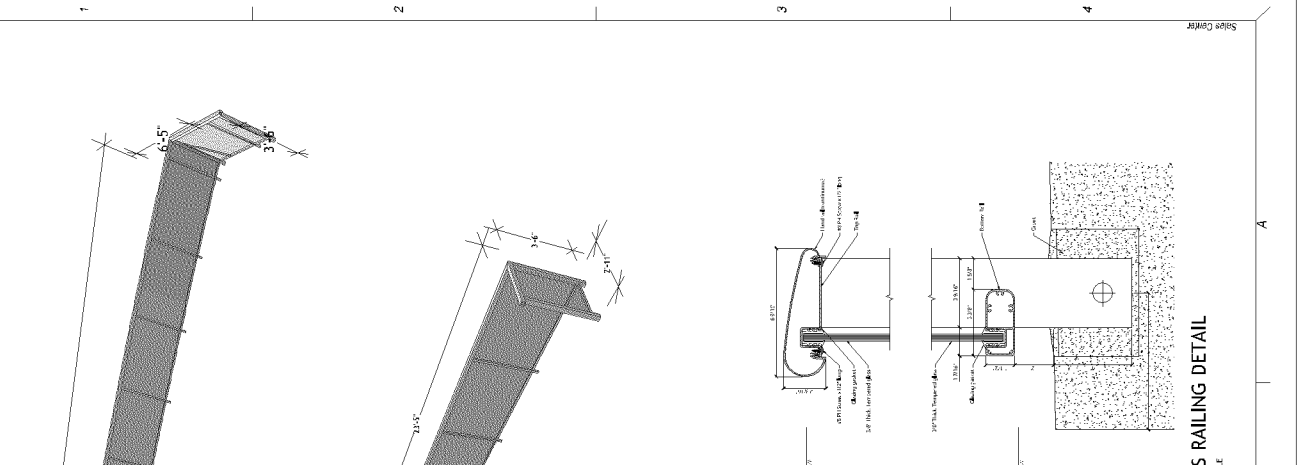
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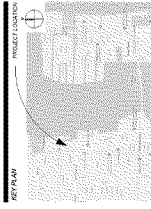
B

C

D

E





NOT VALID IF
MODIFIED
SIGNATURE

Victor H. Proffinger,
State of Florida # AB0094865

1.	DESIGN DEVELOPMENT	INITIAL DESIGN
2.	SCHEMATIC DESIGN	PRELIMINARY DESIGN
3.	PERMITTING	PERMIT COORDINATION
4.	CONSTRUCTION DOCUMENTS	CONSTRUCTION DOCUMENTS
5.	CONSTRUCTION	CONSTRUCTION
6.	PROJECT CLOSEOUT	PROJECT CLOSEOUT
7.	PROJECT CLOSEOUT	PROJECT CLOSEOUT
8.	PROJECT CLOSEOUT	PROJECT CLOSEOUT
9.	PROJECT CLOSEOUT	PROJECT CLOSEOUT

RDMA Project #: 2019-003
Drawn By: O. E. N.
Approved By: V. E. N.
SHEET INDEX

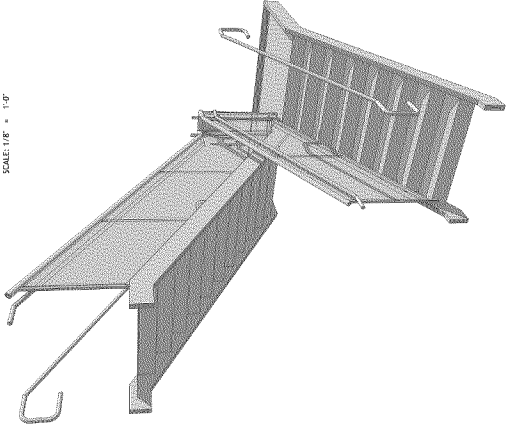
DETAILS - STAIR

SCALE:
SHEET NO.

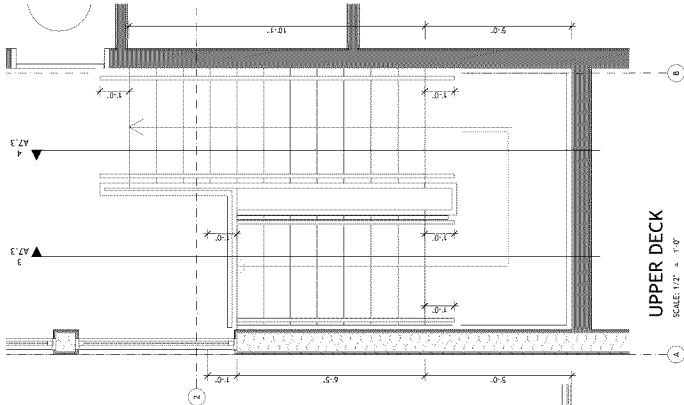
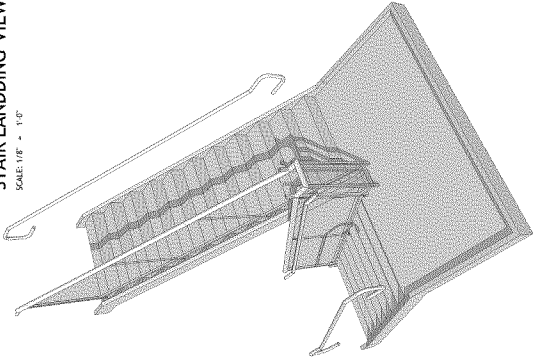
A7.3

June 24, 2020

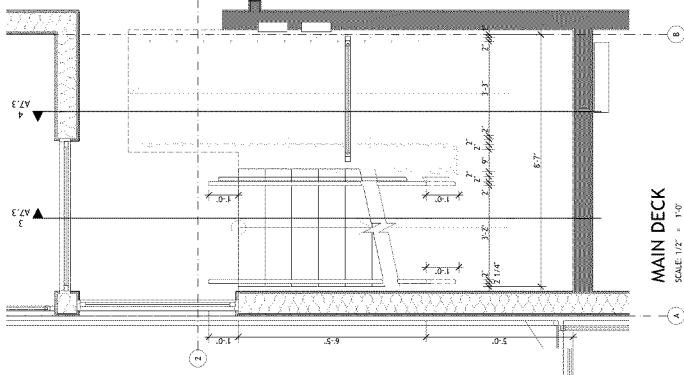
STAIR FRONT VIEW
SCALE: 1/8" = 1'-0"



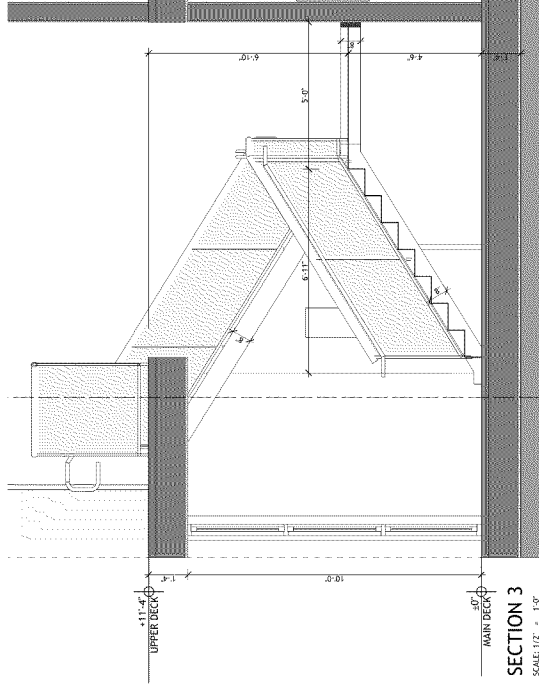
STAIR LANDING VIEW
SCALE: 1/8" = 1'-0"



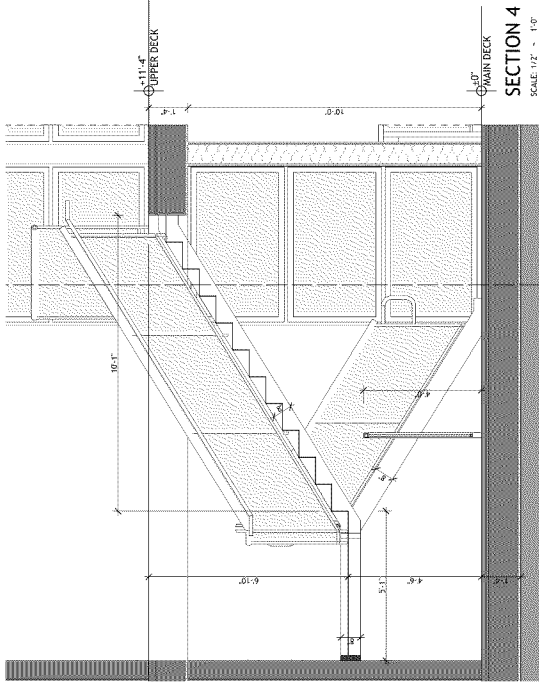
UPPER DECK
SCALE: 1/2" = 1'-0"



MAIN DECK
SCALE: 1/2" = 1'-0"



SECTION 3
SCALE: 1/2" = 1'-0"



SECTION 4
SCALE: 1/2" = 1'-0"

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
U. S. Coast Guard
Sector Miami

100 MacArthur Causeway
Miami Beach, FL 33139-6940
Staff Symbol:
Phone: (305) 535-4502
Fax: (305) 535-8742

16700/20-1010
May 4, 2020

Forest Development, LLC
Attn: Mr. Peter Baytarian
1571 NE 45th Street
Fort Lauderdale, FL 33334

Dear Sir:

I have reviewed your letter dated April 7, 2020 proposing the use of an 80' x 40' x 4' spud barge, a sales office and model condominium. Based on a survey conducted by NVI Marine Division, Report No. 02-2020-0599, I have determined this barge is not a vessel as defined in 1 U.S.C. 3 due to its configuration, intended use, or mooring arrangement that prohibits it from a practical use as transportation on the water. Therefore, it is not subject to U.S. Coast Guard vessel inspection regulations and the Coast Guard cannot provide inspection oversight or issue a Certificate of Inspection to it. This craft is also ineligible for documentation as a vessel.

As the craft is considered to be substantially a land structure on the water, you will need to apply for an appropriate permit from the U.S. Army Corps of Engineers. If you operate the craft as a floating oil storage facility you will need to comply with Environmental Protection Agency spill prevention, control and countermeasure plan requirements. If you intend to operate the craft as a floating oil storage facility that transfers oil or hazardous materials to or from a vessel you will need to submit a Letter of Intent to the cognizant Captain of the Port (COTP) and comply with the spill prevention requirements in 33 CFR Part 154.

You may also be required by the COTP to verify the suitability of the mooring arrangements to withstand the forces of wind, current, ice and high water. If there is a change in the approved mooring arrangements, you shall contact the cognizant COTP to update the statues. Lastly, you may also be required to comply with appropriate local building codes or other standards as may be stipulated by the state or local government.

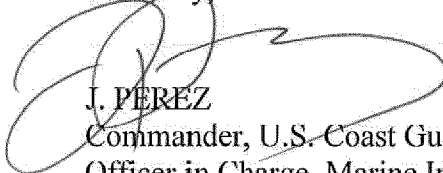
If your craft's status changes such that it is placed into navigation or otherwise has a practical use for transportation on the water, you must then fully comply with all applicable vessel inspection laws and regulations. Such a change in status must be reported to this office or cognizant OCMI prior to any return to navigation so that an appropriate inspection may occur.

167000

April 20, 2020

If you have any questions about this determination you may contact LT Chris Mosquera, Marine Safety Detachment Lake Worth Supervisor at (561) 848-8868.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. PEREZ', is written over the typed name.

J. PEREZ

Commander, U.S. Coast Guard

Officer in Charge, Marine Inspection

By Direction

COPY: Commander (dp), Coast Guard District Seven
U. S. Army Corps of Engineers, Jacksonville District
National Vessel Documentation Center
EPA Region 4 Administrator
Florida DEP Southeast District
Town of Lake Park

BRENNAN ENGINEERING, INC.
1600 S. Dixie Highway, Suite 400B, Boca Raton, FL 33432
(561) 392-3748

April 11, 2021

PERMIT#

Town of Lake Park
Building Department
535 Park Ave.
West Palm Beach, Florida 33403

New Construction
Sales Center and Model Home
Nautilus 211 Sales Center
Lake Park Harbor Marina
211 US-1
Lake Park, Florida 33403

Subject: Special Inspector Structural Engineer - Final Affidavit

Building Official,

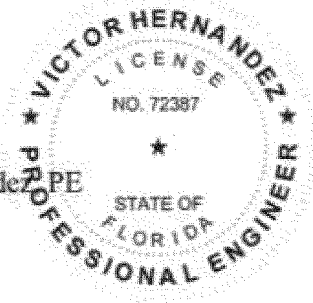
This letter is to confirm, Brennan Engineering, Inc. made periodic site inspections to confirm compliance with our structural design for the following new construction of a commercial/residential building built on a floating barge.

- Main 2-story building - 1st floor and 2nd floor structure with cantilevered balcony, eyebrows, parapet, and elevator shaft.
- Structural steel columns, beams, metal elevated deck, balcony & terrace, and roof deck.
- Structural steel connections, fastener, and welded connections to the barge.
- Metal framed exterior walls & soffits, and attachments.

To the best of my knowledge and belief, the building construction outline herein and inspected under my authority have been substantially completed in conformance with the approved plans, manufacturer's specifications, product approvals, and/or Florida Building Code, 6th Ed, (2017).

Sincerely,

Victor Hernandez PE
PE # 72387



STRUCTURAL ENGINEERING AND INSPECTIONS