



To: Islands of Cocoplum Homeowners Association, Inc  
The Cocoplum Civic Association, Inc

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding Board of Architects (BOA) Appeal Regarding  
Cocoplum Entrance Features

Date: March 21, 2019

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On August 16, 2018, the Islands of Cocoplum Homeowners Association, Inc. (Cocoplum 2) submitted plans (AB-18-04-3802) to the Board of Architects (BOA) for modification to entrance features located in the City's right-of-way at the intersection of Cocoplum Road and Los Pinos Blvd. The BOA provided some general comments and deferred the item. On January 10, 2019, a set of revised plans that included the replacement of the entrance features at Cartagena Circle (the entrance of Cocoplum) in the City's right-of-way, were presented to the BOA and resulted in a denial by the board. The Cocoplum Civic Association, Inc. (Cocoplum 1), along with counsel, appeared at the BOA meetings where Cocoplum 2 presented the plans and made legal arguments regarding the propriety of the encroachments in the City's right-of-way.<sup>1</sup>

In accordance with Section 3-606(B) of the City of Coral Gables Zoning Code and the Board of Architects Rules of Procedure (Rules of Procedure), Cocoplum 2 filed an appeal of the BOA denial on January 18, 2019. In accordance with the Zoning Code and the Rules of Procedure, a conflict resolution meeting was held on February 6, 2019. At the conflict resolution meeting City staff and the appellant/applicant reached an agreement, which was memorialized in a Settlement Agreement (attached hereto as Exhibit A) and approved by the BOA Special Master on February 11, 2019, in accordance with the Zoning Code and Rules of Procedure. As an agreement was reached, no quasi-judicial hearing was required before the BOA Special Master.

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<sup>1</sup> At the March 12, 2019 City Commission meeting, the City Commission in Resolution No. 2019-83 approved the encroachment request for new signage in the City's right-of-way at the Cartagena Circle entrance consisting of two stone monuments – one reading "Cocoplum" and one reading "The Islands of Cocoplum," and re-approved the existing encroachment, as originally approved in Resolution No. 2013-06. In the alternative and provided the existing encroachments are removed, the City Commission approved the encroachment consisting of a monument sign, installation of wing walls, and pavers at the base of the Cocoplum Road Bridge at the intersection of Cocoplum Road and Vera Court, in the City's right-of-way.

On February 19, 2019, Cocoplum 1, as an affected party, filed a BOA appeal objecting to the terms of the Settlement Agreement. In accordance with the Zoning Code and Rules of Procedure, the BOA appeal will be heard by the City Commission. According to Section 3-606(D), the appeal to the City Commission is to be based on the record, not de novo, and no additional testimony shall be taken. However, the rules do not contemplate the procedural scenario that bore out in this case and which resulted in Cocoplum 1 not having the opportunity to have a quasi-judicial, de novo public hearing with the BOA Special Master. For this reason and to ensure that due process is properly provided and that all parties have a full opportunity to be heard, the City Commission should hear the appeal as part of a quasi-judicial, de novo, hearing<sup>2</sup>. Pursuant to Section 2-301 of the Zoning Code, the BOA “is a design review administrative board created to ensure that the City’s architecture meets the design review standards of the Zoning Code, is consistent with the City’s regulations, and to preserve the traditional aesthetic character of the community.” Accordingly, the scope of any BOA appeal and hearing is limited to design review and aesthetic considerations.

This opinion is issued pursuant to Sections 2-252(e)(1) and (8) of the City Code and Section 2-702 of the Zoning Code, granting the City Attorney’s Office the authority to issue opinions and interpretations on behalf of the City.

March 2019

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<sup>2</sup> This recommendation is based on the specific facts surrounding this matter and does not create any precedent for future BOA appeals.

Exhibit A.

**SETTLEMENT AGREEMENT FOR**  
**Board of Architects Appeal**  
**Cocoplum Entrance Features**

**This Agreement** is made and entered into this 6<sup>th</sup> day of February, 2019 (hereinafter referred to as the Effective Date) by and between the City of Coral Gables (hereinafter referred to as the "CITY"), a Florida municipal corporation, and Cocoplum Homeowners Association, Inc. (hereinafter referred to as "Applicant").

**WHEREAS**, on January 10<sup>th</sup>, 2019, the Board of Architects (hereinafter referred to as "BOA") denied Applicant's plans as presented (BOA No. AB-18-04-3802), attached hereto as Exhibit "1", for the replacement of the southernmost entrance feature at the main community entrance located on Cartagena Plaza, and the addition of faux metal gates and updated signage on the existing pillars on the median and swales of Cocoplum Road, south east of the intersection of Los Pinos Boulevard; and

**WHEREAS**, on January 18<sup>th</sup>, 2019, Applicant filed an Application for Appeal in accordance with sections 2-303(D) and 3-606 of the City of Coral Gables Zoning Code; and

**WHEREAS**, on February 6<sup>th</sup>, 2019, a Conflict Resolution Meeting was held, in accordance with section 2-303(D) of the City of Coral Gables Zoning Code, and the Applicant presented updated plans, attached hereto as Exhibit "2", addressing all the comments and suggestions made by the BOA at the January 10<sup>th</sup> meeting, and said updated plans were subsequently approved by the City Architect and the Planning and Zoning Director.


**NOW THEREFORE**, in accordance with section 2-303(D) of the City of Coral Gables Code:

In consideration for the full and final resolution of the pending Appeal, Applicant agrees that:

1. The attached plans identified as Exhibit "2" are approved subject to the City Commission approving the required encroachment agreement(s).
2. **APPELLANT AGREES THAT THIS SETTLEMENT AGREEMENT FULLY AND FINALLY RESOLVES THIS MATTER.**
3. **THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.**

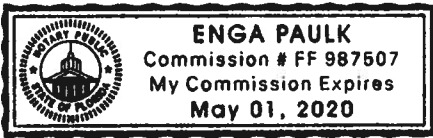
**IN WITNESS WHEREOF**, the parties have executed this Agreement on the day and the year first written above.

**APPLICANT:**

  
Miguel Diaz de la Portilla  
ATTORNEY FOR APPLICANT

State of Florida  
County of Miami-Dade


The foregoing instrument was acknowledge before me this 11 day of February, in the year, 2019, by Miguel Diaz de la Portilla of \_\_\_\_\_, who is personally known to me or has produced FL Driver's License as identification.



  
NOTARY PUBLIC, State of Florida

**AS TO THE CITY OF CORAL GABLES:**

**CITY ATTORNEY:**

  
MIRIAM SOLER RAMOS

**IN ACCORDANCE WITH SECTION 2-303(D) OF THE CORAL GABLES ZONING CODE, APPROVED BY BOA SPECIAL MASTER:**

  
ARAMIS ALVAREZ . FEB 11 / 2019

# Exhibit 1

## GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES.

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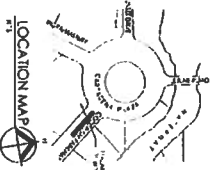
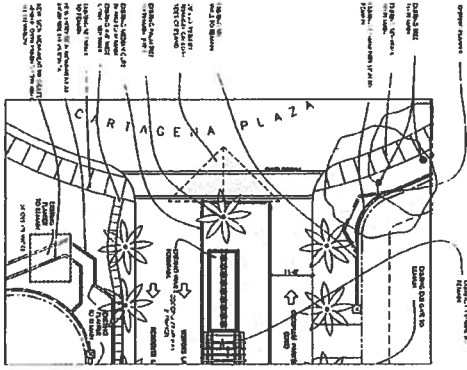
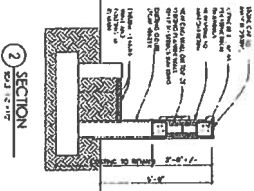
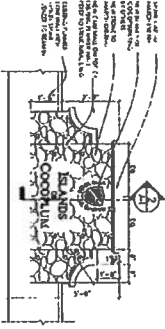
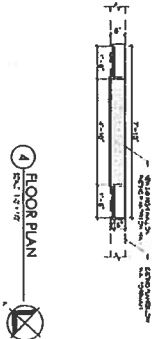
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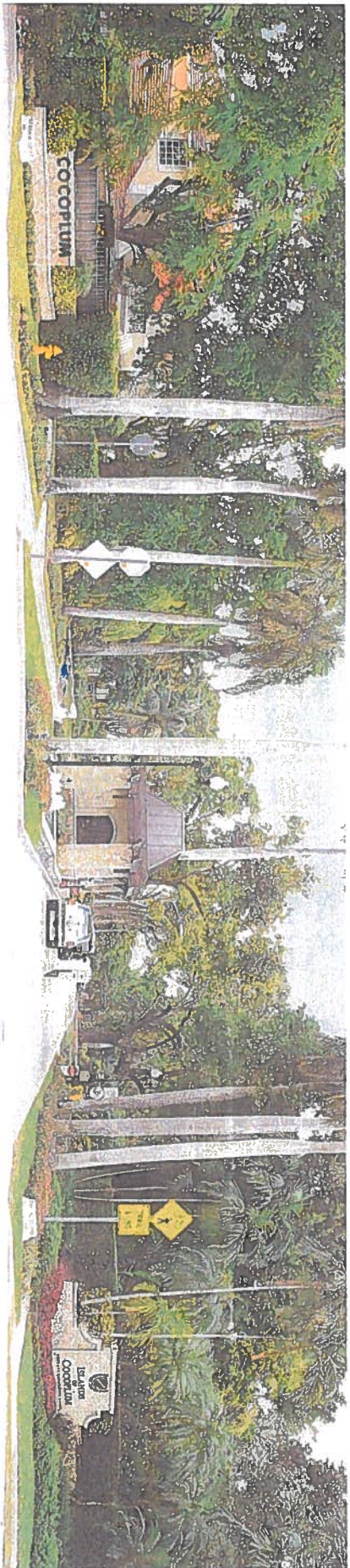
DATE	REVISION
PROJECT NO.	SCOPE OF WORK
CHECKED	LEGAL DESCRIPTION
DESIGNED	PROPERTY ADDRESS
DRAWN	PROJECT ADDRESS
SCALE	PROJECT ADDRESS

date \_\_\_\_\_  
 checked \_\_\_\_\_  
 drawn \_\_\_\_\_  
 checked \_\_\_\_\_  
 project no. \_\_\_\_\_

**COCOPLUM ENTRY MONUMENT**

**PACHECO-MARTINE & ASSOCIATES LLC**  
 4990 SW 72nd Ave, Suite 101, Miami, FL 33151  
 T (305) 444-2573 F (305) 444-3838





PROPOSED



EXISTING

COCOPLUM AND ISLANDS OF COCOPLUM ENTRANCE FIXTURES





PACHECO-MARTINEZ  
& ASSOCIATES LLC.

LEFT SIDE

ISLANDS OF COCOPLUM SIGNAGE  
AT CARTAGENA PLAZA





PACHECO-MARTINEZ  
& ASSOCIATES LLC.

RIGHT SIDE

ISLANDS OF COCOPLUM SIGNAGE  
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**GENERAL NOTES**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FLORIDA BUILDING CODE AND THE FLORIDA ELECTRICAL CODE.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.

3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.

4. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO ANY EXCAVATION WORK.

5. THE CONTRACTOR SHALL MAINTAIN PROPER EROSION CONTROL MEASURES THROUGHOUT THE CONSTRUCTION PERIOD.

6. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES.

7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND RESTORATION OF ALL EXISTING TREES AND LANDSCAPE FEATURES.

8. ALL CONSTRUCTION SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

9. THE CONTRACTOR SHALL MAINTAIN A NEAT AND SAFE WORK SITE AT ALL TIMES.

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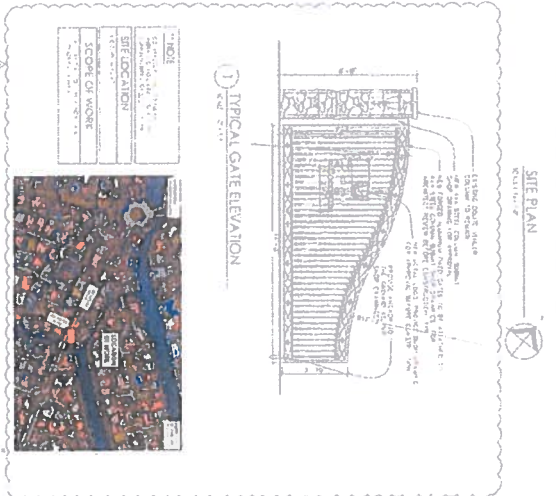
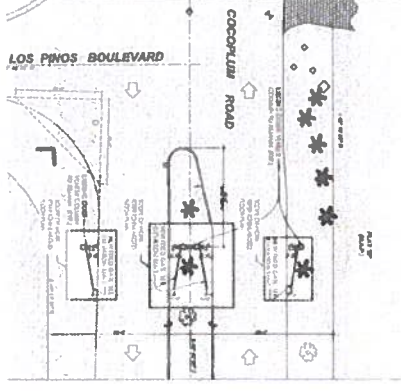
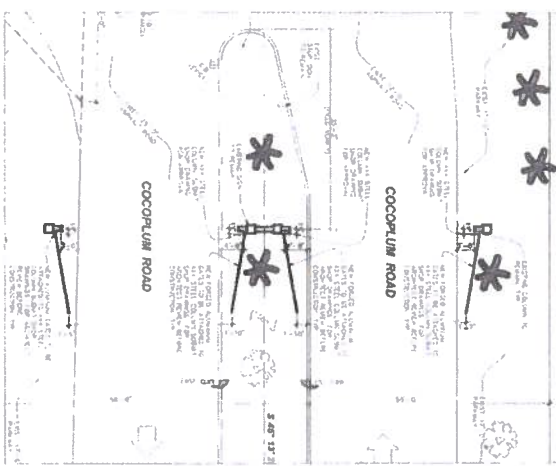
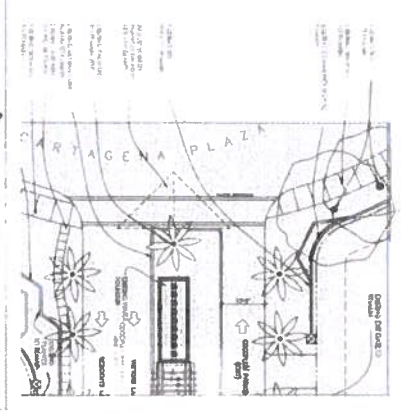
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A-1

SYMBOL	DESCRIPTION
(Symbol)	As Shown
(Symbol)	As Shown
(Symbol)	As Shown
(Symbol)	As Shown

**COCOPLUM ENTRY FIXTURE**

COPAL GATE AS  
CFOA

13304 666-2471

**PACHECO-MARTINE & ASSOCIATES LLC**

ARCHITECTS

4740 SW 72ND AVE SUITE 101 AURORA FL 317

13304 666-2471



PROPOSED RIGHT SIDE



EXISTING RIGHT SIDE

ISLANDS OF COCOPULUM ENTRANCE GATES



PACHECO-MARTINEZ  
& ASSOCIATES LLC



ISLANDS  
OF  
COCOPULUM





LEFT SIDE



RIGHT SIDE

## ISLANDS OF COCOPLUM ENTRANCE GATES



PACHECO-MARTINEZ  
& ASSOCIATES LLC

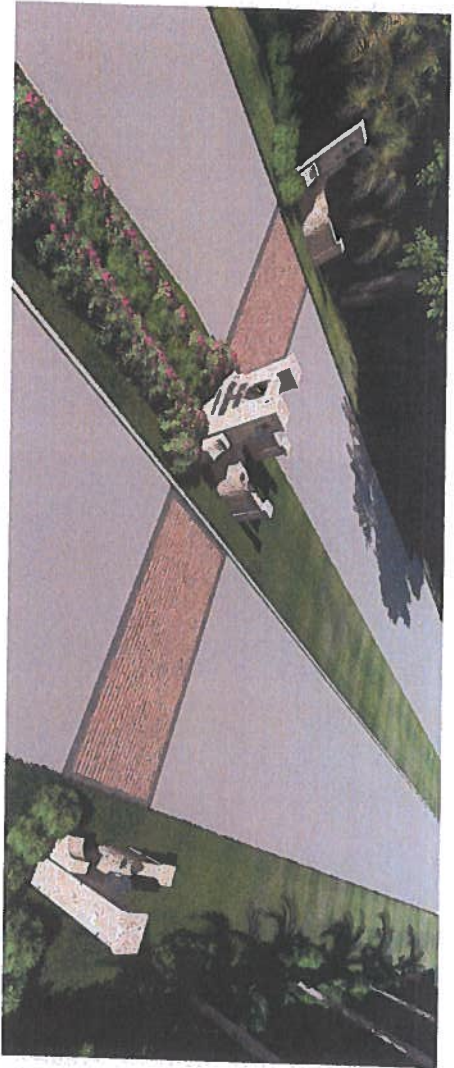


ISLANDS  
OF  
COCOPLUM









BIRD VIEW



SIGN ELEVATION



ENTRANCE ELEVATION

ISLANDS OF COCOPLUM  
COCOPLUM ROAD APPROACH



PACHECO-MARTINEZ  
& ASSOCIATES LLC.



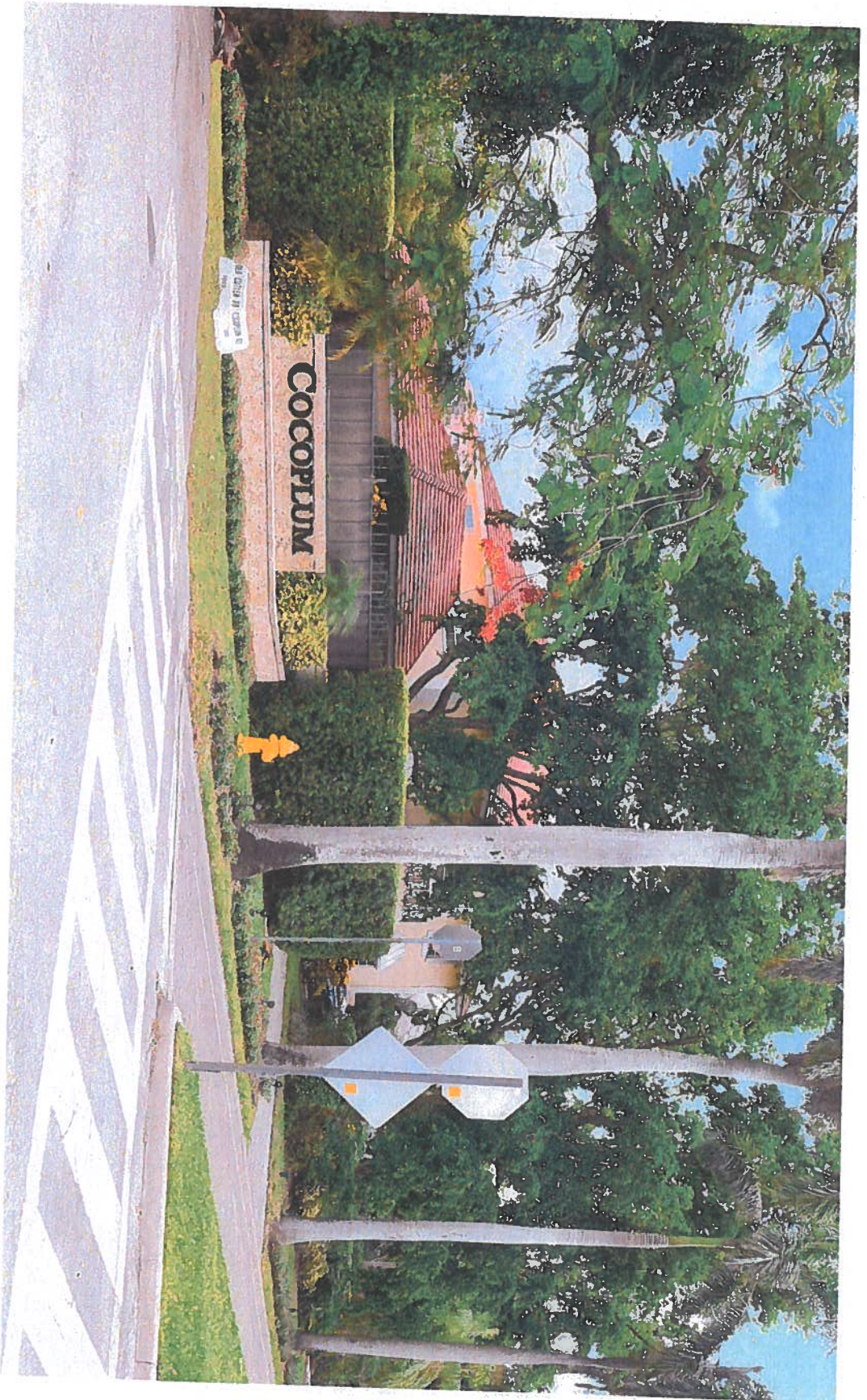


PACHECO-MARTINEZ  
& ASSOCIATES LLC.

RIGHT SIDE

ISLANDS OF COCOPRUM SIGNAGE  
AT CARTAGENA PLAZA





**PACHECO-MARTINEZ  
& ASSOCIATES LLC.**

**LEFT SIDE**

**ISLANDS OF COCOPLUM SIGNAGE  
AT CARTAGENA PLAZA**





**CITY OF CORAL GABLES**  
CITY ATTORNEY'S OFFICE

OPINION REGARDING BOARD OF ARCHITECTS (BOA) APPEAL  
RE COCOPLUM ENTRANCE FEATURES

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<sup>1</sup> At the March 12, 2019 City Commission meeting, the City Commission in Resolution No. 2019-83 approved the encroachment request for new signage in the City's right-of-way at the Cartagena Circle entrance consisting of two stone monuments – one reading "Cocoplum" and one reading "The Islands of Cocoplum," and re-approved the existing encroachment, as originally approved in Resolution No. 2013-06. In the alternative and provided the existing encroachments are removed, the City Commission approved the encroachment consisting of a monument sign, installation of wing walls, and pavers at the base of the Cocoplum Road Bridge at the intersection of Cocoplum Road and Vera Court, in the City's right-of-way.

<sup>2</sup> This recommendation is based on the specific facts surrounding this matter and does not create any precedent for future BOA appeals.

Accordingly, the scope of any BOA appeal and hearing is limited to design review and aesthetic considerations.

This opinion is issued pursuant to Sections 2-252(e)(1) and (8) of the City Code and Section 2-702 of the Zoning Code, granting the City Attorney's Office the authority to issue opinions and interpretations on behalf of the City.

March 2019



Exhibit A.

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**Board of Architects Appeal**  
**Cocoplum Entrance Features**

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**WHEREAS**, on January 18<sup>th</sup>, 2019, Applicant filed an Application for Appeal in accordance with sections 2-303(D) and 3-606 of the City of Coral Gables Zoning Code; and

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**NOW THEREFORE**, in accordance with section 2-303(D) of the City of Coral Gables Code:

In consideration for the full and final resolution of the pending Appeal, Applicant agrees that:

1. The attached plans identified as Exhibit "2" are approved subject to the City Commission approving the required encroachment agreement(s).
2. **APPELLANT AGREES THAT THIS SETTLEMENT AGREEMENT FULLY AND FINALLY RESOLVES THIS MATTER.**
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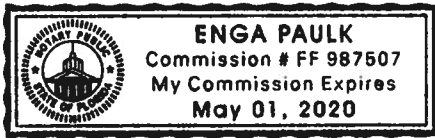
**IN WITNESS WHEREOF**, the parties have executed this Agreement on the day and the year first written above.

**APPLICANT:**

  
Miguel Diaz de la Portilla  
ATTORNEY FOR APPLICANT

State of Florida  
County of Miami-Dade

The foregoing instrument was acknowledge before me this 11 day of February, in the year, 2019, by Miguel Diaz de la Portilla of \_\_\_\_\_, who is personally known to me or has produced FL Driver's License as identification.



  
NOTARY PUBLIC, State of Florida

**AS TO THE CITY OF CORAL GABLES:**

**CITY ATTORNEY:**

  
MIRIAM SOLER RAMOS

**IN ACCORDANCE WITH SECTION 2-303(D) OF THE CORAL GABLES ZONING CODE, APPROVED BY BOA SPECIAL MASTER:**

  
ARAMIS ALVAREZ . FEB 11 / 2019



# Exhibit 1

## GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES.

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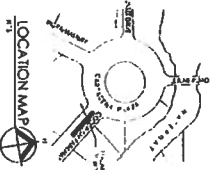
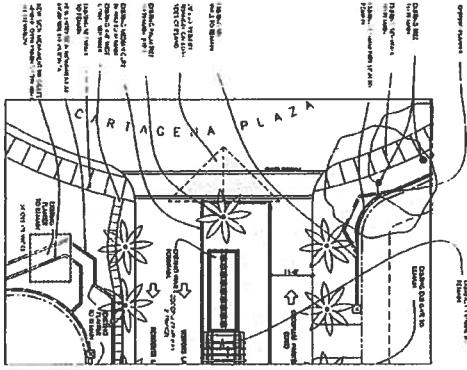
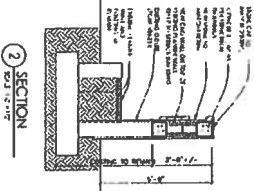
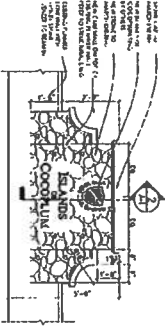
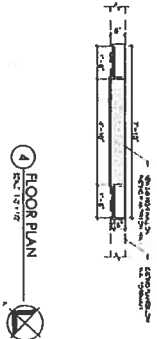
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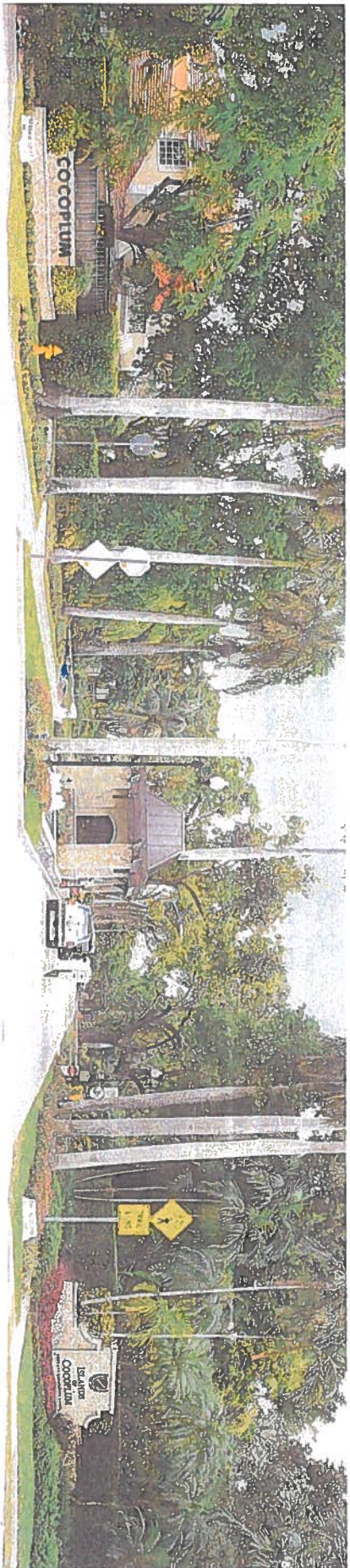
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3	REVISED PER PERMITS	08/15/17
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5	REVISED PER PERMITS	08/15/17
6	REVISED PER PERMITS	08/15/17
7	REVISED PER PERMITS	08/15/17
8	REVISED PER PERMITS	08/15/17
9	REVISED PER PERMITS	08/15/17
10	REVISED PER PERMITS	08/15/17

date \_\_\_\_\_ reviewer \_\_\_\_\_  
 issued \_\_\_\_\_  
 drawn \_\_\_\_\_  
 checked \_\_\_\_\_  
 project no. \_\_\_\_\_

A-1

**COCOPLUM ENTRY MONUMENT**

**PACHECO-MARTINE & ASSOCIATES LLC**  
 4990 SW 72nd Ave Suite 101 Miami FL 33151  
 T (305) 444-2373 F (305) 444-38



PROPOSED



EXISTING

COCOPLUM AND ISLANDS OF COCOPLUM ENTRANCE FIXTURES





PACHECO-MARTINEZ  
& ASSOCIATES LLC.

LEFT SIDE

ISLANDS OF COCOPLUM SIGNAGE  
AT CARTAGENA PLAZA





PACHECO-MARTINEZ  
& ASSOCIATES LLC.

RIGHT SIDE

ISLANDS OF COCOPLUM SIGNAGE  
AT CARTAGENA PLAZA



**GENERAL NOTES**

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES AND AUTHORITIES.

2. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.

3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND LOCAL ORDINANCES.

4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN.

5. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES.

6. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A SAFE AND SOUND CONDITION THROUGHOUT CONSTRUCTION.

7. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT CONSTRUCTION.

8. THE CONTRACTOR SHALL PROVIDE ADEQUATE DRAINAGE FOR ALL CONSTRUCTION ACTIVITIES.

9. ALL UTILITIES SHALL BE DEPTH MARKED AND PROTECTED PRIOR TO CONSTRUCTION.

10. THE CONTRACTOR SHALL MAINTAIN CLEAR ACCESS TO ALL ADJACENT ROADS AND ALLEYS.

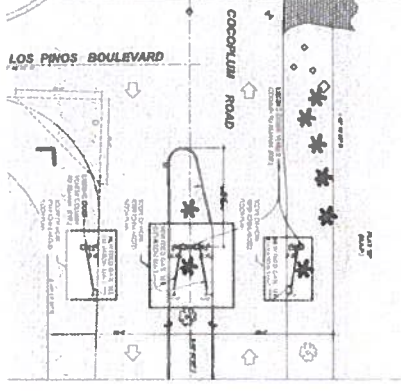
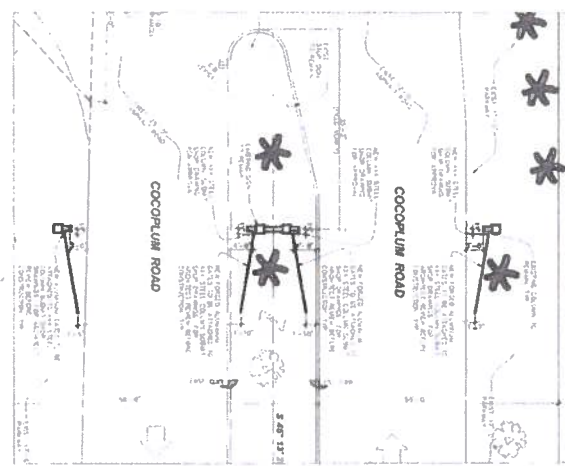
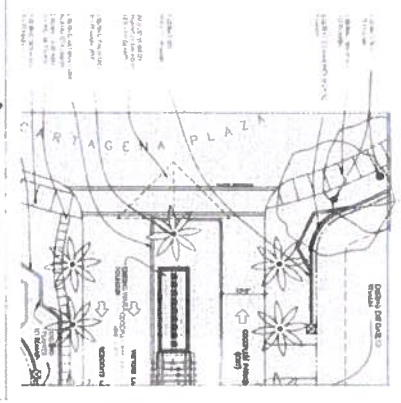
11. ALL CONSTRUCTION SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

12. THE CONTRACTOR SHALL PROVIDE ADEQUATE SECURITY FOR ALL CONSTRUCTION ACTIVITIES.

13. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND LOCAL ORDINANCES.

14. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.

15. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND LOCAL ORDINANCES.



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**COCOPLUM ENTRY FIXTURE**

COPAL GATE AS  
 CRDA

**PACHECO-MARTINE**  
 & ASSOCIATES LLC

4428 E 9th Ave, Suite 101, Arroyo, CA 94001  
 415.962.8888



PROPOSED RIGHT SIDE



ISLANDS OF COCOPULUM ENTRANCE GATES

EXISTING RIGHT SIDE



PACHECO-MARTINEZ  
& ASSOCIATES LLP



ISLANDS  
OF  
COCOPULUM





LEFT SIDE



RIGHT SIDE

## ISLANDS OF COCOPLUM ENTRANCE GATES



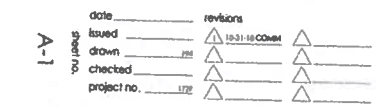
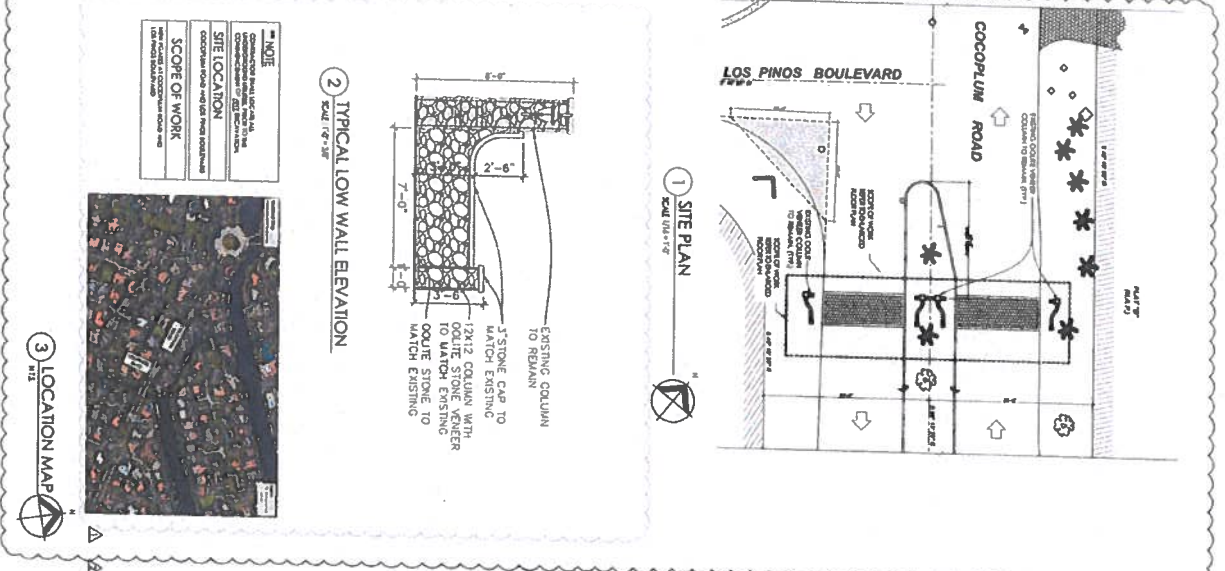
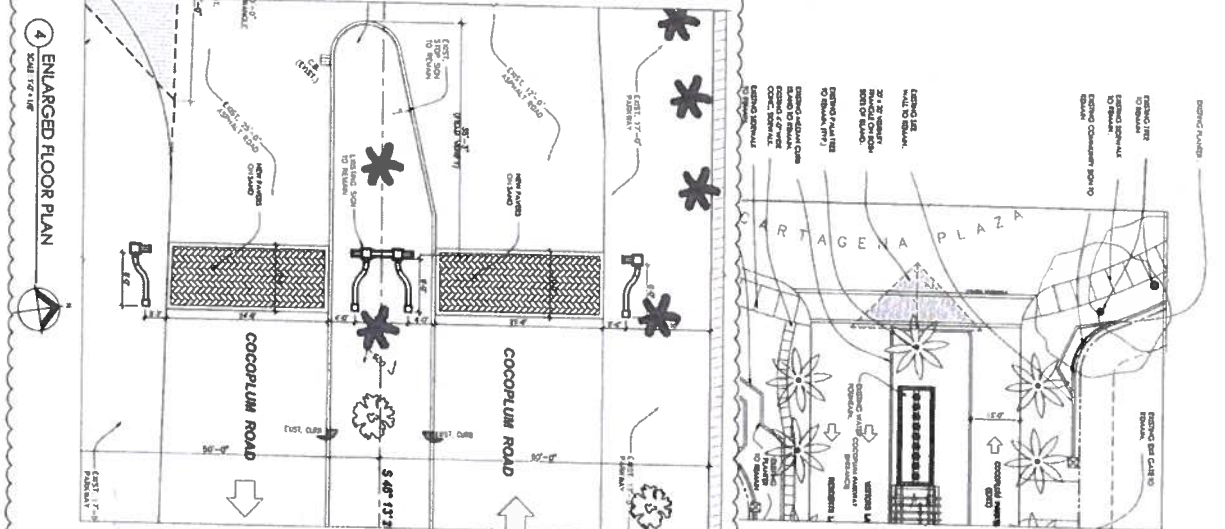
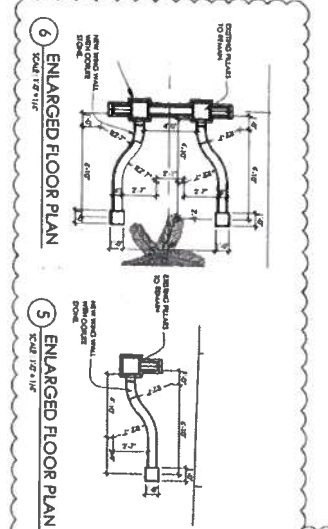
PACHECO-MARTINEZ  
& ASSOCIATES LLC



ISLANDS  
OF  
COCOPLUM

GENERAL NOTES

1. CONTRACTOR TO VERIFY ALL CONDITIONS AND CONDITIONS OF CONTRACT AND SPECIFICATIONS FOR THE PROJECT AND TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AGENCIES.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AGENCIES.
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REMODELING:  
**COCOPLUM ENTRY FEATURE**  
CORAL GABLES  
FLORIDA

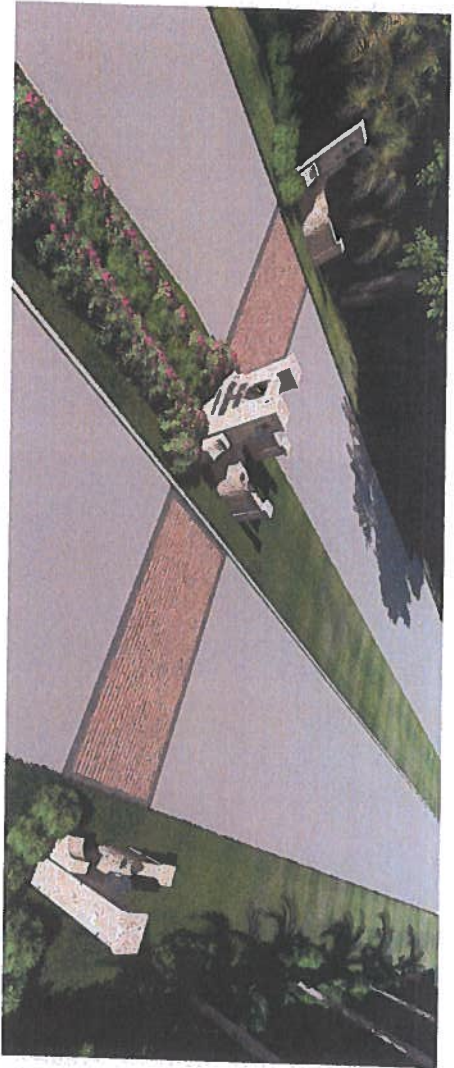
**PACHECO-MARTINEZ & ASSOCIATES LLC.**  
AA26002619 - AR6412 - AR93773  
4990 SW 72nd AVE., SUITE 101 MIAMI FL 33155  
T (305) 666-2573 F (305) 666-3871

date	revisions	drawn	checked	project no.
	15-31-16			

sheet no. **A-1**







BIRD VIEW



SIGN ELEVATION



ENTRANCE ELEVATION

ISLANDS OF COCOPLUM  
COCOPLUM ROAD APPROACH



PACHECO-MARTINEZ  
& ASSOCIATES LLC.



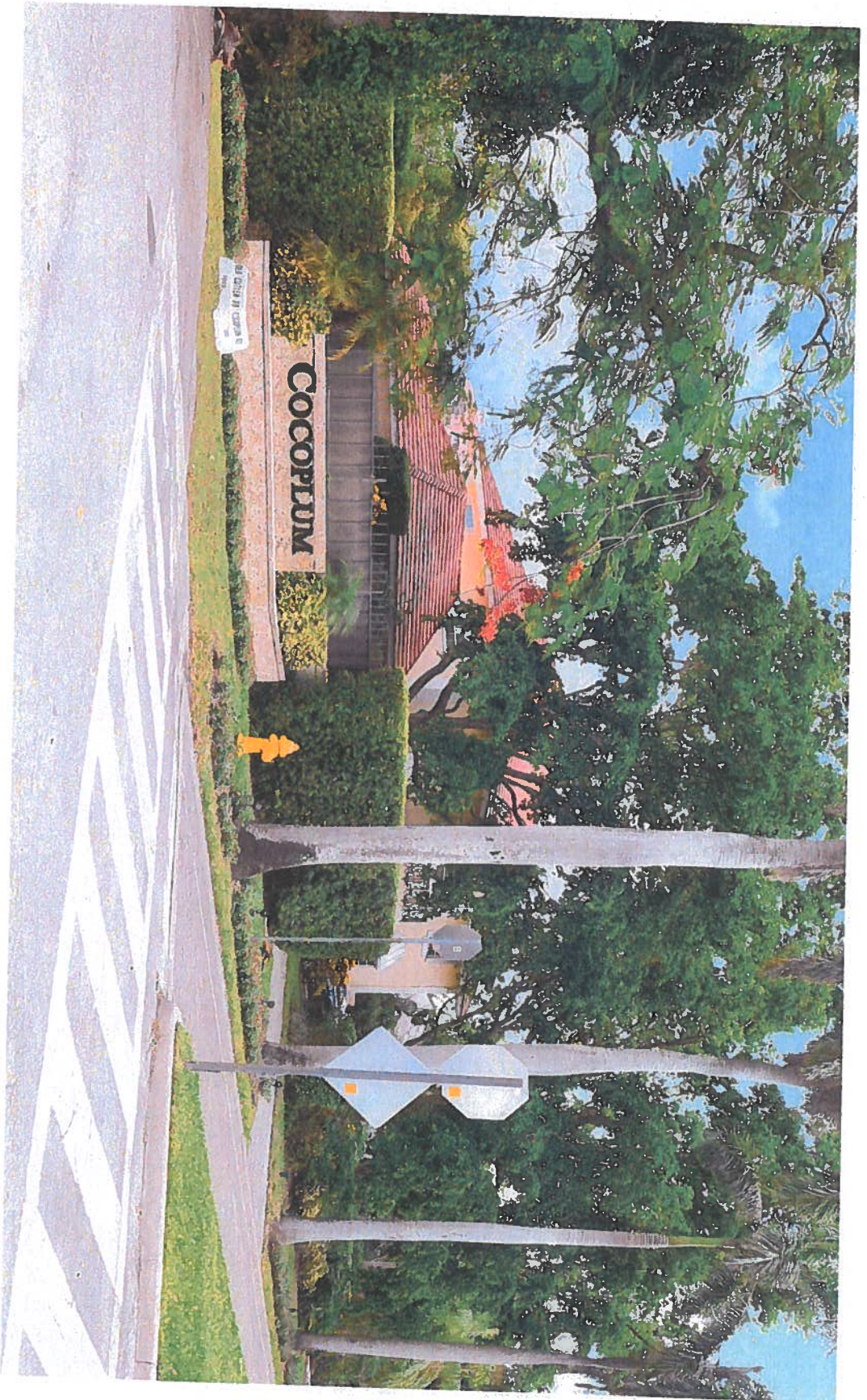


**P**  
PACHECO-MARTINEZ  
& ASSOCIATES LLC.

RIGHT SIDE

ISLANDS OF COCOPRUM SIGNAGE  
AT CARTAGENA PLAZA





**PACHECO-MARTINEZ  
& ASSOCIATES LLC.**

**LEFT SIDE**

**ISLANDS OF COCOPLUM SIGNAGE  
AT CARTAGENA PLAZA**

