

TOWN OF LAUDERDALE-BY-THE-SEA

BOARD OF ADJUSTMENT AGENDA

Town Commission Meeting Room

Wednesday, June 6, 2012 at 6:30 P.M.

- I. ELECTION OF OFFICERS
- II. CALL TO ORDER
- III. PLEDGE OF ALLEGIANCE TO THE FLAG
- IV. APPROVAL OF MINUTES

Regular Meeting – July 15, 2009, December 7, 2011 and May 2, 2012

- V. PUBLIC COMMENTS
- VI. TOWN PLANNER REPORT
- VII. NEW BUSINESS

- A. Applicant: Leisure Towers Association, Inc.
Address: 1500 South Ocean Boulevard
Lauderdale-By-The-Sea, FL 33062
Request: Applicant is requesting a variance from the Town's Zoning Code, Section 30-21 (k) (1) to allow the alteration of a structure in a manner that increases its non-conformity, and from Section 30-341 (b) (6) to allow the removal of three parking spaces from the non-conforming parking lot to accommodate the installation of an air conditioner cooling tower.

VIII. BOARD MEMBER COMMENTS

IX. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AIDS AND SERVICES NECESSARY TO AFFORD AN INDIVIDUAL AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE BOARD OF ADJUSTMENTS. IN DETERMINING WHAT TYPE OF AUXILIARY AID AND SERVICE IS NECESSARY, THE TOWN OF LAUDERDALE-BY-THE-SEA, WILL GIVE PRIMARY CONSIDERATION TO THE REQUESTS OF THE INDIVIDUAL WITH DISABILITIES. PLEASE CONTACT THE TOWN CLERK AT LEAST 48 HOURS PRIOR TO THE MEETING TO MAKE ARRANGEMENTS FOR APPROPRIATE AUXILIARY AIDS. (AUXILIARY AIDS AND SERVICES, 56 FED. REG. 35721, SECTION 36.160(B).

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF ADJUSTMENTS WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

TOWN OF LAUDERDALE-BY-THE-SEA

BOARD OF ADJUSTMENT MINUTES

Town Commission Meeting Room

Wednesday, July 15, 2009 at 11:00 A.M.

I. CALL TO ORDER

Chairman Thomas Carr called the meeting to order at 11:00 a.m. Members present were Chairman Thomas Carr, Vice Chair Joseph Couriel, and George Crossman. Also present were Acting Town Attorney Nancy Stuparich, Code Compliance Officer Kam Parker and Board Secretary Colleen Tyrrell.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES

Regular Meeting – May 20, 2009

All voted in favor to approve the May 20, 2009 minutes as presented.

Acting Town Attorney Nancy Stuparich swore in all those that would be testifying at the hearing.

IV. OLD BUSINESS (Tabled from May 20, 2009)

- A. Project: To allow the existing shed, installed without permit, to be located within the front yard setback;
To allow a proposed swimming pool to be constructed within the front yard setback and within 10' of a public right of way;
To allow the required swimming pool enclosure (fence) to be located within the front yard setback and within 10' of a public right of way

Applicant: Karen A. D'Uva

Location: 1658 West Terra Mar Drive

Request: Description of Variance request: The property owner is seeking three (3) Variances:

1. From the provision of the Section 30-211(c) (1) and Section 30-313(31) to allow the existing shed, which was installed without permit, to be located within the required front yard setback and within ten (10) feet of a public right-of-way. The proposed location is five (5) feet two and three eight (2 3/8) inches from the front property line, rather than the twenty-five (25) feet as required by Code.
2. From the provision of Section 30-313(29) to allow a swimming pool to be constructed within the required front yard setback and within ten (10) feet of a public right-of-way. The proposed pool location to be constructed is three (3) feet one and a half (1 1/2) inches from the front property line rather than the twenty-five (25) feet as required.
3. From the provision of Section 30-313 (4) (e), to allow the required swimming pool enclosure (fence) to be located within the required front yard setback and within ten (10) feet of a public right-of-way. The proposed location for the fence is directly on the front property line rather than the twenty-five (25) feet required.

Karen D'Uva and her attorney, Paul G. Finizio, were present at the hearing to present the history of Mrs. D'Uva's variance request. This matter was brought before the Board of Adjustment on May 20, 2009 at which time the board recommended that this item be tabled to the July 15, 2009 hearing to allow the applicant time to appear before the Town Commission for approval to change the designated front yard from Seaward Drive to West Terra Mar Drive and to re-submit plans reducing the size of the pool and/or shed. Mrs. D'Uva said that she was advised that she would have to apply for another variance to have the address changed. Mrs. D'Uva stated that two years ago she and her husband and their had spoken to Tatiana Solovieva and was told that Tatiana would concur with the address change to West Terra Mar Drive. So they proceeded on those comments. Mrs. D'Uva said that you can only enter her house through the front door that is on Seagrape Drive and verified that her mail is delivered to West Terra Mar Drive which is her front yard. Mrs. D'Uva said that she was confused and was not sure if she should proceed with changing the address designation, however, if it would help this cause she would rather leave everything as is and try to get the variances with the front yard the way it is.

Chairman Carr referred to the diagram presented to the board in the packet and noted that the West Terra Mar side was the longer of the property lines which was 71.19' which he thought was part of the criteria in determining the front and side yards. Mr. Carr said that Mrs. D'Uva was also before the Board of Adjustment back in 2001 and they accepted the address change on West Terra Mar Drive. Mr. Carr said that in his opinion he would go along with that.

Mrs. D'Uva said that she did not want to go again go through who said what, but the two people that were working in the Planning and Zoning Department were no longer working for the Town. Mrs. D'Uva said that she researched for hours to find the variance that she obtained in 2001 to put in her rear patio. Mrs. D'Uva referred to Mr. Noah's letter that stated that the swimming pool would devalue the property and said that statement was an ignorant statement and that everyone knows that if you put in a pool, the real estate for the house would go up. Mrs. D'Uva felt that she was being discriminated against because she made a complaint to the building department about Mr. Noah and that is when all of these issues came up about her shed.

Mrs. D'Uva said that she has returned with new plans and said that she has spent almost \$4,000 in trying to get this resolved. Mrs. D'Uva said that she could not afford to spend money on any more variances or surveys, architects or attorneys and all she wanted was to be allowed a few feet. Mrs. D'Uva said that this was a sentimental matter for her since you husband recently passed away and the shed contains all of his tools and personal things.

Attorney Finizio said that the conditions that exist there especially in this situation since shed is hidden behind the hedges and does not create any obstruction and there was no safety violation and that esthetically the shed does not detract from it and ask that the board approve the variance.

Chairman Carr commented that the swimming pool would be now 5 feet into the property line which was just to the edge of the patio and assumed Mrs. D'Uva would be staying with the 3 foot wide perimeter around the pool. Chairman Carr said that Mrs. D'Uva was also proposing to move the shed about 4 feet closer to the home.

Attorney Finizio said that they would do whatever the board wanted and it would be a difficult thing to move the shed, however, they do not feel this should be needed and would like to keep the shed in its place.

Chairman Carr said that he went by the property a few days ago and that he could not see the shed at all behind the hedges. Chairman Carr verified with Mrs. D'Uva that the shed was hurricane secured. Chairman Carr stated that the Town has certain standards and that is why Mrs. D'Uva was before the Board of Adjustment, however, the board would try and take everything into consideration. Chairman Carr closed his comments and asked those present to come forward for public comments.

Kay Bayman of 1603 W. Terra Mar Drive stated that he lived across from Karen D'Uva for a number of years. He knew intimately both Karen and her husband, Robert. Mr. Bayman said that this shed was a pet project of Robert's

and said that they were very respectful and considerate of others and that whatever they did, they took seriously. Mr. Bayman took special interest in the swimming pool because it was his opinion that it would enhance the value of the property and the neighborhood because there were very few pools on the island. Mr. Bayman said that he finds the project worthwhile and wanted to touch on the moral aspect of the family because it was the dream of Robert's to put in a swimming pool and asked that the project be revived in memory of Robert.

John Seville a resident of 232 Oleander Way stated that he has been a neighbor of the D'Uva's for six years and said that he was in full support of the variance request and considered it an asset to the area and to her property values.

Chuck Gress lives on Terra Mar Way and is also a neighbor of Karen's. Mr. Gress said that the shed was completely hidden by the hedges and did not impose any devaluation of the property. Mr. Gress said that Karen was a great neighbor and asked the board for a positive decision on her request for a variance.

Mr. Couriel asked Officer Parker why Seaward Drive was considered Mrs. D'Uva's front yard when her address is located on West Terra Mar Drive.

Officer Parker indicated that per Town Code on a corner lot the shorter of the two fronts would be designated as the front yard.

Mr. Couriel verified with Officer Parker that if the designated front address was changed, a new variance would be required and for comments from Acting Town Attorney Stuparich.

Attorney Stuparich agrees with Officer Parker's statements regarding Town Code designation of front yards and confirmed that a variance would be required.

Mr. Couriel stated that Mrs. D'Uva must seek a new variance to change the front yard and commented that he would not have any problem with approving the change of address.

Attorney Finizio asked that the change of address be considered at this hearing.

Officer Parker advised that the board would be unable to consider the change of designated front because of the Public Notice Requirements.

Mr. Couriel referred to the table that was done by Officer Parker that was included in the backup material from the previous May 20, 2009 Board of Adjustment hearing and asked how the dimensions would vary if the designated front yard was changed to West Terra Mar Drive.

Officer Parker responded and reviewed each item separately. Regarding the shed, Officer Parker advised that the new encroachment would be 9' 9 5/8 " which would be the encroachment into the required 15 foot setback from the public right of way. Regarding the swimming pool, the new encroachment would be 6' 6" which would encroach into the required 10 foot setback from the public right of way. Regarding the fence, the new encroachment would be 10 feet which would encroach into the required 10 foot setback from the public right of way. Either way, the shed would encroach into the public right of way.

Mr. Couriel stated that if the designated front was changed there would be a reduction in the required variances. Mr. Couriel felt that, the impact of the shed and the swimming pool would be minimized with the change of address.

After further discussion, Attorney Finizio said that this matter was form over function and asked that the Board of Adjustment approve the requested variance as submitted now and said that a new variance was not needed.

Chairman Carr reviewed and discussed the submitted pervious/impervious calculations and advised that it appears that Mrs. D'Uva has at least 50% pervious property which would not be an issue. Chairman Carr said that in his view, moving the shed would encroach no matter where it was moved and it was completely hidden from view by the hedges and that was not an issue.

Mr. Crossman expressed his concerns with the location of the swimming pool but was not concerned with the location of the shed. Mr. Crossman said that no matter where the shed was moved it would still encroach into the public right of way.

Mr. Couriel felt that in his opinion the shed would be a problem if it was moved closer to the house and he was more inclined to leave the shed in line with the smaller pool. He agreed that if the address was changed to West Terra Mar Drive, and the shed remains in its current location, and the pool was changed slightly, no matter what, Mrs. D'Uva would have to spend money either to move the shed or apply for an additional variance.

Attorney Finizio again asked that the variance be approved as presented at the hearing.

Town Attorney Stuparich commented that this is the way the code is written and that staff has to apply the code in accordance with how it is written. Attorney Stuparich said that the change of address was not included in the original Public Notice and would therefore have to go before the Town Commission for approval.

Officer Parker commented that the residence is now a legal conforming building and if the address change was approved by the Town Commission, the residence would become non-conforming.

During the continued discussion regarding the setbacks of the pool, Officer Parker clarified for the board that there was no decking indicated on the revised plans.

Mr. Couriel made a motion, the motion was discussed in great detail and was later withdrawn. Mr. Couriel restated the motion to grant the variance with the condition that the Applicant go before the Town Commission to gain approval to change the designated front in order to allow the shed to remain in its current location and to allow the shed to encroach 9 feet 9 5/8 inches into the required 15 foot setback from the public right of way; and to allow the revised smaller swimming pool to encroach 4 feet 9 5/8 inches into the required 10 foot setback from the public right of way; and to allow the fence to encroach all 10 feet of the required 10 foot setback from the public right of way. The motion was seconded by Mr. Crossman. In a roll-call vote, all voted in favor. The motion carried 3-0.

V. NEW BUSINESS

A..	Applicant:	Ezer Investments, LLC c/o Joe Brennan
	Location:	101 E. Commercial Boulevard
	Request:	Description of Variance request: <u>The Applicant is requesting an exception to the Town's Zoning Code, Chapter 30-315 (4) (j), to maintain a chain link fence to enclose a dumpster in the B-1 Zoning District.</u>

Joe Brennan, Business Manager and Secretary/Treasurer of 101 Ocean A/KA Beach Restaurant Inc. was present at the hearing. Mr. Brennan explained that a permit was issued and a final inspection was approved by the Zoning Department. He was later advised that the permit was issued in error and that the Town Code prohibits chain link fences in the B1 District. Mr. Brennan presented photos of the purpose-built enclosure and photos of wooden dumpster enclosures for comparison. Mr. Brennan said that it would be a hardship to remove the chain link fence enclosure and requested that the Board grant an exception to the Town's Zoning Code and approve the variance request.

After further discussion Mr. Couriel said that the dumpster enclosure faced the Municipal Parking Lot and that he noticed that the dumpster enclosure was kept open and it looked unsightly.

Chairman Carr said that he thought the appearance of the chain link fence with the heavy grade green vinyl slats that were inserted to block the view was more attractive than the wooden fence enclosures and suggested that some kind of spring mechanism could be installed to keep the door closed on the dumpster enclosure.

Mr. Crossman made a motion to for the Board of Adjustment to approve the variance as requested and recommends that this be an exception to the Town's Code Chapter 30-315 (4) (i) that prohibits chain link fences in the B1 Zoning District.

Mr. Couriel seconded the motion with the stipulation that some kind of automatic mechanism be installed to keep the gate closed on the dumpster enclosure.

In a roll call vote, all voted in favor. The motion carried 3 – 0.

V. UPDATES/BOARD MEMBER CONCERNS

There were no updates or board member concerns.

VI. ADJOURNMENT

Having nothing further to discuss, Chairman Carr adjourned the meeting at 1:45 P.M. July 15, 2009

Thomas Carr, Chairman

ATTEST:

Date Accepted: _____

Colleen Tyrrell, Board Secretary

TOWN OF LAUDERDALE-BY-THE-SEA
BOARD OF ADJUSTMENT MINUTES
Town Commission Meeting Room
Tuesday, December 7, 2011, at 6:30 P.M.

I. ELECTION OF OFFICERS

Not discussed.

II. CALL TO ORDER

Chairperson Swinghammer called the meeting to order at 6:30 p.m. Members present were Arthur Franczak, Henry Overton, Helen Swinghammer and Arthur Wolowicz. Also present were Town staff Budd Bentley, Assistant Town Manager/Acting Department Director of Development Services, Acting Town Planner Linda Connors, and Town Attorney Kathryn Mehaffey. Sandra Roberts was present to record the minutes of the meeting.

III. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

IV. APPROVAL OF MINUTES

Regular Board of Adjustment Minutes of October 4, 2011

Chairperson Swinghammer wished to correct the language in the minutes under the item "Election of Officers" to reflect that she volunteered for the position of chairperson not vice chairperson of the Board.

Mr. Wolowicz made a motion to approve the above minutes as corrected. The motion was seconded by Chairperson Swinghammer. In a roll call vote, the motion passed 4 – 0.

V. NEW BUSINESS

A.. Applicant: Steven Dobrofsky
Location: 3280 Oleander Way
Request: Description of Variance request:
The Applicant is requesting a variance from the Town's Zoning Code, Chapter 30-313 (29) and 30-313 (32), so they can maintain a pool deck and generator within the front setback.

Acting Town Planner Linda Connors reviewed the backup information on the proposed application. Town staff recommended approval with staff conditions.

Ms. Roberts collectively swore in all persons wishing to speak on the subject item.

Steven Dobrofsky, the applicant, added while there were differences between Town staff's and his interpretation of the Town ordinance pertaining to the location of the pool, he was satisfied with Town staff's findings. Staff agreed with the applicant's findings that the latter had a pool and a deck that was constructed pursuant to permit since the early 1990s and the deck had deteriorated. He said when he applied for a permit to make renovations, they included their intention to replace the wood deck with travertine pavers. At that time, Town staff informed him 12 and a half feet of the existing deck extending north of the pool violated the local ordinance. It was the applicant's position that the Town ordinance was unclear in its definition of a pool for purposes of measurement, but they did not prevail on this point with either the Town staff or the Broward County plan examiner. The applicant hoped the extra wall was within 25-foot area of the pool, as nothing other than the inside water surfaces was considered in the relevant ordinance. Thus, while the applicant respectfully disagreed with Town staff, they applied for the

variance to allow the 12 and a half feet that extended north of inside of the 25-foot setback, that it should be uniform with the remaining portion of the deck that would be changed to travertine pavers. Mr. Dobrofsky commented as to the generator; the generator would be closest to their neighbors' bedrooms. Though it was a generator for use only in the event power was lost, such as during a hurricane, he thought it best to place the generator as far away from any dwelling as possible, particularly bedrooms, so as not to present a noise nuisance. They wished to place the generator on the north side of the property inside the fenced in area within the 25-foot setback. Theirs was a corner lot, and the configuration of their lot was unusual, as part of their backyard was considered a part of their front yard; they did not create the situation, but they were trying to improve the property and bring its structures up to code. He reiterated they were satisfied with Town staff's findings and conditions.

Chairperson Swinghammer opened the discussion to the public and received no input.

A male Board member asked about code requirements.

Town Attorney Mehaffey replied the code requirement was for a fence around the pool, so the existing fence would have to remain; all the structures discussed earlier in the meeting were behind the fence and not visible from the public right-of-way.

(The audio quality was poor and the dialog was inaudible in portions of the recording at this point in the meeting.)

Town Attorney Mehaffey clarified there was a discussion but no condition had been added. The normal procedure was for a motion to be made, and whoever made the motion could include the desired condition as part of the approval of the application. If the motion was made without the condition, the condition could be added later as an amendment to the original motion.

Mr. Franczak made a motion to approve the proposed variance application with staff conditions as written. The motion was seconded by Mr. Wolowicz. In a roll call vote, the motion passed 4 – 0.

VI. UPDATES/BOARD MEMBER COMMENTS

Acting Town Planner Connors added she did not receive any variance applications, so there would be no January 2012 Board of Adjustments meeting.

VII. ADJOURNMENT

Having nothing further to discuss, Chairperson Swinghammer's motion to adjourn the meeting was seconded at 6:53 p.m.

Helen Swinghammer, Chairperson

ATTEST:

Date Accepted: _____

Colleen Tyrrell, Board Secretary

CT/cc

TOWN OF LAUDERDALE-BY-THE-SEA

BOARD OF ADJUSTMENT MINUTES

*Town Commission Meeting Room
Wednesday, May 2, 2012, at 6:30 P.M.*

I. ELECTION OF OFFICERS

Rescheduled to the next meeting.

II. CALL TO ORDER

Assistant Town Clerk McCormick called the meeting to order at 6:30 p.m. Members present were Geri Ann Capotosto, Arthur Franczak, Henry Overton, Vernice Rapaport, Helene Wetherington, and first alternate Helen Swinghammer. Also present were Town Planner Linda Connors, and Assistant Town Attorney Kathryn Mehaffey. Assistant Town Clerk Glen McCormick was present to record the minutes of the meeting.

III. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

Town Planner Connors stated both the election of officers and approval of minutes would be deferred to the next regular Board of Adjustment (BOA) meeting in June.

IV. APPROVAL OF MINUTES

Regular Board of Adjustment Minutes of July 5, 2009, and December 7, 2011

Rescheduled to the next meeting.

V. WORKSHOP

Review of Board of Adjustment Procedures

Town Planner Connors reviewed the BOA procedures as detailed in the backup. She noted the BOA only met when there was a variance application for consideration, and the regular meeting day was the first Wednesday of the month at 6:30 p.m. in Jarvis Hall. The next meeting would be held Wednesday, June 6, 2012, at 6:30 p.m.

Ms. Wetherington sought guidance on reviewing variance applications, as the applicant was seeking approval for something that was, in and of itself, a violation of the Town's code or not being able to meet that standard. She asked if Town staff had any general guidance Board members should use when reviewing and making a decision whether to approve or deny a variance.

Town Planner Connors responded Board members should consider if there were any special circumstances; for example: whether the condition was self imposed, did it pose a hardship, did the literal interpretation of the Town code make it difficult to satisfy the code for the particular piece of property, was it the minimum variance needed to accomplish their goals. For instance, if an applicant wished to install a pool and it could only fit in a certain manner and how much into the setback it would encroach. They should also look at if the variance sought to allow a use that would not be permitted in another circumstance. She noted financial hardship was not a justification for granting a variance. The staff report for each application would highlight each criterion and her interpretation of the application, and there would be times when Board members would disagree with her recommendation(s).

Ms. Wetherington wondered if an applicant's presentation of affidavits of support for their planned improvements from their neighbors should have any bearing on a Board member's decision.

Town Planner Connors replied whether such affidavits weighed in the decision to grant a variance was up to individual Board members. She always recommended to applicants that they bring to the BOA hearings all the information possible, and if they

could demonstrate their neighborhood supported their plans, this was data the Board could use to evaluate the application, but Board members should always remember to stick to the criteria of the code for granting variances.

Ms. Wetherington sought clarification as to a self-imposed hardship.

Town Planner Connors responded a self-imposed hardship was one created by the applicant. For example, installing a paved patio without a permit that encroached on the setback, resulting in the Town code requiring its removal or a reduction of the patio at the property owner's expense.

Ms. Wetherington asked about Board members being approached by a community member involved in an issue that was to come before the Board, whether they were the applicant or was closely associated with the applicant.

Assistant Town Attorney Mehaffey remarked those were considered *ex parte* communications; that is, a conversation or any kind of communication occurring outside of the hearing, regarding an item that was or might be coming before the Board for review. She recommended Board members exercise extreme caution when dealing with *ex parte* communications and, to the extent that they could, they should not participate in them, though they were unavoidable at times. Once an *ex parte* communication took place, Board members should disclose the interaction regardless of the content; forward the information to Town Planner Connors, and she would coordinate the information with the Town Clerk. She stated if the *ex parte* communication was disclosed prior to the Board's meeting packet going out, it would be included in the packet. If the communication was oral, at any time before the next meeting, the information should be sent via email to Town Planner Connors or the Town Clerk, noting the conversation, who it was with and the basic subject matter of discussion. The record of such communications should also be forwarded to the applicant, and if the communication was not recalled, prior to discussing the item in the next meeting, Town staff would call upon Board members to reveal any *ex parte* communications. Assistant Town Attorney Mehaffey explained Board members could also tell the applicant or member of the public that, as the item would be coming up for approval at the next Board meeting, they were unable to discuss the details of the situation. Failure to disclose *ex parte* communications resulted in a prejudice and, if an applicant chose to appeal a Board decision and could prove there were significant *ex parte* communications that were never disclosed, it could result in invalidating the ruling on the variance.

Mr. Franczak wondered how the Board should go about approving one set of the minutes at the next Board meeting, as they were for a 2009 meeting; no current member of the Board could verify their accuracy.

Assistant Town Attorney Mehaffey pointed out the 2009 minutes for approval by the current Board was due to the Board of Adjustment meeting only twice in the last two years, and the 2009 minutes were not approved at those meetings. Every time there was a transition of every board and commission meeting across the country, the next board usually consisted mainly of members that were not present at a meeting whose minutes they had to approve.

Town Planner Connors gave the Board her email address and phone number: lindac@lbtz-fl.gov, and noted that it was also located on the Town's website. She gave her phone number 954-640-4213 and stated that board members should not hesitate to contact her for information.

Assistant Town Attorney Mehaffey clarified Board members could discuss items on the agenda with members of the Town Commission, but they were considered *ex parte* communications and should be disclosed. Whenever an application or situation came before the Board that a Board member or someone they worked with might have some kind of financial relationship or interest in the subject matter or the application, Board members should call Town Planner Connors or her immediately. It was much easier to deal with potential or actual conflicts of interest issues in advance.

VI. UPDATES/BOARD MEMBER COMMENTS

None

VII. ADJOURNMENT

Having nothing further to discuss, Town Planner Connors adjourned the meeting at 7:01 p.m.

Chairperson

ATTEST:

Date Accepted: _____

Colleen Tyrrell, Board Secretary

CT/cc



Town of Lauderdale-By-The-Sea

Development Services
4501 Ocean Drive
Lauderdale-by-the-Sea, FL 33308

To: Board of Adjustment
Thru: Bud Bentley, Assistant Town Manager *SB*
From: Linda Connors, Town Planner *LC*
Date: May 31, 2012
Meeting Date: June 6, 2012
Re: Leisure Towers Variance Request Application

STAFF REPORT

The purpose of this memorandum is to provide findings and recommendations regarding the variance application submitted by Leisure Towers, the condominium located at 1500 South Ocean Boulevard (**Exhibit 1**). The applicant and condominium association president, Gary Condra, is requesting relief from Section 30-21(k) (1) to allow the alteration of a structure in a manner that increases its nonconformity, and from Section 30-314(b)(6) to allow the removal of three parking spaces from the non-conforming parking lot to accommodate the installation of an air conditioner cooling tower. For your information copies of the applicable code sections are attached (**Exhibit 2**).

The applicant has paid the appropriate fee and submitted the required documents. Staff reviewed the application and deemed it complete. The review of a variance is a quasi-judicial proceeding and as such, the Town is required to advertise the public hearing. Notice of this hearing was published in the Sun Sentinel on May 19, 2012 (**Exhibit 3**). In addition, notice to all property owners within 300 feet has been given pursuant to Section 30-13 of the Code of Ordinances. A map depicting the notice area is attached (**Exhibit 4**).

Description of the Property

The subject property is a 118 - unit condominium located within the RM-25 zoning district. It was built in 1968 under Broward County zoning regulations. When permitted by Broward County, the property had 134 total parking spaces, 13 of which were designated as guest parking. Since the time of the construction, the County adopted new parking requirements which rendered Leisure Towers a legal non-conforming structure. In 2001, the property was annexed into the Town of Lauderdale-By-The-Sea. Should the property be redeveloped, the new building would be required to meet the Town's code of ordinances. The current Town code requires 202 parking spaces for the 118 - unit configured condominium with the same unit size allocation as shown in **Table 1**.

Table 1 – Current Code Parking Requirements

# of units	Unit Size	Total Required
14	1 bedroom (1 ½ spaces per unit)	21
102	2 bedroom (1 ½ spaces per unit)	153
2	3 bedroom (2 spaces per unit)	04
Guest	1 space per 5 units (118 units)	24
	TOTAL	202

Variance Request

The applicant is requesting relief from Section 30-21(k) (1) to allow the alteration of a structure in a manner that increases its nonconformity, and from Section 30-314(b) (6) to allow the removal of three parking spaces from the non-conforming parking lot to accommodate the installation of an air conditioner cooling tower because the current method of cooling no longer works, the structure cannot feasibly support the placement of the cooling tower on the roof, and other possible ground locations could create negative impacts for neighboring residential uses.

The condominium currently utilizes a well water system for their air conditioner condenser. This system is original to the building, and is failing despite the installation of a reduced water volume pump and the installation of a new well in 2008. In 2011, the condominium association moved forward with hiring an engineer to design a cooling tower system and after reviewing the existing structural features of the building, he realized that the only economically feasible option would be to eliminate the well system and add a cooling tower at the ground level. The engineer identified four (4) options for the location of the tower on the ground level. These options were evaluated based on four design parameters, with an emphasis on the least impact to neighboring residential properties (Exhibit 1, Page 13). The engineer's recommended option is to install the cooling tower at the west side of the northern covered parking area. This option is the furthest away from the adjacent buildings so that the noise from the tower would not affect the neighbors (Exhibit 1, Pages 18 – 20). This would require utilizing the area that currently includes three (3) paved parking spaces and would require an increase in the parking lots current non-conforming status.

As stated previously, the existing condominium was designed and approved with a total of 134 parking spaces with 13 spaces assigned for guest parking consistent with the Broward County code requirements in place at the time of original approval and construction. Using today's code standards, the development would be required to have a total of 202 parking spaces (Table 1). Because the property was legally permitted and approved with the 134 spaces, the Town considers this property a legal non-conforming structure. Per code, the non-conformity shall not be increased (Table 2). Since the applicant is proposing to locate the air cooling tower within the parking lot and reduce the existing non-conforming parking by three (3) spaces, the Town must approve a variance for the applicant to move forward.

Table 2

Variance	Code Requirement	Code Section
Reduce parking by 3 spaces	No such building or structure shall be enlarged upon or altered in any way that increases its nonconformity.	30-21(k)(1)
	It shall be unlawful for an owner or operator of any building, structure or use affected by these sections to discontinue, change or dispense with, or to cause discontinuance or reduction of the required parking facilities apart from the discontinuance, sale or transfer of such structure or use, without establishing alternative vehicle parking facilities which meet the requirements of these sections.	30-314(b) (6)

Criteria and Analysis

Section 30-8 of the Town code addresses the criteria for consideration of an application for a variance. The Town Code requires the Board to evaluate the variance applications by considering the following criteria:

1. Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.

Findings: The existing air conditioning system is failing and the condominium structure was not originally built to support a cooling tower on the rooftop. The structural improvements necessary to support the cooling tower on the roof are not economically feasible. It is also not physically feasible to continue utilizing a well cooling system.

2. The circumstances, which cause the hardship, are peculiar to the property or to such a small number of properties that they clearly constitute marked exception to other properties in the district.

Findings: While other condominiums in the area may have been built with a well water cooling system, the system on this property has been failing an average of once every ten years and the current system is failing at a much shorter time frame. This would indicate a problem with the water table at this location being able to support this system. This hardship would affect a small number of properties in the district as water tables vary significantly in different locations. The circumstances are peculiar to a small number of properties and as such the request constitutes an exception to other properties in the district.

3. The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.

Findings: By not allowing the proposed location of the cooling tower, the building will not have means to provide air conditioning to the building unless new water wells are installed.

4. The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.

Findings: The condominium is an existing non-conforming use. In 2008, the association installed a reduced water volume pump to correct the issue and hired an engineer in 2011 to evaluate the system. Their recommendation to locate the cooling tower in the proposed location was based on several design iterations to find an alternative that would meet the needs of the condominium and also have minimal impact on the neighboring residences.

5. The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Findings: The Engineer researched and selected the model and manufacturer that produces the lowest sound levels with the smallest foot print and the lowest

equipment height to ensure the minimal visual and sound impact to the neighboring community.

6. The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.

Findings: The property owner is merely requesting a variance to allow for an increase in an existing non-conformity (parking spaces).

7. Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.

Findings: The property would not be rendered unusable if the variance is not approved.

STAFF RECOMMENDATIONS: Staff recommends approval of the variance request with the following conditions:

1. The applicant shall be required to secure a building permit that meets all permit requirements except for Section 30-21(k)(1) and 30-314(b) (6), with the final cooling tower location subject to the approval of the Building Official, within 90 days of the approval of the Variance.
2. The installation shall be in accordance with the submitted plans for the hearing entitled, "Leisure Towers Condenser Water System Renovation," dated April 27, 2012, except as modifications may be required by the Building Official.
3. The cooling tower enclosure shall be painted to match the condominium building finish.
4. The Variance Order shall be recorded in the Public Records of Broward County by the applicant, at his/her sole cost and expense, and a certified copy of the recorded document returned to the Town within 30 days of the date of the building permit.

The variance request and the Board's recommendations will be scheduled for Town Commission consideration at their July 10th meeting.

EXHIBIT 1

ZONING VARIANCE APPLICATION

BY

LEISURE TOWERS ASSOCIATION, INC.

LOCATED AT

**1500 SOUTH OCEAN BLVD.
LAUDERDALE-BY-THE-SEA, FLORIDA 33062
PHONE: (954) 946-2444
FAX: (954) 946-2488**

APPLIED TO:

**TOWN OF LAUDERDALE-BY-THE-SEA
PLANNING & ZONING
DEVELOPMENT SERVICE DEPARTMENT
4501 OCEAN DRIVE, FLORIDA 33308**

PREPARED BY:

**FLORIDA ENGINEERING & DESIGN GROUP, INC.
5253 NW 33RD AVENUE
FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 730-3400
FAX: (954) 730-3414**

INDEX PAGE

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- A- VARIANCE REQUIREMENTS COMPLETED FORM**
- B – SUBMITTAL CHECKLIST**

2 – PROOF OF OWNERSHIP

3– COVERSHEET FOR PLAN PACKAGE WITH PROJECT DESCRIPTION

4 – DESCRIPTION OF PLAN DEVELOPMENT OPTIONS

5 – PROPERTY AREA PHOTOGRAPHS

- A- LEISURE TOWER & ADJACENT PROPERTIES**
- B- LEISURE TOWER CURRENT LAY-OUT**
- C- PROPOSED COOLING TOWER & DISTANCE TO ADJACENT BUILDINGS ON ADJACENT PROPERTIES**
- D- DESIGN STUDY OPTION “A” DISTANCE TO ADJ. STRUCTURES.**
- E- DESIGN STUDY OPTION “B’ DISTANCE TO ADJ. STRUCTURES**
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- I- ELEVATION OF NW ADJACENT PROPERTY**
- J- ELEVATION OF SW ADJACENT PROPERTY**

6– PROPERTY PERVIOUS & IMPERVIOUS AREA EVALUATION

7– PROPERTY PARKING SPACES EVALUATION

SEPARATE ATTACHMENTS (EACH IN TABLOID SIZE):

- A- CURRENT SURVEY OF PROPERTY**
- B- PROPOSED SITE PLAN**
- C- PROPOSED COOLING TOWER ENCLOSURE ELEVATIONS**
- D- PROPOSED COOLING TOWER, DIMENSIONS & SOUND LEVELS**



TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
ZONING VARIANCE

PROPERTY/APPLICANT INFORMATION

Date: May 4, 2012

Case Number Assigned: 2012-V-001

Property Address: 1500 South Ocean Boulevard, Lauderdale-By-The-Sea, FL 33062,

Legal Description: Lot __1__ Block __6__ Folio 4943 07 00 000 & 4943 06 00 0440

Subdivision _____

Zoning District: RM25

Property Owner's Name: Leisure Towers Association, Inc.

Address: 1500 South Ocean Blvd. - Lauderdale-By-The-Sea, FL 33062

Phone #: (954) 946-2444 Fax (954) 946-2488

Email address: ltapalmer@aol.com

Owner/Applicant's Name: Leisure Towers Association, Inc.

Phone #: (954) 946-2444 Fax (954) 946-2488

Email address: ltapalmer@aol.com

Signature of Applicant/Owner: *Gary G. Condra* (President)

Print Name of Applicant/Owner: Gary G. Condra

State of : Florida

County: Broward

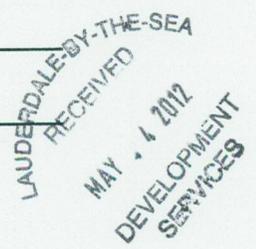
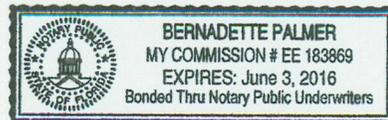
Notary: Bernadette Palmer

My Commission expires : June 3, 2016

Personally Known: ID: _____

*Letter required from Owner if represented by Agent.

Bernadette Palmer



VARIANCE REQUIREMENTS

Code Section from which Variance is sought: Zoning & Parking

Description of your request:

Authorization for the installation of a new cooling tower with an enclosure wall and ancillary equipment at ground level.

Describe the existing special conditions and circumstances affecting the land, structure or building involved preventing the reasonable use of said land, structure, or building:

The Building currently uses well water for the Condenser Water System to provide cooling for the entire building. The well water system is currently failing again and has been failing at shorter and shorter intervals as compared to previous well failures, requiring the installation of new wells.

As the well fails, the reduced well water level causes cavitation in the pump equipment and the system does not receive enough water from the well.

That condition reduces the amount of heat that can be dissipated, leaving the building at higher cooling water temperature levels and ultimately causing the A/C equipment to shut down because of high water temperatures.

Since the well water level continues to decrease and current EPA regulation discourage installation of wells, the only prudent solution is installing a cooling tower with the necessary ancillary equipment.

Describe the circumstances, which cause the hardship to be peculiar to the property or to such a small number of properties that they clearly constitute marked exception to other properties in the district:

The Building was never equipped with a Cooling Tower and the existing structural design does not support a cooling tower on the roof of the building. In order to provide the required condenser water cooling, the cooling tower must be installed at ground level.

Without a cooling tower the building will not have means to provide conditioned air in the interior of the building unless new water wells are installed.

Describe why the literal interpretation of the provisions of the applicable would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same district. It is of no importance whatever that the denial of the variance might deny to the property use in a more profitable way or to sell it at a greater profit than is possible under the terms of the regulations:

The installation of the cooling tower requires reducing the total parking space count on the property by 3 spaces and the erection of a 13'-10" high sight wall enclosure 37'-10" East of the West property line.

Explain why the hardship is not self-created or the result of mere disregard for, or ignorance of, the provisions of the regulations: _

The existing well water cooling system is failing and cooling for the building must be provided.

Describe how the variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare:

The Proposed Site Plan is the result of various site studies, taking into account local "Noise Ordinances" and "Zoning Regulations".

The proposed lay-out is the best possible location for the equipment regarding noise levels as well as the least obtrusive construction regarding the view from adjacent properties and the building itself.

The proposed lay-out with the equipment inside a sight wall enclosure does not present any danger to the public welfare or be injurious to the neighborhood.

Attach additional pages if necessary

Supply copies of the following:

Two (2) Sealed Surveys of the entire property, completed within sixty (60) days of the date this application is filed. The survey must clearly identify and indicate distances between all structures, property lines, setbacks, easements, and adjacent rights of way.

Eight (8) copies of a Site Plan under Seal of a Florida licensed Architect or Engineer, which clearly depicts the proposed improvements, which necessitates the variance in relation to the above-delineated elements for survey. For single-family and duplex properties the site plan drawn to scale, which depict the proposed improvements, which necessitates the variance, does not need to be sealed.

In addition, the Applicant must complete the application submission checklist form that is attached.

To be completed by Town

Date Application submitted: 5/4/2012

Date Application found complete: _____

Pre-Application meeting date: _____

Board of Adjustment meeting date: 6/6/2012

Town Commission meeting date: _____

Zoning Code Variance Fee Amount:

Single Family \$350.00 (Resolution 2008-03) _____

All other Variance submissions \$350.00 ✓

Minimum Deposit for Consultant(s) \$500.00 ✓



TOWN OFF-SITE CONSULTANT FEE (if applicable)

CA # 22296

NOTE: The Town Code provides for cost recovery of outside consultants, legal advertising costs, direct mail notice costs, etc. and depending on the scale of the project, additional fees may be incurred. Therefore, the above fees reflect a \$500 deposit for third party fees. Any unused portion of the \$500 deposit will be refunded to the Applicant.

LAUDERDALE-BY-THE-SEA
RECEIVED
MAY - 4 2012
DEVELOPMENT
SERVICES

Application Submittal Checklist – Variance – *Other than single family homes

NOTE: The project Architect or Engineer must complete the portion below in order for the application and plans to be accepted.

General Requirements

Application submitted prior to noon with Application fee in the amount of **\$350.00 plus a deposit fee of \$500.00** for third party plan review fees. Any unused portion of the \$500.00 deposit will be refunded. **Total due \$850.00.**

Note: Make check payable to Town of Lauderdale-By-The-Sea.

- Sheet size of plans cannot exceed 24" X 36"
- Plan sets must be bound, stapled, and folded into a size no larger than 8 1/2" X 11"
- Two (2) set of all plan sheets reduced to 8 1/2" X 14"
- All other required documents must be stapled, bound or in a folder, not larger than 8 1/2" X 11"
- Copy sets are provided in color if original signed and sealed set is in color.

One (1) copy of the following:

- Completed application
- Proof of ownership
- Property owner's signature and agent letter
- Traffic Study if applicable
- Color photographs of the entire property and all surrounding properties. All photographs are required to be dated and labeled and identified as to the orientation.
- Model replica if applicable

Two (2) original signed and sealed set AND seventeen (17) copy sets in the following order:

- Cover Sheet for plan package describing project details
- Three (3) copies of current survey of property completed within sixty (60) days of the date the application is filed.
- Most current recorded plat including amendments
- Plans as specified to include but not limited to
 - A. Site Plan
 - B. Details
 - C. Floor Plans
 - D. Building Elevations
 - E. Additional Renderings
 - F. Landscape Plans

I acknowledge that the Required Documentation and Technical Specifications of the application are met:

Print Name: WAIG0 CONNORS
Signature: Walter Connors
Date: 4-27-12

PE / A-1A Seal

Walter Connors
4-27-12

For Department Staff use only:

Date: 5/4
Received By: Callan Spree
Tech. Specs Reviewed by: _____

LAUDERDALE-BY-THE-SEA
RECEIVED
MAY 4 2012
DEVELOPMENT
SERVICES

Permit Number assigned: 2012-V-001



Site Address	S OCEAN BOULEVARD , LAUDERDALE BY THE SEA	ID #	4943 07 00 0010
Property Owner	LEISURE TOWERS ASSOC INC	Millage	0211
Mailing Address	1500 S OCEAN BLVD LAUDERDALE BY THE SEA FL 33062-7400	Use	03
Abbreviated Legal Description	7-49-43 PT GOV LOT 1 E OF A1A BOUNDED ON N BY N/L SEC 7 & ON S BY LINE 2750 S OF 1/4 SEC/L OF 6-49-43, LESS LEISURE TOWERS CONDO		

The just values displayed below were set in compliance with **Sec. 193.011, Fla. Stat.**, and include a reduction for costs of sale and other adjustments required by **Sec. 193.011(8)**.

Property Assessment Values					
Click here to see 2011 Exemptions and Taxable Values to be reflected on Nov. 1, 2011 tax bill.					
Year	Land	Building	Just / Market Value	Assessed / SOH Value	Tax
2012	\$10		\$10	\$10	
2011	\$10		\$10	\$10	
2010	\$10		\$10	\$10	

IMPORTANT: The 2012 values currently shown are "roll over" values from 2011. These numbers will change frequently online as we make various adjustments until they are finalized on June 1. Please check back here AFTER June 1, 2012, to see the actual proposed 2012 assessments and portability values.

2012 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$10	\$10	\$10	\$10
Portability	0	0	0	0
Assessed/SOH	\$10	\$10	\$10	\$10
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type 20	\$10	\$10	\$10	\$10
Taxable	0	0	0	0

Sales History				
Date	Type	Price	Book	Page

Land Calculations		
Price	Factor	Type
\$0.10	1,000	SF
Adj. Bldg. S.F.		

Special Assessments					
Fire	Garbage	Light	Drainage	Improvement	Safe
02					
V					
1					



FLORIDA ENGINEERING & DESIGN GROUP, INC.
- CONSULTING ENGINEERS -
 5253 N.W. 33rd Avenue, Fort Lauderdale, Florida 33309
 Phone: (954) 730-3400 - Fax: (954) 730-3414

April 27, 2012

Town of Lauderdale-By-The-Sea
4501 Ocean Boulevard
Lauderdale-By-The-Sea, Florida 33308
-Planning & Zoning-
Attn.: Ms. Linda Connors –Town Planner

Re: Leisure Towers – Condenser Water System Renovation-
-Cover Page & Project Description-

Location: 1500 South Ocean Boulevard
Lauderdale-By-The-Sea, FL 33062

Dear Ms. Connors,

Attached is the Application Package for the Zoning Variance for the above indicated property.

The project is for the proposed installation of a cooling tower with ancillary equipment at the ground level of the property.

The proposed enclosure of the cooling tower, located at the SW corner of the northern covered parking area contains also the necessary pump and electrical equipment.

The proposed condenser water piping and electric power supply will be routed under-ground in the asphalt paved northern parking area.

A new condenser water boiler is proposed to be installed inside the mechanical pump room with a vent terminating at the NE wall of the existing mechanical room.

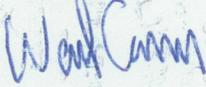
.....

*Town of Lauderdale-By-The-Sea, Planning & Zoning
Re: Leisure Tower, 1500 S. Ocean Blvd.-
Condenser Water System Renovation-Cover Page & Project Description-
Attn.: Ms. Linda Connors – Town Planner-
April 27, 2012, Page 2*

The Natural Gas supply for the boiler is proposed to be connected to the existing gas meter located at the SE corner of the parking lot and routed under-ground through the asphalt paved parking area in front of the building to the location of the new boiler.

We trust the application is complete and are looking forward to work with you in expediting this project.

Sincerely,



**Ward C. Connors, P.E.
FL. Reg. #: 45839**

42712



FLORIDA ENGINEERING & DESIGN GROUP, INC.
- CONSULTING ENGINEERS -
 5253 N.W. 33rd Avenue, Fort Lauderdale, Florida 33309
 Phone: (954) 730-3400 - Fax: (954) 730-3414

April 27, 2012

Town of Lauderdale-By-The-Sea
4501 Ocean Boulevard
Lauderdale-By-The-Sea, Florida 33308
-Planning & Zoning-
Attn.: Ms. Linda Connors –Town Planner

Re: Leisure Towers – Condenser Water System Renovation-FEDG & Site development history

Location: 1500 South Ocean Boulevard
Lauderdale-By-The-Sea, FL 33062

Dear Ms. Connors,

Our Firm became involved with the Building in January 2011 for the evaluation of the well water system in the building that is used as the cooling source for the condenser water system.

We provided our report in March 2011 with the recommendation of replacing the well water system with a Cooling Tower.

- 1) The recommendation was based on the fact that the well water system was starting to fail in 2010 despite of a reduced water volume pump that was installed in 2008 together with a new well.
- 2) We found that the well water system was failing in ever shorter intervals from the original installation in 1969 to present and the system is failing currently again, unable to provide the amount of cooling water the building requires.
- 3) The installation of new wells for cooling purposes is discouraged by the EPA for obvious reasons.

.....

The Building's Association accepted our recommendation and engaged our services for the design of the cooling tower installation in April 2011.

We proceeded with possible design options, starting with the obvious and least altering design option of installing the cooling tower on the roof of the building.

A review of the existing structural features indicated that this design option could only be realized with extensive changes to the existing roof structure or may not be possible at all. (Please refer to the attached letter from the Structural Engineer).

In addition the routing of two estimated 8" condenser water pipes from the roof down to the existing mechanical room either inside the building or outside demonstrated to be an insurmountable challenge.

With that primary option out of design consideration, we proceeded with design studies installing the cooling tower on ground level.

The established main design parameters are:

- a) No construction permitted east of the Coastal Construction Line.**
- b) Noise level limitation to adjacent properties as per Town of Lauderdale-By-The-Sea Noise Ordinance.**
- c) Zoning regulations/least possible visual changes in property appearance.**
- d) Capacity requirements as per our heat load evaluation for the building.**

We utilized various models from three different manufacturers in order to find the best possible solution with application of the above indicated design parameters.

Option-A was to install a cooling tower at the north east service area and was found not to be possible because of unacceptable sound levels to the adjacent property.

Option-B was to install a cooling tower at the East side of the northern covered parking area and was found not to be acceptable because of noise levels to the building, as well as visual appearance from the building.

Option-C was to install a cooling tower at the North-East corner of the property was briefly investigated and concluded because any installation of the cooling tower along the North property line would have to be rejected because of noise levels at the adjacent property. This also precluded any installation of the cooling tower along the South property line.

Option-D was to install the cooling tower at the West side of the northern covered parking area.

This option demonstrated to be the best possible solution by satisfying the above indicated design parameters.

The selected Model & Manufacturer produces the lowest sound levels with the smallest foot print and the lowest equipment height.

The distance of the cooling tower from adjacent property lines will hold the noise levels at the adjacent properties to acceptable levels as per the local noise ordinance.

The height of the selected cooling tower will permit the smallest enclosure wall size and lowest height, and the location inside the property will reduce the visual impact from adjacent properties to the minimum possible.

This best possible option for the location of the cooling tower is depicted in our attached "Proposed Site Plan".

The Building's Association is required to provide adequate means of Air Conditioning for the building occupants.

Given the circumstances we believe that the proposed site plan offers the best possible solution.

We respectfully submit our proposed site plan with all the required changes in green, paved and concrete covered areas and the installation of the cooling tower with the sight wall enclosure on the property for your approval.

Sincerely,


Ward C. Connors, P.E.
FL. Reg. #: 43839

4-27-12



Swaysland Professional Engineering Consultants, Inc.
2890 Marina Mile Boulevard, Suite 114
Fort Lauderdale, Florida 33312
(954) 473-0043 • Fax (954) 473-0063
Toll Free 888-264-7732

April 25, 2012

Board of Directors
Leisure Tower Condominium Association, Inc.
1500 South Ocean Boulevard
Lauderdale by the Sea, Florida 33062

Re: Cooling Tower

Dear Board Members:

At your request, our firm investigated the feasibility of installing a chilled water condensing unit on the roof of your existing building. The unit would supply cooling for all of the units.

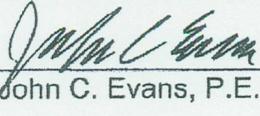
Based upon a visual examination of the roof top, we have concluded it would not be feasible to mount the unit on the roof. There is little in the way of structure to connect a frame to and given the new wind loads we doubt the structure could safely support the new unit.

It is our recommendation to install the tower on a frame at ground level.

If you have any questions or need additional information, please do not hesitate to contact us.

Very truly yours,

SWAYSLAND PROFESSIONAL ENGINEERING CONSULTANTS, INC.

By: 
John C. Evans, P.E.



1500 S Ocean Blvd, Lauderdale-by-the-Sea, FL 33062

LEISURE TOWER & ADJ. PROP.

IMAGE BY GOOGLE EARTH

DATE: 3/21/11

FLORIDA ENGINEERING & DESIGN GRP
WARD C. CONIKORS, PE, REG# 45839
4-10-12

© 2012 Google



Imagery Date: 3/21/2011

26°12'42.52" N 80°05'33.07" W elev 3 ft

1995

Eye alt 880 ft



1500 S Ocean Blvd, Lauderdale-by-the-Sea

IMAGE BY GOOGLE EARTH
DATE 321 FT FROM ELEV.
OF 412 FT UP.
FLORIDA ENGINEERING & DESIGN
GROUP, INC. 14-10-12
WARD C. CONNORS, P.E.
FL REG.# 45839 - EXP. 2/29/13

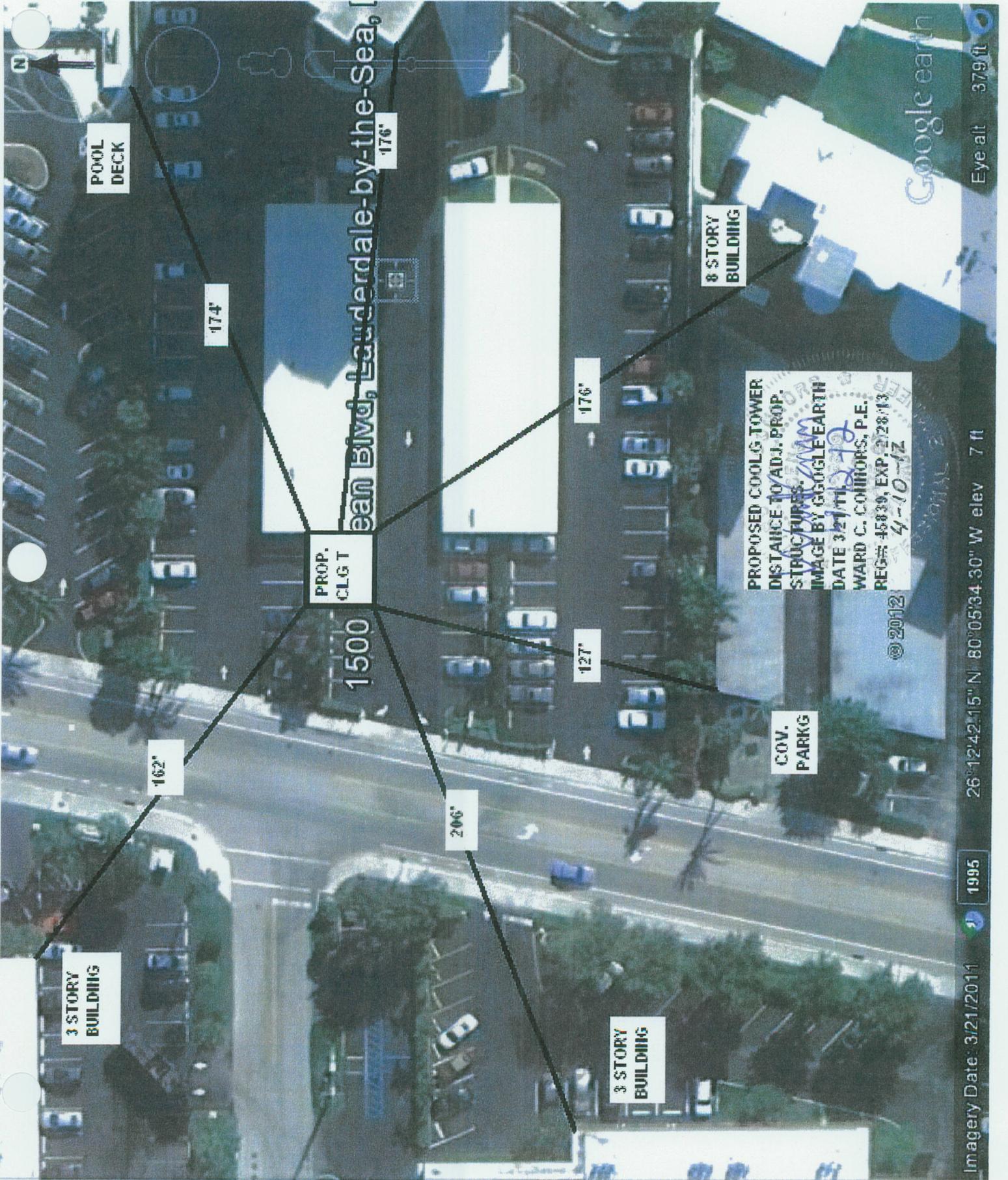
© 2012 Google

1995

Imagery Date: 3/21/2011

26° 12' 42.60" N 80° 05' 32.63" W elev 9 ft

Eye alt 412 ft



3 STORY BUILDING

162'

174'

PROP. CLG T

1500

Ocean Blvd, Lauderdale-by-the-Sea, FL

176'

206'

127'

176'

8 STORY BUILDING

3 STORY BUILDING

COV. PARKG

PROPOSED COOLG TOWER
DISTANCE TO ADJ. PROP. STRUCTURES.
IMAGE BY GOOGLE EARTH
DATE 3/21/11
WARD C. CONNORS, P.E.
REG# 45839, EXP. 2/28/13
4-10-12
© 2012

Google earth

Imagery Date: 3/21/2011

1995

26°12'42.15"N 80°05'34.30"W elev 7 ft

Eye alt 379 ft



Eye alt 550 ft

26°12'42.32" N 80°05'33.50" W elev 8 ft

1995

Imagery Date: 3/21/2011

DESIGN STUDY OPTION "A"
DISTANCE TO ADJ. STRUCT.
IMAGE BY GOOGLE EARTH
DATE 3/21/11
WARD C. COIHORS, P.E.
REG# 45839 EXP. 2/28/13
© 2012 Google

TOWER
LOCATH
OPTN "A"

1500 S Ocean Blvd, Lauderdale-by-the-Sea, FL

Google earth



TOWER
LOCATH
OPTH "B"

1500 S Ocean Blvd, Lauderdale-by-the-Sea, FL

DESIGN STUDY OPTION "B"
DISTANCE TO ADJ. STRUCT
IMAGE BY GOOGLE EARTH
DATE 3/21/11
WARD C. CONIORS, P.E.
REG# 45839 EXP. 2/28/13

© 2012 Google

Google earth

Imagery Date: 3/21/2011

1995

26°12'42.32" N 80°05'33.50" W elev 8 ft

Eye alt

550 ft

1501 South Ocean Boulevard

Exit Street View

N

1500 S Ocean Blvd, Lauderdale-by-the-Sea, FL 33062

WEST ELEVATION VIEW OF
 LEISURE TOWERS
Ward C. Connors
 IMAGE BY GOOGLE EARTH, 3/21/11
 4-10-12
 FLORIDA ENGINEERING & DESIGN GRP.
 WARD C. CONNORS, P.E., REG.# 45839

© 2012 Google

© 2012 Google

26°12'43.16" N 80°05'31.83" W elev 33 ft

Eye alt 14 ft

Report a problem

Google Earth

1495 South Ocean Boulevard

Exit Street View



3

© 2012 Google
© 2012 Google

Report a problem

26°12'44.09" N 80°05'38.60" W elev 8 ft

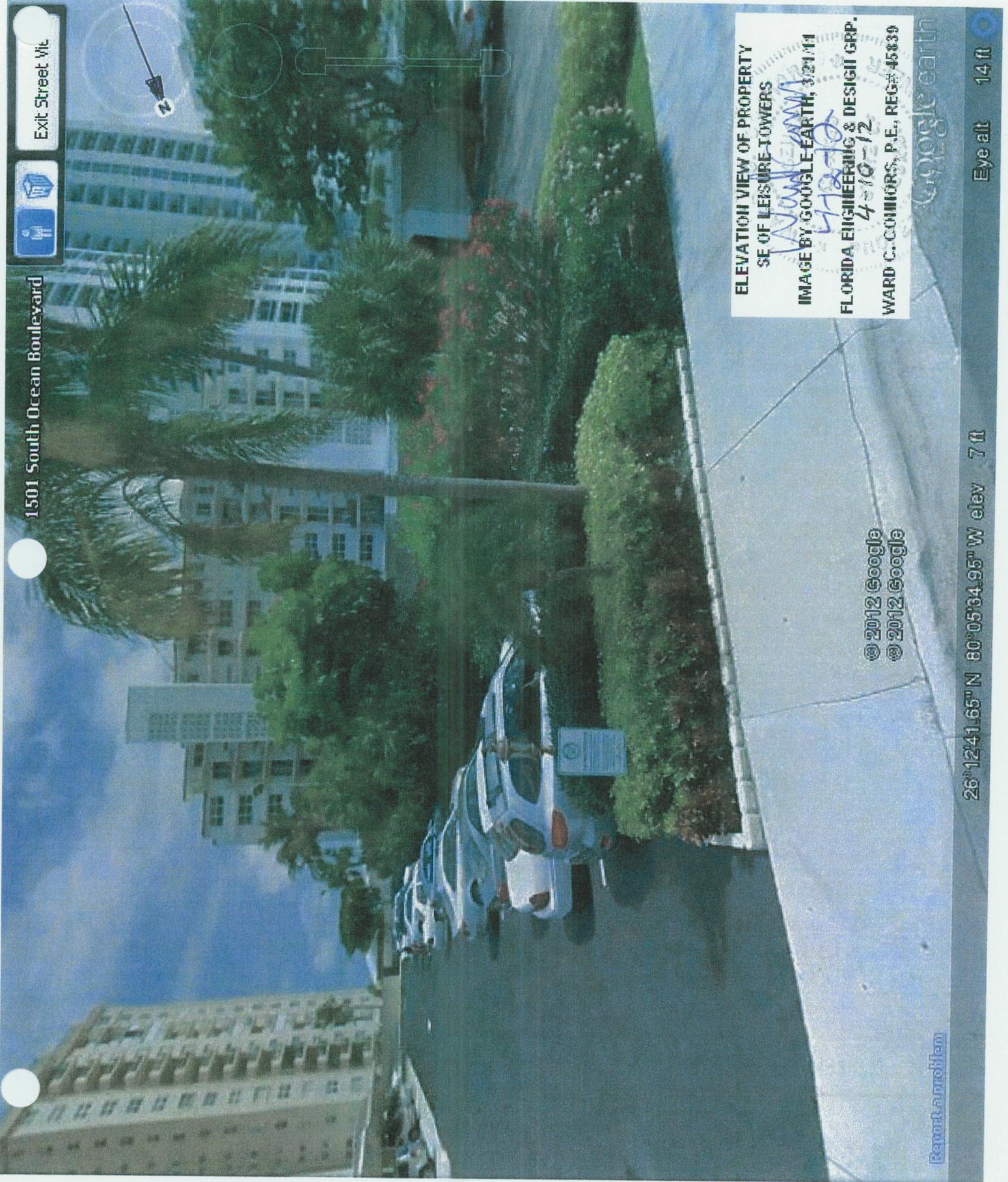
Eye alt 14 ft

ELEVATION VIEW OF PROPERTY
SITE OF LEISURE TOWERS
IMAGE BY GOOGLE EARTH, 3/21/11
4-12-12
FLORIDA ENGINEERING & DESIGN GRP.
WARD C. CONNORS, P.E., REG# 45839



1501 South Ocean Boulevard

Exit Street View



ELEVATION VIEW OF PROPERTY
 SE OF LEISURE TOWERS
 IMAGE BY GOOGLE EARTH, 3/21/11
 FLORIDA ENGINEERING & DESIGN GRP.
 WARD C. CONNORS, P.E., REG.# 45839

4-10-12

© 2012 Google
 © 2012 Google

[Report a problem](#)

26°12'41.65" N 80°05'34.95" W elev 7 ft

Eye alt 14 ft

1491 South Ocean Boulevard

Exit Street View



ELEVATION VIEW OF PROPERTY
 INW OF LEISURE TOWERS.
New Lease
 IMAGE BY GOOGLE EARTH, 3/21/11
 FLORIDA ENGINEERING & DESIGN GRP
 4-10-12
 WARD C. CONNORS, P.E., REG# 45839

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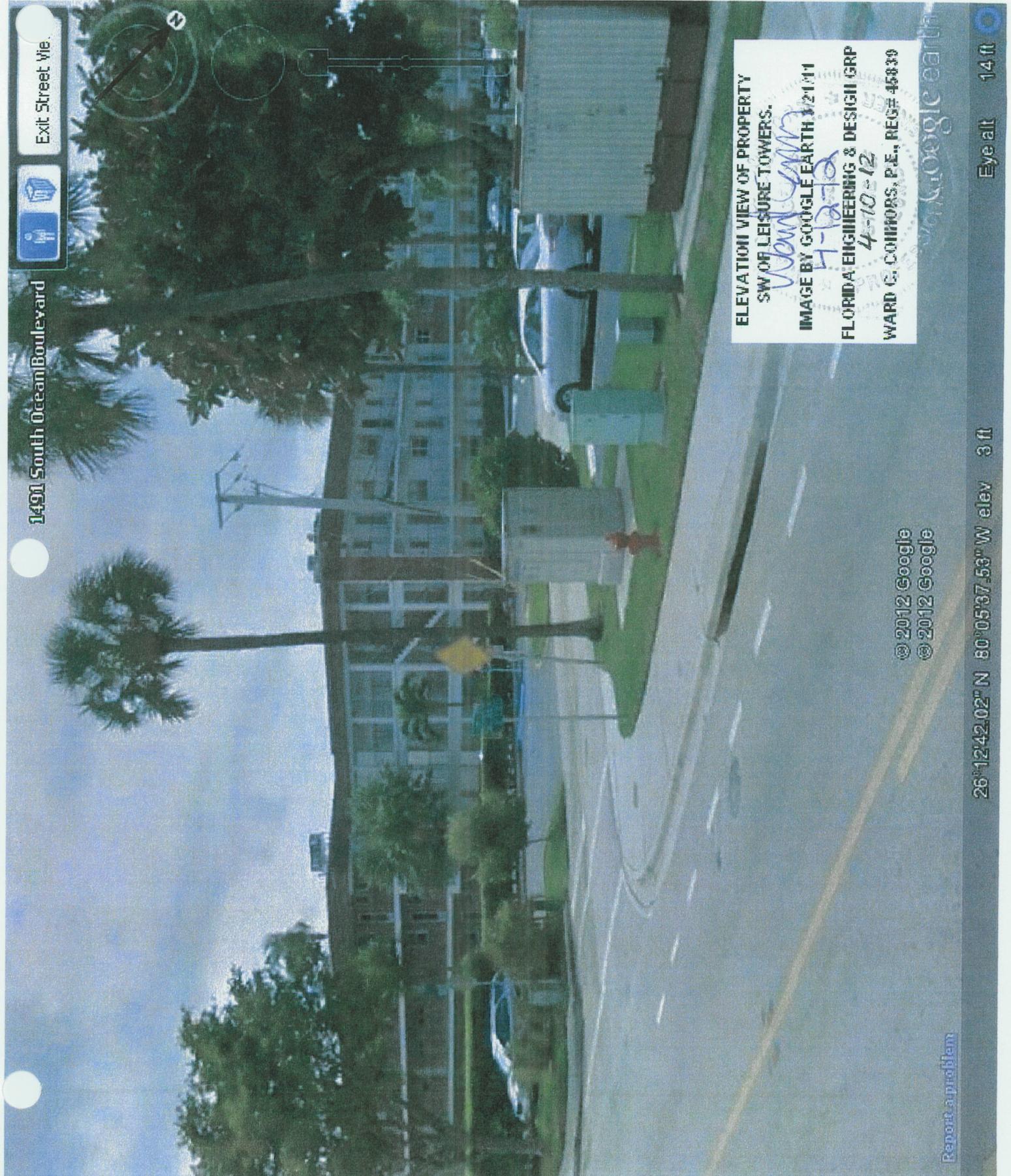
Report a problem

26°12'44.43" N 80°05'36.09" W elev 8 ft

Eye alt 14 ft

14901 South Ocean Boulevard

Exit Street View



ELEVATION VIEW OF PROPERTY
 SW OF LEISURE TOWERS.
New York
 IMAGE BY GOOGLE EARTH 12/1/11
 4-12-12
 FLORIDA ENGINEERING & DESIGN GRP
 4-10-12
 WARD C. CONNORS, P.E., REG# 45839

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Report a problem

26°12'42.02" N 80°05'37.53" W elev 3 ft

Eye alt 14 ft



FLORIDA ENGINEERING & DESIGN GROUP, INC.
- CONSULTING ENGINEERS -
 5253 N.W. 33rd Avenue, Fort Lauderdale, Florida 33309
 Phone: (954) 730-3400 - Fax: (954) 730-3414

April 27, 2012

Town of Lauderdale-By-The-Sea
4501 Ocean Boulevard
Lauderdale-By-The-Sea, Florida 33308
-Planning & Zoning-
Attn.: Ms. Linda Connors –Town Planner

**Re: Leisure Towers – Condenser Water System Renovation Project-Area
 Count Modification.**

Location: 1500 South Ocean Boulevard
Lauderdale-By-The-Sea, FL 33062

Dear Ms. Connors,

We evaluated the current property areas based on the latest property survey prepared by “Keith & Associates, Inc., dated 4/19/12 and changes as proposed by our “Proposed Site Plan, Drawing Sheet SP-01” with the following results:

- 1) As per the latest property survey the total areas by classification are as follows. (Please refer also to the attached detailed area count):
 - a. Total property area delimited by property lines:

Total	95,234	Sqft
-------	--------	------
 - b. Building foot print

Total	11,529	Sqft
-------	--------	------
 - c. Beach area

Total	10,172	Sqft
-------	--------	------

.....

d. Swimming Pool	Total	865	Sqft
e. Total green area	Total	17,188	Sqft
f. Paved area	Total	39,732	Sqft
g. Concrete covered area	Total	15,748	Sqft

2) Combining the building foot print area, paved and concrete covered areas and including the swimming pool, the impervious area on the property currently amounts to 67,874 Sqft or 71.3% of the total property area.

3) Combining the green and beach area, the pervious ground area on the property currently amounts to 27,360 Sqft or 28.7% of the total property area.

4) The installation of the proposed cooling tower as per the attached "Proposed Site Plan" will affect the existing area count as follows:

- a. Reduction of the green area by 146 Sqft.
 - i. At the location of the cooling tower by 131 Sqft
 - ii. At the service court area, eliminating two planters by 15 Sqft.

b. Reduction of the paved area by 467 Sqft due to the elimination of 3 parking spaces.

c. Increasing the concrete covered area by the same amount the paved area is reduced of 472 Sqft plus the reduced green area at the cooling tower location of 131 Sqft, the total concrete covered area increases by 598 Sqft.

5) The total areas by classification based on the "Proposed Site Plan" are as follows. (Please refer also to the attached detailed area count):

a. Total property area delimited by property lines:	Total	95,234	Sqft
b. Building foot print	Total	11,529	Sqft
c. Beach area	Total	10,172	Sqft

d. Swimming Pool	Total	865	Sqft
e. Total green area	Total	17,042	Sqft
f. Paved area	Total	39,265	Sqft
g. Concrete covered area	Total	16,361	Sqft

- 6) Combining the building foot print area, paved and concrete covered areas and including the swimming pool, the impervious area on the property as proposed amounts to 68,020 Sqft or 71.4% of the total property area.
- 7) The impervious area on the property as proposed increases by 146 Sqft or 0,1%
- 8) Combining the green and beach area, the pervious ground area on the property currently amounts to 27,214 Sqft or 28.6% of the total property area.
- 9) The pervious area on the property as proposed decreases by 146 Sqft or 0,1%

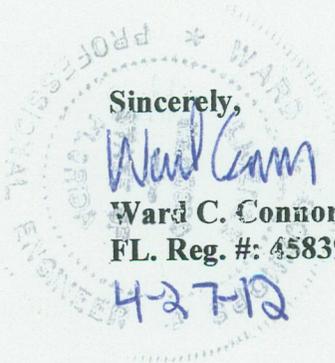
We respectfully submit our proposed site plan with the changes in green areas on the property for your approval.

Sincerely,



Ward C. Connors, P.E.
FL. Reg. #: 45839

4-27-12



LEISURE TOWER
 1500 SOUTH OCEAN BLVD
 LAUDERDALE BY THE SEA, FLORIDA 33062

PROPERTY AREA COUNT		CURRENT (SQFT)	PROP. (SQFT)
TOTAL PROPERTY AREA DELIMITED BY PROPERTY LINE		95234	95234
I) GREEN AREAS			
1) BY PARKING AREAS			
	SOUTH SIDE TO CONCRETE WALK WAY AND		
ROW A:	WEST FRONT ENTRANCE	1510	1510
ROW B:	WEST SIDE ENTRY & PLANTER AREA	742	742
ROW C:	WEST SIDE ENTRY FP&L AREA AND PLANTER	679	548
	NORTH SIDE TO FENCE BY SERVICE AREA AND		
ROW D:	WEST SIDE ENTRY	1623	1623
	EAST OF COVERED PARKING	540	540
2) FRONT OF BUILDING AREAS			
A)	AT MARQUEE	66	66
B)	FRONT OF BUILDING PLANTER	59	59
C)	FRONT OF BUILDING BY SERVICE COURT NORTH	73	73
D)	FRONT OF BUILDING BY SERVICE COURT SOUTH	302	302
E)	PLANTERS IN SERVICE AREA	15	0
F)	BY LIFT STATION	39	39
3) BACK OF BUILDING			
A)	BY POOL AREA & SHUFFLE BOARDS	1988	1988
B)	BY BEACH ACCESS GATE & CONCRETE WALK	352	352
C)	BACK OF BUILDING TO CONCRETE WALK	2228	2228
D)	NORTH EAST SIDE OF BUILDING TO SEA WALL	6875	6875
E)	BY POOL EQUIPMENT ROOM	97	97
TOTAL GREEN AREA		17188	17042
II) CONCRETE COVERED			
1) FRONT OF BUILDING			
A)	WALKWAYS FRONT OF BUILDING	1269	1269
B)	WALKWAY IN SERVICE AREA (NORTH SIDE)	351	366
C)	WALKWAY AT SERVICE COURT	56	56
D)	WALKWAY AT GUEST PARKG ROW B & C	110	110
E)	SANIT. LIFT STATION	65	65
F)	CURBS & MISCELL. CONCRETE	927	927
2) BACK OF BUILDING			
	POOLDECK, SHUFFLE BOARD & CONCRETE WALK		
A)	WAY & REAR ENTRANCE	2577	2577
B)	WALKWAY BY POOL EQUIPMENT ROOM	141	141
C)	POOL EQUIPMENT BUILDING	163	163
D)	CONCRETE AROUND POOL DECK	413	413
E)	COVERED PARKING	9676	9676
F)	NEW COOLING TOWER ENCLOSURE		598
TOTAL CONCRETE COVERED AREA		15748	16361
III) PAVED AREA			
A)	ASPHALT PAVED AREA INCL. OPEN PARKING	37598	37131
B)	POOL DECK PAVERS	2026	2026
C)	PAVERS BY POOL EQUIPMENT ROOM	108	108
TOTAL PAVED AREA		39732	39265
IV) SWIMMING POOL		865	865
V) BUILDING FOOT PRINT		11529	11529
VI) BEACH AREA DELIMITED BY PROP. LINE & SEA WALL		10172	10172
Control		95234	95234
<p>NOTES: DUE TO THE NEW COOLING TOWER INSTALLATION, THE GREEN AREA AT THE ROW-C ENTRANCE HAS BEEN REDUCED BY 131 SQFT.</p> <hr/> <p>DUE TO THE INSTALLATION & RELOCATION OF THE ABOVE GROUND FUEL TANK, THE PLANTERS AT THE SERVICE AREA ARE REMOVED REDUCING THE GREEN AREA BY 15 SQFT</p> <hr/> <p>TOTAL REDUCTION OF GREEN AREA UNDER THIS PROJECT IS 146 SQFT</p> <hr/> <p>THE CONCRETE COVERED AREA HAS BEEN INCREASED BY 598 SQFT</p> <hr/> <p>THE PAVED AREA HAS BEEN DECREASED BY 467 SQFT</p>			



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April 27, 2012

Town of Lauderdale-By-The-Sea
4501 Ocean Boulevard
Lauderdale-By-The-Sea, Florida 33308
-Planning & Zoning-
Attn.: Ms. Linda Connors –Town Planner

Re: Leisure Towers – Condenser Water System Renovation Project-
Parking Space modification.

Location: 1500 South Ocean Boulevard
Lauderdale-By-The-Sea, FL 33062

Dear Ms. Connors,

We evaluated the available parking spaces at the above property with the following results:

- 1) As per original design the property had a total of 134 parking spaces with 13 spaces assigned for guest parking.
- 2) During the 2003-2005 beautification program of the city, a FP&L easement & service cabinet was installed on the property and the total parking space count remained at 134 spaces that is also the currently available 134 spaces.
 - a. Referring to the attached parking space count the changes implemented at that time involved:
 - i. Adding 1 space in row “A”.
 - ii. Reducing by 3 spaces in row “B” and adding 2 guest parking spaces at the East side of the row.

.....

iii. Reducing by 3 spaces in row “C” and adding 2 guest parking spaces at the East side of the row.

iv. Adding 1 space in row “D” and adding a paved area with 3 service parking spaces at the NW corner of the building.

1. The additional space in row “D” apparently was never counted in official documents before.

2. The service parking spaces in the paved area at the NW corner of the building are not to be counted as regular parking spaces.

3) The Building has a total of 118 Apartments, including 2 Penthouse Apartments.

4) The parking spaces are currently assigned as follows:

a. Penthouse Apartment each 2 spaces	Total	4 spaces
b. All other Apartments each 1 space	Total	116 spaces
c. Building Association 1 space	Total	1 space
d. <u>Required Owner parking spaces</u>	Total	<u>121 spaces</u>
e. <u>Available parking</u>	Total	<u>134 spaces</u>
f. <u>Available Guest parking</u>	Total	<u>13 spaces</u>
g. Also available are 3 spaces in the paved service area.		

5) Referring to our proposed site plan for the current project the total count of parking spaces is proposed with 131 spaces.

a. For the installation of the Cooling Tower we propose reducing the total parking by 3 parking spaces from the current 134 spaces to 131.

- i. **The installation of the Cooling Tower will occupy 3 spaces in parking row “C”. (Please refer also to our attached “Proposed Site Plan, Drawing Sheet SP-01”.**

- 6) **Under our proposed site plan the assignment of parking spaces would remain the same as indicated above with the exception that the guest parking spaces would be reduced by 3 spaces to a total of 10 guest parking spaces and a total of 131 for the property.**

- 7) **The assignment of parking spaces under the proposed site plan would be:**

- a. **Penthouse Apartment each 2 spaces Total 4 spaces**

- b. **All other Apartments each 1 space Total 116 spaces**

- c. **Building Association 1 space Total 1 space**

- d. **Required Owner parking spaces Total 121 spaces**

- e. **Available parking Total 131 spaces**

- f. **Available Guest parking Total 10 spaces**

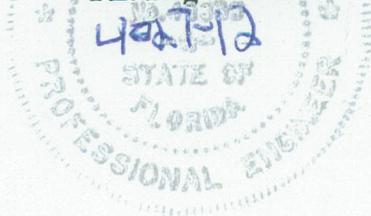
- g. **Also available are 3 spaces in the paved service area.**

We respectfully submit our proposed site plan with the changes in parking space count for your approval.

Sincerely,



**Ward C. Connors, P.E.
FL. Reg. #: 45839**



LEISURE TOWER
1500 SOUTH OCEAN BLVD
LAUDERDALE BY THE SEA, FLORIDA 33062

PARKING SPACE COUNT

ROW A:	SINGLE ROW PARKING AT SOUTH PROPERTY LINE			
ROW B:	DOUBLE ROW PARKING NORTH OF ROW A			
ROW C:	DOUBLE ROW PARKING SOUTH OF ROW D			
ROW D:	SINGLE ROW PARKING AT NORTH PROPERTY LINE			
(1)	AS PER ORIGINAL DESIGN			
(2)	CURRENTLY EXISTING (AS MODIFIED DURING 2003-2005 CITY BEAUTIFICATION PROJECT)			
(3)	PROPOSED WITH NEW COOLING TOWER ON GROUND LEVEL			
ROW	(1)	(2)	(3)	
A	27	28	28	
B (South)	9	8	8	
B (North)	9	7	7	
B (Covered)	24	24	24	
C (South)	8	7	4	
C (North)	7	5	5	
C (Covered)	24	24	24	
D	26	27	27	
		4	4	GUEST SPACES ADDED
Total Legal Parking	134	134	131	
		3	3	SERVICE PARKING ADDED
Grand Total	134	137	134	
Available Guest Parkg	13	13	10	

APARTMENT COUNT: TOTAL 118 UNITS INCLUDING 2 PENTHOUSE UNITS.
 PARKING ASIGNMENTS:
 PENTHOUSE UNITS 2 SPACES EACH 4 SPACES
 ALL OTHER APARTMENTS 1 SPACE EACH TOTAL 116 SPACES
 BUILDING ASSOCIATION 1 SPACE
 REQUIRED OWNER PARKING 121 SPACES

Exhibit 2**Sec. 30-21. - Nonconforming uses and structures.**

- (a) *Existing uses and structures.* Any lawful use or structure, excluding signs, existing on the effective date of this chapter and which by the terms thereof has become a nonconforming use or structure is hereby declared not to be in violation at this chapter's effective date. Such a nonconforming use or structure shall be subject to all of the provisions of this section pertaining to its continuance, change and discontinuance and Section 7.1 of the Town Charter.
- (b) *Nonconforming use; extensions.* The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the effective date of this chapter. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building on the same plot not used for such nonconforming use of land at the effective date of this chapter. The nonconforming use of land shall not be extended to any additional land not so used at the effective date of this chapter.
- (c) *Nonconforming use, repair, alteration, enlargement.* No structure utilized for a nonconforming use shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to one which complies with the provisions of this chapter; provided that repairs, maintenance and improvement may be carried out in any 12-month period in an amount not to exceed 25 percent of the assessed value of the structure for that year, and provided that such work does not increase the cubical content of the building nor the floor area devoted to the nonconforming use or increase the number of dwelling units. Nothing in this article shall prevent or excuse compliance with applicable laws or resolutions relative to the safety and sanitation of a building occupied by a nonconforming use.
- (d) *Reconstruction after catastrophe.* If any nonconforming structure or if any building in which there is a nonconforming use is damaged by fire, flood, explosion, collapse, wind, war or other catastrophe to such an extent that surpasses 50 percent of the replacement cost of the building or structure, it shall not be again used or reconstructed except in full conformance with all applicable land development regulations and Section 7.1 of the Town Charter.
- (e) *Change of nonconforming use.*
- (1) In any residential district, any change of a nonconforming use in a conforming building shall be to a conforming use.
 - (2) In a residential district, a nonconforming use and a nonconforming building shall be changed only to a use permitted in the particular residential district involved except as provided in subsection (e)(4) below.
 - (3) Any change of a nonconforming use of land shall be to a conforming use except as provided in subsection (e)(4) below.
 - (4) There may be a change of tenancy, ownership or management of a nonconforming use, provided that there is no change in the specific character of such nonconforming use except as may be permitted by this chapter. For example, a nonconforming professional office may continue as a nonconforming professional office after a change in tenancy, ownership or management but may not continue as another commercial or business use. Likewise, a retail store may continue as another type of retail store but not as a laundromat or other type of service establishment.
- (f) *Discontinuance or abandonment of a nonconforming use.*

- (1) If for any reason a nonconforming use of land ceases or is discontinued for a period of more than 60 days, the land shall not thereafter be used for the same or any other nonconforming use.
 - (2) If for any reason the nonconforming use of a building ceases or is discontinued for a period of 60 days or more (not including periods when restoration is in progress), the building shall not thereafter be used for the same or any other nonconforming use.
 - (3) Any part of a building, structure or land occupied by a nonconforming use which is abandoned shall not again be occupied or used for a nonconforming use.
 - (4) Any part of a building, structure or land occupied by a nonconforming use which is changed to or occupied by a conforming use shall not thereafter be used or occupied by a nonconforming use.
- (g) *Continuance of nonconforming uses and structures.* Any legal nonconforming use or structure may be continued in accordance with the requirements of this section and [Section 7.1](#) of the Town Charter.
- (h) *Unlawful use not authorized.* Nothing in this chapter shall be interpreted as authorization for or approval of the continuation of the use of a structure or premises in violation of any ordinance in effect at the effective date of this chapter.
- (i) *District or regulation change.* The foregoing provisions of this article shall also apply to buildings, structures, land, premises or uses which hereafter become nonconforming due to a change or a reclassification of district or become nonconforming due to a change in district regulations. When a period of time is specified in this article for the removal or discontinuance of nonconforming buildings, structures or uses, said period shall be computed from the effective date of such reclassification or change of regulations.
- (j) *Illegal use.* The casual, temporary or illegal use of land or a building shall not be sufficient to establish the existence of a nonconforming use or to create any rights in the continuance of such a use.
- (k) The lawful existence of a structure or building at the effective date of adoption of these regulations, although such structure or building does not conform to the land development regulations for minimum lot area and dimension, minimum yard setback requirements, maximum building height, total floor area, lot coverage and minimum floor area requirements or other characteristics of the structure, or its location on the lot, may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such building or structure shall be enlarged upon or altered in any way that increases its nonconformity. Such building or structure or portion thereof may be altered to decrease its nonconformity except as may be hereafter provided. Such nonconforming buildings or structures shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.
 - (2) Should such structure or building be destroyed by any means to an extent that surpasses 50 percent of the replacement cost of the building or structure, it shall not be reconstructed except in conformity with the provisions of this section and any other applicable land development regulations including, but not limited to, [Section 7.1](#) of the Town Charter.
 - (3) Should such structure or building be destroyed by any means to an extent less than 50 percent of its replacement cost, it may be restored only upon application to the Building and Zoning Department.
 - (4) Should such structure or building be moved for any reason for any distance whatever, it shall thereafter conform to the land development regulations for the zoning district in which it is located after it is moved.

- (5) Notwithstanding the foregoing, an existing residential building that is nonconforming to either height, setbacks or density may be replaced by a new nonconforming building when, and only when:
- (a) The existing nonconforming building has:
 - (i) Been destroyed by fire, natural disaster, or other act of God; and
 - (ii) The property owner has submitted and received Town approval of a site plan depicting the replacement building; and
 - (iii) Construction of the replacement building is commenced within 12 months of the date of destruction; or
 - (b) The existing nonconforming building is:
 - (i) Demolished as part of a Town-approved redevelopment of the property; and
 - (ii) Prior to demolition, the property owner has submitted and received Town approval of a site plan depicting the replacement building; and
 - (iii) Construction of the replacement building is commenced within six months of the date of site plan approval.
 - (c) The Town Commission may grant one or more six-month extensions to the time periods for commencement of construction established in paragraphs (5) (a)(iii) and (5)(b)(iii), above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.
 - (d) All new nonconforming buildings constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall comply, where applicable, with the restrictions on use and parking availability established in [Section 7.1](#) of the Town Charter.
 - (e) The maximum allowable height of any new nonconforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original height of the nonconforming building which it replaces, plus any additional height which (because of the requirements of State or Federal law, or because of the restrictions on use established in [Section 7.1](#) of the Town Charter) may be necessary to obtain the same number of habitable stories as was contained in the original nonconforming building. Nothing in this section shall be construed to prevent a new nonconforming building from being constructed to a lesser height or from containing fewer habitable stories than that of the original nonconforming building which it replaces. For the purposes of this section, the term "habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one or more persons.
 - (f) The maximum allowable square footage of any new nonconforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original square footage of the nonconforming building which it replaces, plus any additional square footage which (because of the requirements of State or Federal law, or because of the restrictions on use established in [Section 7.1](#) of the Town Charter) may be necessary to obtain the same number of habitable square feet as was contained in the

original nonconforming building. Nothing in this section shall be construed to prevent a new nonconforming building from being constructed either with less total square footage or with less habitable square footage than that of the original nonconforming building which it replaces. For the purposes of this section, the term "habitable square footage" means the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one or more persons.

- (6) The maximum building height limits, the restrictions on use and the maximum allowable square footage, and the provisions governing parking established in Section 7.1 of the Town Charter, shall be applicable to all real property located within the boundaries of the Town as the boundaries exist on March 20, 2006.
- (l) *Alterations, construction, repairs, and maintenance and change.*
 - (1) A nonconforming structure or building may be maintained and repairs and alterations may be made, except that in a building which is nonconforming as to use regulations, no structural alterations shall be made except those required by law. Repairs as plumbing or the changing of partitions or other interior alterations are permitted.
 - (2) Construction. These regulations shall not be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the passage of or amendment to these regulations and upon which actual building construction has been diligently carried on. In no event shall the time of such construction exceed a period of one year except upon approval of the Town Commission.
 - (3) Repairs and maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not to exceed 25 percent of the current assessed value of the building; provided, that the cubic volume of the building, as it existed at the time of passage of or amendment to these regulations shall not be increased.

(Ord. No. 2007-14, § 2(Exh. A), 9-25-07; Ord. No. 2009-10, § 2, 7-28-09)

Sec. 30-314. - Off-street parking; general requirements.

- (a) *Purpose.* The purpose of the following sections is to provide off-street parking provisions which are intended for and in the interest of the citizens of the Town of Lauderdale-By-The-Sea. These sections shall be construed to be the minimum requirements for the promotion of the public health, safety, moral and general welfare of the community.
- (b) *Scope.*
- (1) Any building, structure, or use instituted with the Town of Lauderdale-By-The-Sea after March 14, 1995 shall provide off-street parking facilities in accordance with the provisions of these sections for the use of occupants, employees, visitors and/or patrons thereof. Such off-street parking facilities shall be maintained and continued as long as the uses are continued.
 - (2) Any building, structure or use, instituted or erected prior to the effective date of these sections need not provide additional off-street parking facilities in accordance with the provisions of these sections provided that such existing buildings, structures or uses are not altered so as to enlarge or increase the capacity, floor area or seats therein.
 - (3) When an existing building or structure is expanded to increase the floor area or seats or to otherwise increase the capacity of the building or structure, the provisions of these sections shall apply to the increased floor area, seats or increased capacity only.
 - (4) When an existing building or structure is changed in use to a new use which would require more off-street parking pursuant to these sections than the former use, the new use shall receive credit for the off-street parking spaces attributable to the former use pursuant to these sections, even if the former use lacked sufficient parking pursuant to these sections.
 - (5) The provisions of subsections (b)(3) and (b)(4) are provided to allow for the orderly expansion and re-use of existing buildings and structures. Additionally, applicants requesting an expansion in floor area, seat or capacity or a change in use are encouraged to pursue other options for the provision of required parking available in these sections.
 - (6) It shall be unlawful for an owner or operator of any building, structure or use affected by these sections to discontinue, change or dispense with, or to cause discontinuance or reduction of the required parking facilities apart from the discontinuance, sale or transfer of such structure or use, without establishing alternative vehicle parking facilities which meet the requirements of these sections. All such alternative vehicle parking facilities must be approved by the Town Manager or his designee, in writing, before the same may be used. It shall be unlawful for any person, firm or corporation to utilize such buildings, structure or use without providing the off-street facilities to meet the requirements of and be in compliance with this chapter.
 - (7) An otherwise conforming existing hotel building, or a legal nonconforming existing hotel building permitted to rebuild under section 30-21 or the Town Charter, may be rebuilt or redeveloped as a hotel, according to the applicable provisions of this code and shall retain its parking credits pursuant to subsection [b](4) above. Any increase in floor area, or change of use, shall be subject to the additional parking requirements of this Code.

(Ord. No. 361, 3-14-95; Ord. No. 2007-14, § 2(Exh. A), 9-25-07; Ord. No. 2011-02, § 2, 3-22-2011)

Notice of Public Quasi Judicial Hearing

TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA

NOTICE IS HEREBY GIVEN that the Town of Lauderdale-By-The-Sea will hold public hearings on the request below at Jarvis Hall, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida, 33308, as follows:

Board of Adjustment: June 6, 2012
6:30 PM
Town Commission: July 10, 2012,
7:00 PM

The following request shall be considered at each public hearing, which any person may attend and/or speak at, regarding:
Application Number: 2012-V-001
Applicant: Leisure Towers Association, Inc.

Location: 1500 South Ocean Boulevard
Lauderdale-By-The-Sea, FL 33062
Zoning District: RM-25

Request: The Applicant is requesting a variance from the Town's Code of Ordinances, specifically from Section 30-21(k) (1) to allow the alteration of a structure in a manner that increases its nonconformity, and from Section 30-314(b) (6) to allow the removal of three parking spaces from the non-conforming parking lot to accommodate the installation of an air conditioner cooling tower.

The agenda packet and related materials concerning this request are available for review at the Town Clerk's Office, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308.

PURSUANT TO SECTION 30-8 and 30-13, CODE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, THE APPLICATION WILL BE PRESENTED AND CONSIDERED AT THE BOARD AND COMMISSION MEETINGS ON THE DATES SET FORTH ABOVE. AFFECTED PERSONS WILL BE ALLOWED TO PRESENT EVIDENCE AT THE HEARING, BRING FORTH WITNESSES, AND CROSS EXAMINE WITNESSES PROVIDED NOTIFICATION AND FILING OF SUCH INFORMATION IS MADE WITH THE TOWN CLERK PRIOR TO THE ABOVE HEARING.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THESE PUBLIC HEARINGS, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORDS INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO DAYS PRIOR TO THE MEETING AT (954)-640-4200 FOR ASSISTANCE.

You may also submit written comments to:

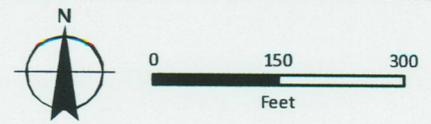
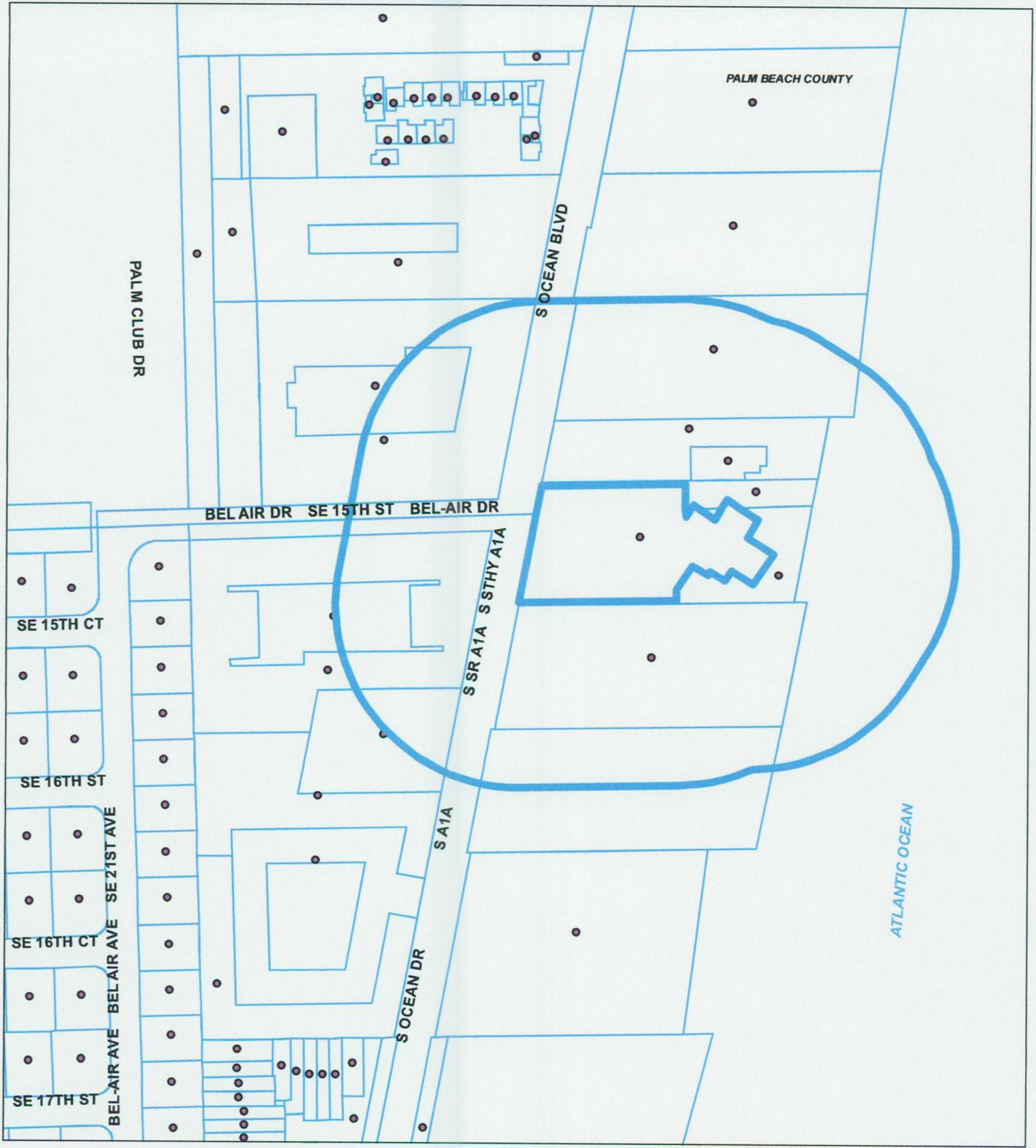
Town Clerk
4501 Ocean Drive
Lauderdale-By-The-Sea, Florida
33308
Development Services Department

Town of Lauderdale-By-The-Sea
May 19, 2012

SUN SENTINEL PROOF

Customer: LAUD BY SEA TOWN OF Contact: JUNE WHITE Phone: 9547760576
Ad Number: 14088402

1500 S Ocean Blvd LBS



Source: Planning and Redevelopment Division

This map is for conceptual purposes only and should not be used for legal boundary determinations.

Prepared By: Broward County GIS, Planning and Redevelopment Division, Environmental Protection and Growth Management Dept