

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING AGENDA

Town Commission Meeting Room

Wednesday, July 20, 2011

6:30 P.M.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE TO THE FLAG
- III. APPROVAL OF MINUTES - Planning and Zoning Meeting of June 15, 2011
- IV. PUBLIC COMMENTS
- V. NEW BUSINESS

Item #1: Proposed Amendments to the Notice of Intent Regulations.

Item #2: Conditional Use Application for Outside Seating in the B-1 and B-1-A Zoning District.

- VI. OLD BUSINESS
NONE
- VII. UPDATES/BOARD MEMBER COMMENTS
- VIII. 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 PLANNING AND ZONING BOARD. 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 PLANNING AND ZONING BOARD 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

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, June 15, 2011

6:30 P.M.

I. CALL TO ORDER

Chairman Alfred Oldaker called the meeting to order at 6:30 P.M. Members present were Chairman Alfred Oldaker, Vice Chair Yann Brandt, Ben Freeney, and First Alternate Eric Yankwitt. Also present were Jeff Bowman, Zoning and Code Supervisor of Development Services, and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES - Planning and Zoning Meeting of May 18, 2011

There being no additions, deletions or changes to the minutes, all voted in favor to approve the May 18, 2011 minutes as presented.

IV. PUBLIC COMMENTS

There were no public comments.

V. NEW BUSINESS

Item #1: Conditional Use application for Paid Private Parking in the B-1 and B1-A Zoning District.

Vice Chair Brandt interjected that the board was aware of the parking situation at the Sun Trust Building that was currently undergoing and would be something that the board would hear next month regarding Aruba, Athenas and the other buildings that have been doing this for decades and made a motion to recommend approval of the Conditional Use for Paid Private Parking in the B-1 and B1-A Zoning District with Staff's recommendations.

Chairman Oldaker said that there was a public audience and thought that the board would want them to know the facts and that they should hear a brief presentation.

Mr. Bowman said that B&C Real Estate Holdings submitted an application for a Conditional Use Permit for Paid Private Parking. The current use of the property is an office building with a bank on the first floor. Mr. Bowman said that the proposed use would not change with the exception of the Conditional Use allowing paid private parking. The bank is required to have 45 parking spaces and the total number of parking spaces that they have is 73 – so they have 28 non-required parking spaces that they could use for this program during the off hours of this building. Mr. Bowman said that during the hours of 6:00 am and 2:00 pm they would be using the non-required parking spaces for this conditional use. From 6:00 pm to 2:00 am they would be using all 73 parking spaces. Historically, the property has been used for public parking - just not paid parking. Mr. Bowman said that they started the paid private parking two months ago but historically it has been used for public parking. Mr. Bowman said that Staff has provided recommendations in the backup material for the board to consider for approval.

Town Attorney Kathryn Mehaffey said that there was a motion on the table that either has to be seconded for approval or it dies for lack of second.

Mr. Yankwitt seconded the motion with the request for further discussion. Mr. Yankwitt verified with Mr. Bowman that it was the applicant's decision to provide the liability insurance in the amount of \$2,000,000 and that it was not Staff's requirement. Mr. Yankwitt was concerned that this would set a precedent for other businesses in the area that are finding themselves in the same situation as to whether or not they would be required to have \$2,000,000 of liability insurance and other costs and thought that it would be too much.

Mr. Bowman said that Staff's recommendations do not require the liability insurance because the conditional use is not being conducted on Town property.

In a roll call vote, all voted in favor to pass this on to the Town Commission with the Board's recommendation to approve the Conditional Use for Paid Private Parking in the B-1 and B1-A Zoning District with Staff's conditions listed 1 through 8. The motion carried 4 – 0.

Item #2: Revisions to the Sign Code

Vice Chair Brandt said that this matter was discussed at the Round Table last evening and thought that Mr. Bowman could proceed with a brief presentation and that the board was prepared to make a quick motion and thought the revisions would fit well into the Town's Sign Code.

Mr. Bowman said the B-Cycle is contracted with the County to do a bike program county-wide and they are seeking contracts or agreements with local municipalities to start this program. Other cities have gotten involved in this program (Hollywood, Fort Lauderdale, Pompano Beach) and Lauderdale-By-The-Sea wants to do the same thing. Mr. Bowman said that the only issue is the Town's Sign Code because B-Cycle wants to be able to advertise the individuals who are sponsoring the kiosk and in order for the Town to allow the signage on the kiosk, there would have to be a code amendment. Mr. Bowman said that the Board was provided a draft amendment to the sign code in their backup material that Staff is recommending. Mr. Bowman had a Power Point illustration provided by B-Cycle of the advertising that would be used on the kiosk. Some of the signage is informational and some of it is promotional.

Vice Chair Brandt asked Town Attorney Mehaffey what type of agreement is the vendor going into with the Town in terms of site access, easement, leases?

Attorney Mehaffey said that would be determined at a later date and would not be involved in this process at all. The proposed revisions to the sign regulations would have to be the first thing in place before the Town would consider engaging in a contract. Attorney Mehaffey said that there would be certain things the Town would be looking for and that she has not seen any proposal yet.

Vice Chair Brandt said that he would put this in with the same category as some of the news paper boxes that are throughout Town or even the bus shelters which is something that was discussed internally as well. If the Town grants B-Cycle the site access on public property, it would make sense for them to put this as well.

Attorney Mehaffey said that it would require a Public Right-of-Way License that would have to be approved and entered into by the Town and that license agreement would regulate the some of the signage as well.

Vice Chair Brandt asked the Town Attorney if that would be similar to how some of the newspaper boxes are handled in Town.

Attorney Mehaffey said that maybe some of the newspaper boxes or maybe the sidewalk cafés.

Vice Chair Brandt made a motion, seconded by Eric Yankwitt, to pass this on to the Town Commission with the Board's recommendation to approve the Revisions to the Sign Code as presented by Staff.

In a roll call vote, all voted in favor to pass this on to the Town Commission with the Board's recommendation to approve the Revisions to the Sign Code as presented by Staff. The motion carried 4 – 0.

VI. OLD BUSINESS

There was no old business to discuss.

VII. UPDATES/BOARD MEMBER COMMENTS

Vice Chair Brandt said that he thought it was important to know why the Paid Private Parking was before the Board and this goes back to the acquisition of the Sun Trust Building and that it changed ownership recently. Going back to the February Board meeting, the Paid Private Parking was a late addition to our Notice of Intent regarding some of the parking discussions that the Town was having. Vice Chair Brandt said

he did some research as to how we got there and how it went so quick and it is not in accordance with the process on how some of the residents would have to get it. Many people would be surprised to find out that it is actually the Mayor of the Sea Ranch Villas Council that owns that building under B&C Real Estate Holdings. Vice Chair Brandt said that there was a call from the Mayor to the Town requesting the Paid Private Parking be added late because they had started charging for the parking and because the Town's code did not quite allow for it, they were shut down for it. Vice Chair Brandt said that this is the same Town that use to share costs for the fireworks but in 2009 they decided to pull those funds. Vice Chair Brandt said that it was really a goodwill donation for the fireworks display for our Town. Vice Chair Brandt quoted a comment that was made on August 20, 2009 by the Village Council President that stated *"We use to share that cost (meaning fireworks) with Lauderdale-By-The-Sea but we took that out of the budget a couple of years ago. We get to see them for free, so why pay for them."* Vice Chair Brandt questioned as to why the Town would have pushed this so fast and caused some the heartaches that some of the Town's long-standing businesses that have been doing the practice for a couple of decades that the board would be seeing in the next couple of meetings. Vice Chair Brandt said that we would have to see if we have incurred legal costs all because there was some political favors paid to a town that really could care less about the residents of Lauderdale-By-The-Sea and he thought that was important for people to know.

Mr. Freeny said that he had not seen these B-Cycles in use in any of the cities that Mr. Bowman mentioned. However, Mr. Freeny was in Europe earlier this Spring and noticed that quite a number of large towns had many, many installations of these bicycles and they were being used all over the place. Mr. Freeny thought it was a great thing bringing these bikes into the Town. Also, Mr. Freeny wanted to commend the Town Administration on putting together the program involving the University of Miami. He thought that a lot of people were very excited about the involvement and hopes that the Town keeps up the momentum and the excitement and he thought the concepts they brought forward were great. Soon the University will have a lot of diagrams and drawings for the residents to look at.

Chairman Oldaker said that he hopes that BSO enforces the rules and regulations for bicycles on the road.

Mr. Bowman commented that the B-Cycle program is in the implementation stage and he thought the roll-out date was August 1, 2011. Mr. Bowman said that they would have to have everything ordered for these cities and agreements in place by the roll-out date.

Vice Chair Brandt said that now that the Town has some guidance on the advertising on some of these private vendors, he remembered that the Town turned down some nice bus shelters because some of the advertising requirements and suggested that Staff go back to see if the bus shelters would be still available and if the Town Commission would want to see it as an option and he thought that the bus shelters would be welcomed.

Mr. Bowman responded that it might be something Staff could address when they do the second ordinance on signs.

Mr. Yankwitt thanked Mr. Bowman for his involvement in providing the paid parking in the downtown section and thought it was wonderful and beautifies the area.

Mr. Bowman said that thanks should go to Connie and Bud who initiated the paid parking program.

VIII. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:10 p.m., June 15, 2011.

ATTEST:

Chairman Alfred Oldaker

Date Accepted: _____

Colleen Tyrrell, Board Secretary

AGENDA ITEM #1

INTEROFFICE MEMORANDUM

TO: PLANNING AND ZONING MEMBERS
VIA: BUD BENTLEY, ASSISTANT TOWN MANAGER *BB*
FROM: JEFF BOWMAN, ZONING AND CODE SUPERVISOR *JB*
SUBJECT: PROPOSED AMENDMENTS TO THE NOTICE OF INTENT REGULATIONS - STAFF REPORT
FOR THE JULY 20, 2011 P&Z MEETING
DATE: 7/6/2011

Brief Synopsis of Agenda Item

This item was discussed by the Town Commission with direction that Staff and the Town Attorney look at options for modifying the NOI procedure to shorten the process. Because the NOI procedure is itself a Land Development Regulation, an NOI for possible modifications to the process was approved at the January 25, 2011 Commission meeting.

Enacting a change to our Land Development Regulation would take an additional two (2) to three (3) months over what the statutory procedures provides. Amending Land Development Regulations pursuant to state statute involves a minimum of a public hearing, a recommendation by the Planning and Zoning Board, and two readings of an Ordinance by the Town Commission, at least one of which must involve a public hearing. Thus, the statutory process allows the public the opportunity to learn about the change and provide their input at three (3) public meetings. The NOI process allows for public input at an earlier point in the process than does the statutory procedure but, at that stage, the proposed change is not normally well-defined.

We looked at several alternatives to the current NOI process, including exempting minor changes from the NOI process. We ended up keeping all Land Development Regulations changes in the NOI process but recommended:

1. Altering the process to save one month in the process. This is accomplished by the Commission holding a public hearing on the proposed resolution rather than adopting the resolution and then holding a later public hearing.
2. Adding language clarifying that multiple ordinances can be adopted under an NOI.
3. That the Commission would determine at what date development applications must conform to pending changes in regulations.
4. That the Commission may extend the time frame of the NOI and may amend the resolution authorizing the NOI.

The draft ordinance (**Exhibit 1**) is attached for your review.

Please call (954-776-3611) if you have any questions or would like to discuss our recommendations.

Attachments: Exhibit 1

AGENDA ITEM #1.

PROPOSED AMENDMENTS
TO THE
NOTICE OF INTENT REGULATIONS

EXHIBIT #1

ORDINANCE 2011-14

**AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE SEA, AMENDING SECTION 30-531, OF THE CODE
OF ORDINANCES TO AMEND REQUIREMENTS
RELATED TO NOTICE OF INTENT PROCEDURES;
PROVIDING FOR CODIFICATION, SEVERABILITY,
CONFLICTS AND AN EFFECTIVE DATE**

WHEREAS, the Town Commission recognizes that changes to the adopted Code of Ordinances (the "Code") are periodically necessary in order to ensure that the Town's land development regulations are current and consistent with the Town's planning and regulatory needs; and

WHEREAS, Section 30-531 "Notice of Intent", of the Code, provides an administrative procedure for notifying the public and the development community when the Town undertakes changes in the land development regulations, and for assuring that those development applications filed during the time that such regulations are being developed will have to comply with the eventually adopted regulations; and

WHEREAS, the Town Commission desires to revise the Notice of Intent provisions to streamline them and provide greater flexibility in the timing of the adoption process for land development regulations so that the Town Commission and/or Planning and Zoning Board can accommodate additional research and community input without violating or needing to modify the Notice of Intent; and

WHEREAS, Section 30-531 of the Code requires issuance of a Notice of Intent prior to the processing of any amendment to the land development regulations in Chapter 30 of the Code, and such notice was given of this amendment on January 25, 2011; and

ORDINANCE 2011-__

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on May 18, 2011 and recommended its adoption; and

WHEREAS, the Town Commission conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Town Commission has determined that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing "Whereas" clauses are ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment. Section 30-531, Notice of Intent, of Chapter 30, Unified Land Development Code, is hereby amended¹ as follows:

Section 30-531. Issuance of notice of intent; effect on proposed development.

(a) *Statement of intent.*

(1) The Town, from time to time, will propose changes to the Land Development Code of the Code of Ordinances of the Town of Lauderdale-By-The-Sea.

(2) The purpose of this section is to provide an administrative procedure for the public and the development community to be notified of certain changes in the land development regulations, as defined herein, which may impact proposed plans for development within the Town of Lauderdale-By-The-Sea as early in the Code revision process as possible. This will to best ensure that affected parties do not unnecessarily expend time, money and resources on any proposed development projects which will be subject to but in conflict with such amendments to land development regulations.

¹ Words in strike-through type are deletions; words in underlined type are additions.

ORDINANCE 2011-__

- (3) It is further the purpose of this section to ensure that ~~upon the issuance of the notice of intent, as hereinafter provided~~ subsequent to the date or point in the development approval process at which the proposed development regulations apply as designated in the Notice of Intent, no proposed land development project affected by a pending regulatory change shall be approved by any Town Officer, Official, Commission, Board, Agency or Body, whether elected or appointed, unless it said proposed land development project (i) conforms with the pending regulatory change and/or (ii) the proposed land development project approval is conditioned on such conformance pursuant to the pending regulatory change as currently drafted or as finally approved, whichever is appropriate.

(b) *Regulations subject to notice of intent.*

- (1) Pending regulations subject to the notice of intent procedure, as provided within this section, shall include development regulations as defined by F.S. § 163.3213, as amended from time to time, and comprehensive plan amendments which are a condition precedent to land development regulatory changes.
- (2) Land development regulations which provide only for regulations of residential accessory uses shall not be subject to this section.

(c) *Definitions.* As used in this section:

Affected parties includes persons owning property or persons owning or operating a business within the boundaries of the Town of ~~Lauderdale By The Sea~~ whose development application or application for a permit or license is pending.

Development activity means application for a master plan, site plan, rezoning, building permit, variance, or business tax receipt.

(d) *Notice of intent authorization/effective date/ratification by Town Commission.*

- (1) The Town Commission shall conduct a public hearing regarding the investigation, study, development, drafting or consideration of changes to any land development regulation and shall, by resolution, either approve or disapprove, the further processing of the proposed regulation which is the subject matter of the notice of intent.
- (2) At the time the Town Commission approves the resolution, authorizes, by resolution, the investigation, study, development, drafting or consideration of a changes to any land development regulation that requires issuance of a notice of intent, a notice of intent of the pending regulatory change shall be issued. The effective date of the notice of intent shall be deemed to be the date of said authorization approval by the Town Commission.
- (3) Changes to the Code which implement the authorized changes may be adopted in a single ordinance or multiple ordinances during the effective period, including any time extensions, of the notice of intent.

ORDINANCE 2011-__

- (2) ~~At the next Commission meeting following the notice of intent, members of the public shall have the opportunity to address the Town Commission in a public hearing format relative to a filed notice of intent. After the public hearing the Town Commission by majority vote shall either approve or disapprove the further processing of the proposed regulation which is the subject matter of the notice of intent.~~

(e) *Statement of purpose.* The notice of intent shall include:

- (1) A statement of purpose;
- (2) A brief description of the pending regulatory change which shall include as much specificity as possible including an indication of the provisions of the existing code that may require modification; recognizing however, that changes may occur as the pending regulation proceeds through the drafting, review, public meeting and public hearing process; and. The description shall include a statement of the possible effect that the pending regulation may have on development. In addition, the description shall provide an indication of the provisions of the existing code that may require modification;
- (3) A statement of the projected time frame for the adoption of any ordinance(s) addressing the pending regulation(s), which shall be within one year from the date of approval of the notice of intent if not specified by the Commission.;
- (4) A statement specifying the date, or point in the development approval process, at which. of the point in the development approval process at which all applications must either i) conform to the pending regulation(s), or ii) be conditioned upon future compliance with the pending regulation(s). the pending regulation would apply.

(f) *Posting of notice.*

- (1) The notice of intent shall be posted, on the Town's website, and in a conspicuous location in the development services department; and in a conspicuous location in Town Hall.
- (2) From and after the issuance of the notice of intent, applicants for appropriate licenses, permits, and other applicable development applications, including but not limited to plats, site plans, rezonings, variances, business tax receipts, and building permits, ~~shall be provided written notice of the pending land development regulatory changes which may potentially affect the applicant. Applicants shall~~ shall be notified of notices of intent relevant to their application be provided written notice by certified or regular mail and through the availability of notices in the development department, posting of notices on the Town's website, and the by posting of the notices of intent as prescribed herein. To the extent that affected parties have comments, they ~~may~~shall be afforded the opportunity to file written opinions or objections with the Development Services Director.

ORDINANCE 2011-__

- (3) Neither the failure of the Town to provide ~~written-posted~~ notice nor the failure of an applicant for development to observe the posted notice ~~nor the failure of the Town to provide posted notice~~ shall invalidate the applicability of this article to said applicant for development approval.

(g) *Implementation time frame.*

- (1) A pending regulatory change that is subject to the notice of intent procedure shall be considered by the Town Commission at a public hearing within a the time period(s) prescribed in ~~by the Town at the time of the filing of the notice of intent.~~
- (2) If additional time is required for study and deliberation, ~~due to the scope of the proposed regulatory changes or arising from procedural issues, upon a majority vote of the Town Commission~~ may amend the authorizing resolution up to two times, to extend the time prescribed by the Town in the notice of intent for a combined maximum of six additional months ~~may be extended for an additional period of time approved by the Town Commission upon expiration of the initial period of time stated in the notice of intent.~~
- (3) If no final action has been taken by the Town Commission within the time limits set forth herein, the notice of intent will expire.

(h) *Effect on pending or proposed development permits.*

- (1) ~~A notice of intent shall have no effect on any application for development activity (a master plan, site plan, rezoning, variance, building permit, or business tax receipt) pending for approval on December 12, 2000 or approved on or before December 12, 2000.~~
- (2) ~~Except as provided in [subsection] (1) above, n~~No application for development activity (a master plan, site plan, rezoning, variance, building permit, or business tax receipt) shall be accepted for processing by the Town following the date specified by the Town Commission in the Notice of Intent, issuance of a notice of intent unless (i) said application conforms with the pending regulatory change and/or (ii) the application is conditioned on such conformance pursuant to the pending regulatory change as currently drafted or as finally approved, whichever is appropriate.

- (i) ~~Evidence of general~~ Strict compliance not required. Evidence of general compliance with the procedures and requirements of this section of the Code shall be sufficient to ~~preventsustain~~ the land development regulation from being invalidated for the failure to strictly comply with this section upon adoption.

- (j) *Copies to Planning and Zoning Board.* The Planning and Zoning Board shall be provided with a copy of all notices of intent upon issuance.

ORDINANCE 2011-__

SECTION 3. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-by-the-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon passage on second reading.

Passed on the first reading, this ____ day of _____, 2011.

Passed on the second reading, this ____ day of _____, 2011.

Mayor Roseann Minnet

Mayor Minnet
Vice-Mayor Dodd
Commissioner Clottey
Commissioner Sasser
Commissioner Vincent

First Reading

Second Reading

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Attest:

214 Town Clerk, June White, CMC

215 (CORPORATE SEAL)

216 Approved as to form:

217

218

219 Town Attorney, Susan L. Trevarthen

DRAFT

AGENDA ITEM #2



Town of Lauderdale-by-the-Sea

Development Services
4501 N. Ocean Drive
Lauderdale-by-the-Sea, FL 33308
Phone (954) 776-3611
Fax (954) 776-3431

MEMORANDUM

To: Planning & Zoning Board

Thru: Bud Bentley, Assistant Town Manager *TJB*

From: Jeff Bowman, Zoning/Code Supervisor *JB*

Date: 7/11/2011

Re: Fisherman's Pier Inc. /Conditional Use Application for Outside Seating in the B-1 and B-1-A Zoning District.

The purpose of this memorandum is to provide Staff's comments on the Conditional Use Application received on June 28, 2011. The applicant is seeking approval to provide outside seating for the existing restaurant as a conditional use.

Background

The current use of the property is pier and restaurant. The proposed use will remain the same with the addition of outside seating. Fisherman's Pier is located at 2 Commercial Boulevard and is zoned B-1.

Conditional Use Application

This office has reviewed the following documents submitted (**Exhibit 1**) pursuant to the requirements of the Town's Land Development Code:

1. Application.
2. Survey of property.

Fisherman's Pier proposes to provide outside eating for the existing restaurant on an existing wooden deck and a future expansion (126 sq. ft.) of that deck area.

The attached copy of Section 30-56 of the Towns Code of Ordinances (**Exhibit 2**) outlines the specific criteria for approving a Conditional Use.

Criteria and Analysis

1. Land Use Compatibility.

The proposed use, including its scale, intensity, traffic generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses. There are predominately business uses with one residential use immediately adjacent to the property and the use, as proposed will remain the same.

2. Sufficient Site Size, Site Specifications and Infrastructure

The use proposed will increase the customer service area by 266 sq. ft. as an expansion to the existing restaurant and the site is sufficient in size to accommodate the proposed use.

3. Compliance with the Comprehensive Plan and Code of Ordinances

The conditional use, as proposed, complies with the applicable regulations of the Code of Ordinances and is consistent with the Town's Comprehensive Plan and Land Development Regulations. The zoning is Commercial and the proposed use (Outside Seating) is an allowable conditional use within the Commercial Zoning District.

4. Proper Use of Mitigative Techniques.

Staff has proposed, and recommended conditions of approval to pro-actively address possible adverse impacts to the general public health, safety and welfare.

Site Plan Review and Recommendation

Notification will be published in the Sun-Sentinel and mailed to effected parties within 300 feet as required by the Towns Code of Ordinances 30-13 (d) (2).

The applicant would be required to provide five (5) additional parking spaces for the expanded customer service area. The Town Commission recently passed ordinance 2011-01, which provides for a parking exemption for new restaurants and the expansion of an existing restaurant. The applicant has made application for the waiver of the five (spaces), but will not be approved until the use is approved.

Staff recommends approval of the proposed conditional use with the following conditions:

1. The use will be maintained and operated as provided in the applicant's letter of request submitted with the application received by the Development Services Department on June 28, 2011, attached as part of **Exhibit 1**.
2. An active Business Tax Receipt for the restaurant shall be maintained at all times.
3. All applicable state and county licenses are required to be maintained at all times.
4. The Conditional Use Permit is specific to the applicant and is not transferable.
5. The outside seating area shall be cleaned daily of any food or trash.

Conditional Use Permit Application

Development Services
Town of Lauderdale by the Sea
4501 Ocean Drive
Lauderdale by the Sea, FL 33308
www.lbts-fl.gov (954-776-0576)

LAUDERDALE-BY-THE-SEA
RECEIVED
JUN 28 2011
DEVELOPMENT
SERVICES

Application # 2011-CU-06

06-28-11 P01:58 RCVD

Date application submitted

6/28/11

Date Application found to be completed

6/28/11

Planning and Zoning Date

7/20/11

Commission Date

Application fee paid

General Information

Applicants Name Anglin Beach Cafe Address 2 Commercial Blvd Phone # 904 465-7931

Owners Name if not the same as the Applicant Louis Marchese

Owners Address 4400 Ocean Dr LBTS, FL 33308 Phone # 904 465-7931

Property address where use will be conducted 2 Commercial Blvd LBTS, FL 33308

Current Property Information

Folio # _____ Zoning District _____ Lot _____ Block _____ Subdivision _____

Present Use Parking, Lot / Restaurant (96)

Hours of operation for each use

8am - 10pm

Existing total floor area per use (sq. ft.)

266

Required number of parking spaces for current use

5

Existing number of parking spaces

42

Proposed Use Information

Type of Use requested outside seating for restaurant

Hours of operation for the proposed use

8am - 10pm

Estimated number of individuals to be employed

6

Applicant shall include a site plan and all applicable information outlined in Article IV of Chapter 30 of the Town's Code of Ordinances. Non applicable information outlined within Chapter 30 may be waived by the Development Services Director.

Signature (Owner/Authorized Agent)

Date 6/27/11

Louis Marchese

Printed Name

NE

28

29



EXISTING RAMP

EXIST GRASS

RESTAURANT
EXIST. APPROVED
OUTDOOR BOOTH
CUSTOMER AREA

14 SQFT

EXIST PIER ENTRANCE

EXISTING RAMP

30



EXIST DECK

EXIST RESTAURANT

EXIST RESTAURANT

EXIST RESTAURANT

31

75 SQFT

32

33

34

35

36

EXISTING PARKING SPACES

TRAFFIC/SERVICE CORRIDOR

60 SQFT

RESTAURANT
NEW OUTDOOR
CUSTOMER AREA@
EXISTING DECK= 200 SQFT
total= 28 seats

NEW OUTDOOR
CUSTOMER SERVICE
(APPROVED BY STATE)=66 SQFT
total= 12 seats

NAY

EXIST. WOOD PLANK
BEACH BARRIER



Site Address	2 E COMMERCIAL BOULEVARD , LAUDERDALE BY THE SEA	ID #	4943 18 01 0270
Property Owner	ANGLIN FAM TR DEMKO,M H TRSTEE	Millage	0211
Mailing Address	4334 E TRADEWINDS AVE LAUD BY THE SEA FL 33308	Use	35

Legal Description	LAUDERDALE BY THE SEA 6-2 B LOT 6,7 BLK 5
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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 2010 Exemptions and Taxable Values reflected on Nov. 1, 2010 tax bill.					
Year	Land	Building	Just / Market Value	Assessed / SOH Value	Tax
2011	\$1,238,190	\$56,510	\$1,294,700	\$897,850	
2010	\$1,238,190	\$56,510	\$1,294,700	\$816,230	\$20,447.41
2009	\$534,600	\$265,990	\$800,590	\$742,030	\$15,297.91

2011 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$1,294,700	\$1,294,700	\$1,294,700	\$1,294,700
Portability	0	0	0	0
Assessed/SOH	\$897,850	\$1,294,700	\$897,850	\$897,850
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	0	0	0	0
Taxable	\$897,850	\$1,294,700	\$897,850	\$897,850

Sales History				
Date	Type	Price	Book	Page
5/4/1998	QC*	\$100	28288	429

Land Calculations		
Price	Factor	Type
\$125.07	9,900	SF
Adj. Bldg. S.F. (See Sketch)		1109

* Denotes Multi-Parcel Sale (See Deed)

Special Assessments					
Fire	Garbage	Light	Drainage	Improvement	Safe
02			LB		
C			LB		
1109			1.76		

AGENDA ITEM #2.

CONDITIONAL USE APPLICATION
FOR
OUTSIDE SEATING IN THE
B-1 AND B-1-A ZONING DISTRICT

EXHIBIT #2

CODE SECTION 30-56

465 (d) Height.

466 * * *

467
468
469 (2) All passive recreational rooftop use requires a conditional use permit.

470
471 i. Transient Uses. ~~Upon approval, a~~ A ~~Conditional use permit for transient~~
472 ~~uses such as a hotel, motel, apartment building, condominium, or time~~
473 ~~share will be issued for the a period of one year. This permit shall be~~
474 ~~administratively reviewed by Town staff annually. The transient use shall~~
475 ~~apply for renewal of the permit annually to the Town Manager, prior to re-~~
476 ~~issuance. The conditional use permit may be renewed if it is the Town~~
477 ~~determinesd that (a) the conditional use does not adversely impact~~
478 ~~neighboring properties and (b) it complies with the conditions of site plan~~
479 ~~approval. The conditional use permit is revocable, following notice to the~~
480 ~~permit holder and opportunity to be heard by three members of the Town~~
481 ~~Administration, designated by the Town Manager, when the use adversely~~
482 ~~impacts adjacent property or the permit terms and conditions are violated.~~
483 ~~An administrative decision not to renew a rooftop use may be appealed to~~
484 ~~the Town Commission by the property owner. An administrative decision to~~
485 ~~renew a rooftop use may be appealed to the Town Commission by a~~
486 ~~neighboring property owner. The Town Commission's decision on appeal~~
487 ~~shall constitute a final development order.~~

488
489 ii. Non-Transient Uses. ~~A conditional passive recreational rooftop use permit~~
490 ~~for a non-transient residential property, other than a hotel, motel, apartment~~
491 ~~building, condominium, or time share, is exempt from the annual review~~
492 ~~process heretofore set forth for such roof tops for transient uses.~~

493
494 ~~Rooftop uses, as heretofore set forth, are permissible in RM-25 (south of Pine~~
495 ~~Avenue) districts only when reviewed and approved by the Planning and Zoning~~
496 ~~Board and Town Commission pursuant to site plan review and approval as a~~
497 ~~conditional use.~~

498
499 For the purpose of this section, "apartment building" is defined as a residential
500 rental property with four or more dwelling units.
501

502 **SECTION 5. Amendment.** Section 30-56, Unified Land Development Regulations, of
503 the Code of Ordinances is hereby created to read as follows⁴:

504 **Section 30-56. Conditional Uses Review.**

505 (a) **Generally.** A conditional use is a use that would not be appropriate without
506 restriction throughout the land use district, but which, if controlled as to number,
507 area, location, hours of operation, and relation to the neighborhood or impacted

⁴ All text in this section is new text. Additions in double underline were added between first and second reading. Deletions in ~~double strikethrough~~ were deleted between first and second reading.

vicinity, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood. The purpose of this Section is to ensure that a conditional use shall only be permitted on specific sites as provided in a particular zoning district or as provided in this Code, where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity.

This Section sets forth the procedures and criteria for approval of conditional uses on specific sites. A conditional use shall be permitted only upon a finding that the proposed use satisfies the specific review criteria of this Section and other requirements of this Code.

An approval of a conditional use does not eliminate the need for other approvals, which may be required under this Code, including but not limited to site plan review. Site plan approvals shall be processed concurrently with the conditional use application (and, if required, the site plan public hearing shall be held jointly with the conditional use public hearing).

(b) **Application.** A conditional use application shall provide the following information unless waived by the Development Services Director:

- i. A copy of any existing approved site plan;
- ii. If no previously approved site plan exists, a site plan, providing the information required in Article IV of Chapter 30 of the Land Development Code, except that the Development Services Director may waive individual components of the site plan requirements;
- iii. Traffic impact study meeting the requirements of Section 30-71(a)(4);
- iv. Square feet designated (indoors or out) for each specific use;
- v. Estimated employment;
- vi. Estimated number and type of service vehicles;
- vii. Any unique facilities or structures proposed as part of site improvements; and
- viii. A description of any mitigative techniques to abate any possible adverse impacts of the proposed use on properties in the immediate vicinity including smoke, odor, noise, and other impacts.
- ix. Application fee.

(c) **Review.** The Planning and Zoning Board shall review the application and provide a recommendation for approval, modified approval, or denial to the Town Commission. The Town Commission shall follow the quasi-judicial procedures in the Code of Ordinances and shall, prior to taking action on a conditional use application, hold a quasi-judicial public hearing. The Board and/or Commission may impose conditions and safeguards, in addition to those prescribed in the Code, as they determine are necessary for the protection of the surrounding area and to preserve the spirit and intent of the Town Code and Comprehensive Plan. Notice of the public hearing shall be given and the hearing shall be conducted as provided in the quasi-judicial procedures.

(d) **Specific Criteria for Approving a Conditional Use.** A conditional use shall be permitted upon a finding by the Town Commission that the proposed use, as proposed or with additional conditions or modifications, satisfies the criteria herein specified. A conditional use shall be denied if the Town Commission determines that the proposed use does not meet the criteria herein provided or is adverse to the public interest. The applicant shall demonstrate the following:

- (1) *Land Use Compatibility.* The conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities and residential areas in the immediate vicinity.

For purposes of a conditional use review, compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics, which may impact adjacent or surrounding uses. They include: type of use, density, intensity, height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances. The Town Manager shall recommend whether the conditional use is compatible. Compatibility shall be measured based on all of the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:

- i. Permitted uses, structures and activities allowed within the land use category.
- ii. Building location, dimensions, height, and floor area ratio.
- iii. Location and extent of parking, access drives and service areas.
- iv. Traffic generation, hours of operation, noise levels and outdoor lighting.
- v. Alteration of light and air.
- vi. Setbacks and buffers such as fences, walls, landscaping and open space treatment.
- vii. The architectural and site design are compatible with the character of the surrounding area.
- viii. Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic.

- (2) *Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use.* The size and shape of the site, the proposed access and internal circulation, and the urban design must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

606
607 (3) *Compliance with the Comprehensive Plan and Code of Ordinances.* The
608 conditional use shall comply with environmental, zoning, concurrency and
609 other applicable regulations of this Code of Ordinances and shall be
610 consistent with the Comprehensive Plan.

611
612 (4) *Proper Use of Mitigative Techniques.* The conditional use and site plan
613 shall incorporate mitigative techniques needed to prevent adverse
614 impacts to adjacent land uses. In addition, the design scheme shall
615 appropriately address off-site impacts to ensure that land use activities in
616 the immediate vicinity, including community infrastructure, are not
617 burdened with adverse impacts detrimental to the general public health,
618 safety and welfare.

619
620 (e) **Conditional Use Approval Amendments.** A conditional use approval is specific
621 to the density and intensity of the proposed use, the particular site plan and any
622 supplemental conditions approved. Unauthorized modification to a site plan or
623 any of the specifics or conditions of the conditional use approval is a violation of
624 the Town Code and subject to code enforcement action and/or revocation of the
625 conditional use approved. Any proposed modification to the conditional use that
626 affects density, intensity or minimum code requirements of the site development
627 plan will require review and approval by the Town Commission.

628
629 (1) The Town Manager shall determine if the request is a Level 1
630 Amendment or a Level Two Amendment. In deciding whether an
631 application is a Level 1 or Level 2 Amendment, the Town Manager shall
632 consider the requirements of Section 30-54(m)(4)c. of the Code.

633
634 (12) Level 1 Amendment: The Town Manager or his or her designee may
635 approve minor changes and deviations to the an approved conditional
636 use may be approved, approved with conditions or modifications, denied,
637 or re-classified as a Level 2 Amendment, by the Town Commission,
638 without Planning and Zoning Board Review. If the Town Commission
639 determines the modification is a Level 2 Amendment, it shall be
640 processed pursuant to Subsection (2) below. A change or deviation shall
641 be classified as a Level 1 Amendment, if it meets the criteria of Section
642 30-54(m)(4)a. of the Code. All other requested changes and deviations
643 shall be processed as a Level 2 Amendment.

644
645 (23) Level 2 Amendment: Changes and deviations to an approved conditional
646 use meeting the criteria of Section 30-54(m)(4)b. of the Code, shall
647 constitute a Level 2 Amendment and shall require that the requested
648 changes be subject to the same procedure as required for a new
649 application.

650
651 ~~(3) In deciding whether an application is a Level 1 or Level 2 Amendment,~~
652 ~~the Town Manager shall consider the requirements of Section 30-~~
653 ~~54(m)(4)c. of the Code.~~
654
655

- 656 (f) **Continuing Jurisdiction.** The Town Commission hereby reserves to itself the
657 jurisdiction and authority to review and revoke conditional use permits where the
658 use or the continuation of the use:
659
- 660 (1) Violates the conditions set forth by the Town Commission as a
661 requirement for the granting of the use;
662
- 663 (2) Is injurious to the health, safety or welfare of the community or of the
664 public;
665
- 666 (3) Tends to attract vagrants, loiterers or habitually intoxicated persons; or
667
- 668 (4) Has a history of repeated Code violations.
669
- 670 (g) **Application Fees.** Fees for conditional use permits, and for Level 1 and Level 2
671 Amendments shall be established by the Town Commission by resolution.
672
- 673 (h) **Flexibility rules.** Flexibility rules allow the Town to revise and rearrange land
674 uses within a flexibility zone and allow the development of residential dwelling
675 units on properties designated for commercial land use in the Broward County
676 Land Use Plan, without requiring an amendment to that designation.
677
- 678 (1) **Definitions.**
679
- 680 i. **Flexibility zones:** Flexibility zones are fixed geographic areas within the
681 Town, designated on the Broward County Land Use Plan, which provide
682 limits on the number of additional dwelling units and additional
683 commercial acreage which may be permitted by the Town's
684 comprehensive plan.
685
- 686 ii. **Flexibility units:** Flexibility units are the total number of additional
687 residential dwelling units permitted by the Broward County Land Use Plan
688 above the total number of dwelling units allowed within the same flexibility
689 zone by the Town's comprehensive plan.
690
- 691 (2) **Determination of available flexibility units.** The Town Manager or designee
692 shall maintain a log of the number of available flexibility units in each flexibility
693 zone, the number of flexibility units assigned to parcels within each zone and
694 within the Town, and the reason for assigning flexibility units to a parcel.
695
- 696 (3) **Assignment of flexibility units.** If a sufficient number of flexibility units are
697 available, the Town may allocate flexibility units for mixed use development in the
698 B-1 zoning district, as provided in Section 30-271(e) Mixed Use Development,
699 provided that the County's flexibility rules and regulations are met and all other
700 applicable requirements of Chapter 30 of the Code are met.
701

702 **SECTION 6. Severability.** If any section, sentence, clause or phrase of this Ordinance is
703 held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in
704 no way affect the validity of the remaining portions of this Ordinance.

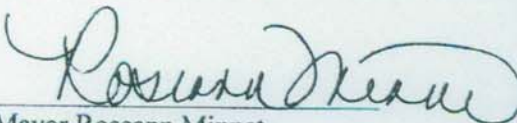
705 **SECTION 7. Conflicts.** All ordinances or parts of Ordinances and all Resolutions or
706 parts of Resolutions in conflict with the provisions of this Ordinance are hereby repealed.

707 **SECTION 8. Codification.** This Ordinance shall be codified.

708 **SECTION 9. Effective Date.** This Ordinance shall become effective immediately upon
709 adoption on second reading.

710 **SECTION 10. Adoption.** Passed on the first reading, this 22 day of March, 2011.
711 Passed and adopted on the second reading, this 27 day of April, 2011.

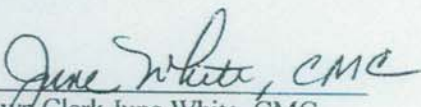
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Mayor Roseann Minnet

Mayor Minnet
Vice-Mayor Dodd
Commissioner Clotey
Commissioner Sasser
Commissioner Vincent

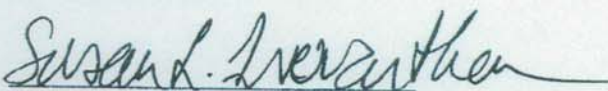
First Reading	Second Reading
<u>Yay</u>	<u>Yay</u>
<u>Yay</u>	<u>Yay</u>
<u>Yay</u>	<u>Yay</u>
<u>Yay</u>	<u>Yay</u>
<u>Yay</u>	<u>Yay</u>

Attest:


Town Clerk June White, CMC

(CORPORATE SEAL)

Approved as to form:


Susan L. Trevarthen, Town Attorney