VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Franklin H. Caplan, *Mayor*
Michael E. Kelly, *Vice Mayor*
Michael W. Davey
Enrique Garcia
Robert Gusman
Mayra P. Lindsay
James S. Taintor

Village Manager
Genaro "Chip" Iglesias

DATE: August 18, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager for Chip Iglesias

RE: 350 Ocean Drive: Request for Approval of Three (3) Variances

RECOMMENDATION

It is recommended that the Village Council approve all three (3) variances associated with the construction of a 154 unit development at 350 Ocean Drive. This recommendation is subject to the analysis as set forth in the attached memorandum from the Building, Zoning, and Planning Director. The recommendation is based on the Director's determination that the project is consistent with the variance review criteria.

BACKGROUND

The applicant has filed an application for three (3) variances associated with the construction of a 154 unit development and related open space and recreational amenities, a bar/grill, a sport gym and spa. Two (2) of the variances are associated with the north and south setbacks for that portion of the building which is at and above the seventh floor and a third (3) variance that permits roof top structures to contain additional square footage than what is permitted.

The Zoning and Land Development Regulations contain criteria to evaluate variance applications. The Building, Zoning, and Planning Director has compared the application with the criteria. The Director found that the request is consistent with the review criteria and has recommended approval of the application.

Associated with this request are applications for Site Plan approval and a vacation of 57.5 ft. of the 115 ft. Ocean Drive right-of-way.

RESOLUTION NO. 2011-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA APPROVING AN APPLICATION FOR A VARIANCE FROM THE SIDE SETBACK AND ROOFTOP STRUCTURE FLOOR AREA REQUIREMENTS FOR THE PROPERTY LOCATED AT 350 OCEAN DRIVE; PROVIDING FOR CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Consultatio Key Biscayne LLC (the "Applicant") is the owner of approximately 10.11 acres of real property located at 350 Ocean Drive, Key Biscayne, Florida, and legally described on Exhibit "A" (the "Property"); and

WHEREAS, pursuant to Sections 30-63 and 30-66 of the Village Code of Ordinances (the "Village Code"), the Applicant has submitted a Planning and Zoning Application, bearing Public Hearing # RV-32, seeking to vary the north and south side setback requirements of Section 30-103(b) of the Village Code, and the rooftop structure floor area requirements of Section 30-112(h) of the Village Code (the "Variances"); and

WHEREAS, after proper public notice, the Village Council conducted a public hearing and considered all testimony and other evidence presented and otherwise made part of the record.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. The recitals set forth above are hereby adopted and confirmed.

Section 2. Findings. The Village Council finds that the Applicant has met all of the requirements in Sections 30-63 and 30-66 of the Village Code. Specifically, the Village Council finds that the Variances will: (a) result in conditions that maintain and are consistent in all material respects with the intent and purpose of the Village Code, and that the general welfare, stability and

appearance of the community will be protected and maintained; and (b) be compatible with the surrounding land uses, and otherwise consistent with the Village Code and the Comprehensive Plan, and will not be detrimental to the community.

Section 3. **Approval of Variance for the North Side Setback.** The Village Council hereby approves the Applicant's request to vary the provisions of Section 30-103(b) of the Village Code to permit a north side setback variance of 79 degrees where 63 degrees is required for floors 7 through 15.

Section 4. **Approval of Variance for the South Side Setback.** The Village Council hereby approves the Applicant's request to vary the provisions of Section 30-103(b) of the Village Code to permit a south side setback variance of 79 degrees where 63 degrees is required for floors 7 through 15.

Section 5. **Approval of Variance for the Rooftop Structure Floor Area.** The Village Council hereby approves the Applicant's request to vary the provisions of Section 30-112 of the Village Code to permit a rooftop structure floor area of 38% where a maximum of 10% is permitted.

Section 6. **Conditions.** The approvals granted by this Resolution are subject to compliance with the following condition, to which the Applicant stipulated and agreed to at the public hearing:

1. The Property is developed in accordance with the site plan prepared by Arquitectonica International Corporation, entitled "Proposed Site Plan," dated July 15, 2011, and consisting of 37 pages.

Section 7. **Recording.** This Resolution shall be recorded, prior to the issuance of a building permit, by the Applicant at its expense in the public records of Miami-Dade County. A copy of the

proof of recordation shall be submitted to the Building, Zoning and Planning Department prior to the issuance of any building permits.

Section 8. **Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this ___ day of August, 2011.

_____
MAYOR FRANKLIN H. CAPLAN

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I

ALL THAT PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE SW ¼ , SECTION 32 AND FRACTIONAL SECTION 33, TOWNSHIP 54 SOUTH, RANGE 42 EAST, IN THE CITY OF KEY BISCAYNE, COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.W. CORNER OF TRACT 6, SUBDIVISION OF A PORTION OF MATHESON ESTATE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46 PAGE 86 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN ALONG THE SOUTH LINE OF TRACT 6, EAST FOR A DISTANCE OF 1200.00 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND, SAID POINT OF BEGINNING ALSO BEING THE S.E. CORNER OF THE PLAT OF HOLIDAY COLONY AS RECORDED IN PLAT BOOK 50 AT PAGE 87, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, THENCE CONTINUE EAST FOR A DISTANCE OF 761.0 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE MEANDER NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN FOR A DISTANCE OF 518.3 FEET MORE OR LESS TO A POINT LYING 500.00 FEET NORTH OF THE SOUTH LINE OF TRACT 6 EXTENDED EAST AS MEASURED AT RIGHT ANGLES; THENCE RUN WEST ALONG A LINE 500.00 FEET NORTH OF, AND PARALLEL TO, THE SOUTH LINE OF SAID TRACT 6, AS MEASURED AT RIGHT ANGLES, FOR A DISTANCE OF 631.9 FEET MORE OR LESS TO A POINT; THENCE RUN SOUTH 0°38'55" WEST FOR A DISTANCE OF 327.79 FEET TO A POINT; THENCE RUN NORTH 89° 24'30" WEST FOR A DISTANCE OF 157.55 FEET TO A POINT OF NON-TANGENCY WITH A CIRCULAR CURVE CONCAVE TO THE WEST, THE CENTER OF WHICH BEARS NORTH 89°51'26" WEST FROM THE AFOREMENTIONED POINT OF NON-TANGENCY; SAID POINT ALSO BEING A POINT ON THE EASTERLY LINE OF BLOCK 5 OF THE PLAT OF HOLIDAY COLONY, AS RECORDED IN PLAT BOOK 50, PAGE 87 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CIRCULAR CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 3°14'04" AND A RADIUS OF 3081.59 FEET FOR A DISTANCE OF 173.96 FEET TO THE POINT OF BEGINNING.

AND

PARCEL 2

ALL THAT PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE SW ¼ , SECTION 32, TOWNSHIP 54 SOUTH, RANGE 42 EAST, IN THE CITY OF KEY BISCAYNE, COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.W. CORNER OF TRACT 6, SUBDIVISION OF A PORTION OF MATHESON ESTATE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46, PAGE 86 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN ALONG THE SOUTH LINE OF TRACT 6, EAST FOR A DISTANCE OF 1200.00 FEET TO A POINT OF NON-TANGENCY WITH A CIRCULAR CURVE CONCAVE TO THE WEST THE CENTER OF WHICH BEARS NORTH 86°37'22" WEST FROM THE AFOREMENTIONED POINT OF NON-TANGENCY, SAID POINT ALSO BEING THE SE CORNER OF THE PLAT OF HOLIDAY COLONY, AS RECORDED IN PLAT BOOK 50, PAGE 87 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CIRCULAR CURVE, HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 3°14'04" AND A RADIUS OF 3081.59 FEET FOR A DISTANCE OF 173.96 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE NORTHERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CIRCULAR CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 10°46'23" AND A RADIUS OF 3081.59 FEET FOR A DISTANCE OF 579.42 FEET TO A POINT ; SAID POINT ALSO BEING A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF EAST DRIVE; THENCE RUN ALONG THE SAID RIGHT WAY LINE, EAST FOR A DISTANCE OF 160.62 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG THE ARC OF SAID CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 80°19'47" AND A RADIUS OF 25.00 FEET FOR A DISTANCE OF 35.03 FEET TO A POINT OF COMPOUND CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE WEST, SAID POINT ALSO BEING A POINT ON THE WESTERLY RIGHT OF WAY LINE OF OCEAN BOULEVARD; THENCE RUN SOUTHERLY ALONG THE SAID WESTERLY RIGHT OF WAY LINE ON THE ARC OF THE CIRCULAR CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 4°03'53" AND A RADIUS OF 3260.29 FEET FOR A DISTANCE OF 231.29 FEET TO A POINT; THENCE LEAVING THE SAID RIGHT OF WAY LINE, RUN WEST 1.87 FEET TO A POINT; THENCE RUN SOUTH 0°38'55" WEST FOR A DISTANCE OF 327.79 FEET TO A POINT ; THENCE RUN NORTH 89°24'30" WEST FOR A DISTANCE OF 157.55 FEET TO THE POINT OF BEGINNING.

DATE: August 18, 2011

TO: Genaro "Chip" Iglesias, Village Manager

FROM: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department

RE: 350 Ocean Drive: Variance Application

APPLICATION SUMMARY

Applicant	Consultatio Key Biscayne, L.L.C.
Request	The applicant is requesting the following variances: a. North Side Setback- Approval of a variance to permit a north side setback of 79 degrees where 63 degrees is required for floors 7 through 15; b. South Side Setback- Approval of a variance to permit a south side setback of 79 degrees where 63 degrees is required for floors 7 through 15; and, c. Maximum floor area for rooftop structures- Approval of a variance to permit rooftop structures to have a floor area of 38% where 10% is required.
Site Address	350 Ocean Drive
Master Plan Land Use	Medium Density Multifamily and Ocean Resort Hotel
Zoning District	HR Hotel Resort
File Number	RV - 32
Recommendation	Approval with conditions

EXPLANATION AND ANALYSIS

The applicant has requested three variances to:

1. permit a 79 degree triangular setback on the north side of the building for floors 7 – 15 and for roof top structures when the regulations set a maximum of 63 degrees;

2. permit a 79 degree triangular setback on the north side of the building for floors 7 – 15 and for roof top structures when the regulations set a maximum of 63 degrees; and,

3. permit the rooftop structure coverage to be 38% when the regulations permit a maximum of 10%.

Variance Review Criteria: The Village's Zoning Ordinance provides for the granting of variance(s) subject to a finding that the petition meets the following criteria:

Criteria 1 Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

Analysis of Variances #'s 1 and 2

The Zoning and Development Regulations provide for two (2) types of setback regulations: a horizontal at grade setback and a vertical triangular setback.

The horizontal at grade setback is measured from the building to the lot line. The required setback along the south and north lot lines is 25 ft. and the plans show 35.8 ft. on the south and 38 ft. 11 in. on the north. As such, the proposed horizontal setback is consistent with the regulations.

The vertical triangular setback utilizes a 63 degree triangle measured from grade at the south and north side property lines projected to the top of the building. No building wall can be within this setback. Drawing A6.2 (large plans) shows the required 63 degree triangular setback and the requested 79 degree triangular setback. Floors 7 to the roof all are in the required triangular setback.

The project provides a 79 degree triangular setback on the south and north sides of the building when the Regulations require 63 degrees. This triangular setback is met for floors 1 – 6. At that point, the building

encroaches into the triangular setback from 3 ft. 3 in. on the seventh floor up to 47 ft. 1 in. at the roof.

The applicant has submitted studies of the adjacent structures (Grand Bay 1 and 2 and The Ritz Carlton) and Sands Condominium (adjacent to The Ritz). These buildings have triangular setback angles of 80.26, 85.26, and 80.10 degrees (see drawing SK062211-6 in the variance application). As such, the applicant's proposed 79 degree triangular setback is consistent with those buildings.

Analysis of Variance # 3

The Zoning and Land Development Regulations provide for a long list of structures which are permitted on the roof. In order to control the bulk and mass of these structures, the Regulations limit the amount of rooftop area that can be occupied at 10% of the floor area of the roof which in the case is 4,782 sq. ft. The applicant is requesting that 38% or 18,004 of the floor area to be occupied with rooftop structures. The plans include a trellis and landscaping which will screen these structures from views from adjacent buildings and at the pedestrian level.

The applicant has provided documentation that rooftop coverages at Grand Bay 1 and 2 are 29% and 30% which is substantially above the 10% required by the Village.

Findings

Staff finds that the project meets the intent and purpose of the Regulations for the following reasons:

Variance #'s 1 and 2

a. the regulations require a 25 ft. horizontal south and north sideyard. The project provides setbacks of 35 ft. 8 in. and 38.11 in. As such, the project exceeds the required horizontal sideyard setback by approximately 49%.

b. this variance is consistent with other buildings in the area, particularly Grand Bay 1 and 2, as the angle is slightly less than those structures. As such, the general welfare, stability, and appearance of the community is maintained.

Variance # 3

a. drawing SK072111-1(attached to the variance application) shows the rooftop plan and drawing SK072111-2 (attached to the variance application) shows the aluminum trellis that covers the rooftop structures. Drawing A7.2 (in large plans) provides a perspective view of the building and the rooftop trellis at Ocean Drive and Sonesta Drive. These drawings show that the rooftop structures will be substantially screened from street views and adjacent buildings. As such, general welfare, stability, and appearance of the community will be protected and maintained.

Criteria 2 Is compatible with the surrounding land uses and would not be detrimental to the community.

Analysis of Variances #'s 1 and 2

The surrounding land uses include a one (1) story hotel and multiple family buildings to the north, multiple family buildings to the south, single family homes to the west, and the Atlantic Ocean to the east. The main tower is setback 393 ft. 11 in. from the single family homes in the Holliday Colony Subdivision. The area west of the main tower to the Holiday Colony Subdivision will contain 12 villas with a maximum height of 35 ft. This height matches the zoning requirements in the Holiday Colony subdivision.

Each of these variances apply to the seventh (7) floors and continues to the roof. As such, the building complies with the vertical triangular setback from grade to the sixth (6) floor.

The reduction in the open space between the building and the side lot line extended upwards is somewhat offset by open space which gained through the notched roof line in the center of the building and the 35 ft. x 50 ft. breezeway at the ground level. These two design elements add open space and visual interest to the building.

Further, the proposed setbacks are greater than those provided by surrounding land uses, particularly the Grand Bay 1 and 2 buildings.

Analysis of Variance # 3

The applicant has provided documentation that the rooftop coverage for Grand Bay 1 and 2 is 29% and 30% respectively. The applicant's rooftop coverage is 38% which includes mechanical structures and 6 swimming pools that are 3 ft. 6 in. above the main roof. As such, they

cannot be seen from the street. If the pools were not considered in the calculation, then the applicant would be requesting a roof top coverage of 19% which is substantially lower than Grand Bay 1 and 2 coverages.

Findings

Staff finds that the project is compatible with surrounding land uses and would not be detrimental to the community for the following reasons:

Variances #'s 1 and 2

a. The surrounding land uses include multiple family buildings to the north at Key Colony and the Silver Sands Hotel, to south are the Grand Bay multiple family buildings and approximately 394 ft to the west are the Holiday Colony single family homes. The project contains 12 condominium villas which are adjacent to the Holiday Colony property line and will have the same maximum height of 35 ft.

b. The project is required to meet the Florida Building Code and numerous environmental codes which are regulated by the State of Florida. There are 25 ft. easements on the north and south which will provide for access for emergency vehicles, pedestrians, and golf carts.

c. The vertical triangular setback is compatible with the surrounding land uses as Grand Bay 1 and 2 have a 80 degree triangle while the project has a 79 degree triangle.

Variance # 3

a. The rooftop structures will be covered by an aluminum terrace which will be landscaped. As such, there is sufficient screening that views from adjacent structures and at the pedestrian level will be significantly mitigated. The line of sight study supports this finding. As such, the general welfare, stability, and appearance of the community will be maintained.

b. The surrounding land uses, in particular Grand Bay 1 and 2, have a rooftop coverage of 29% and 30% respectively. In this project, the rooftop structures have an aluminum covering which will be landscaped. As such, the project is compatible with the surrounding land uses and will not be detrimental to the community.

RECOMMENDATION

Staff recommends approval of each of the variances.

AGENDA ITEM 4A2

SPECIAL MEETING OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA

AUGUST 18, 2011

IN RE: HEARING NO. RV-32

SUBMISSION IN SUPPORT OF VARIANCE APPLICATIONS BY CONSULTATIO KEY BISCAYNE, L.L.C.

Counsel for Applicants
SHUBIN & BASS, P.A.
46 S.W. 1st Street
Third Floor
Miami, Florida 33130
Tel. (305) 381-6060
Fax (305) 381-9457

VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning
88 West McIntyre Street, Suite 250 **Key Biscayne, FL 33149**
Phone (305) 365-5512 **Fax (305) 365-5556**
www.keybiscayne.fl.gov

PLANNING AND ZONING APPLICATION

Date Filed: 7-22-11

File #: RV-32
(to be completed by Staff)

1. REQUEST FOR:

( ) SUPERVISORY VARIANCE
( ) ADMINISTRATIVE VARIANCE
(x) REGULATORY VARIANCE
( ) APPEAL OF AN ADMINISTRATIVE DECISION
( ) SITE PLAN APPROVAL
( ) UNUSUAL USE
( ) OTHER _____

( ) AMENDMENT TO ZONING ORDINANCE
( ) SPECIAL EXCEPTION
( ) AMENDMENT TO THE COMPREHENSIVE PLAN
( ) ZONING DISTRICT CHANGE

Explain your request:

See attached letter of intent.

2. Street Address of Property: 350 Ocean Drive, Key Biscayne, Florida

Legal Description: Lot(s) See Exhibit "A" Block _____

Subdivision: _____

3. Name of Applicant: Consultatio Key Biscayne, L.L.C.

Mailing Address of Applicant: 1200 Brickell Avenue, Suite 1950
Miami, Florida 33131

Business Telephone: (786) 528-5874 Home Telephone: _____

Fax: (786) 362-7183 Email: mcorti@consultatiousa.com

4. Name of Property Owner if Different from Applicant: N/A

   Address of Property Owner if Different from Applicant: _____

   _____

   Business Telephone: _____ Home Telephone: _____

   Fax: _____ Email: _____

5. Contact Person: Name John K. Shubin, Esq./Amy E. Huber, Esq.

   Address Shubin & Bass, P.A. 46 SW 1st Street, 3rd Floor, Miami, Florida 33130

   Telephone: (305) 381-6060 Fax: (305) 381-9457

6. Name/address of anyone else who should receive notice of the hearing?

   Marcos Corti Maderna 1200 Brickell Ave., Suite 1950, Miami, Florida 33131
   John K. Shubin 46 SW 1st Street, 3rd Floor, Miami, Florida 33130

7. If applicant is owner, indicate date purchased: September 2009

8. If applicant is lessee, indicate date leased _____ Years _____

9. Is there an option to purchase the property? Yes ( ) No (X)

10. Is the request the result of a violation notice? No If yes, attach a copy of the violation.

11. Existing use of property Vacant. If residential, how many apartments _____?

    hotel units _____? If commercial, how many sq. ft. in your space _____?

    Single family home? Yes ( ) No ( )

12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

    N/A

    _____

13. If this is a request for a variance, the Code requires that you substantiate why this request should be granted. In order to do this properly, please indicate how your request complies with the following standards:

    a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

       See attached letter of intent.

       _____

b. Is compatible with the surrounding land uses and would not be detrimental to the community.

See attached letter of intent.

14. If this is a request for any other type of application, please see staff for a listing of the evaluation criteria.

15. All supporting data and exhibits submitted with this application become a permanent part of the public records.

16. If you are a lobbyist as described in the Village Code, please contact the Village Clerk at (305) 365-5506.

SUPERVISORY VARIANCES ONLY

The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature

ADMINISTRATIVE VARIANCES ONLY

The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for and Administrative Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature

If you need additional signatures please use the above format.

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

(I) (We) certify that (I) (we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I) (we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my) (our) knowledge. (I) (we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant: _____ Date 7.21.11

Signature of Owner: _____ Date 7.21.11

Application Received by: _____ Date 7.22.11

Approved by: _____ Date _____

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I

ALL THAT PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE SW ¼ , SECTION 32 AND FRACTIONAL SECTION 33, TOWNSHIP 54 SOUTH, RANGE 42 EAST, IN THE CITY OF KEY BISCAYNE, COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.W. CORNER OF TRACT 6, SUBDIVISION OF A PORTION OF MATHESON ESTATE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46 PAGE 86 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN ALONG THE SOUTH LINE OF TRACT 6, EAST FOR A DISTANCE OF 1200.00 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND, SAID POINT OF BEGINNING ALSO BEING THE S.E. CORNER OF THE PLAT OF HOLIDAY COLONY AS RECORDED IN PLAT BOOK 50 AT PAGE 87, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, THENCE CONTINUE EAST FOR A DISTANCE OF 761.0 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE MEANDER NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN FOR A DISTANCE OF 518.3 FEET MORE OR LESS TO A POINT LYING 500.00 FEET NORTH OF THE SOUTH LINE OF TRACT 6 EXTENDED EAST AS MEASURED AT RIGHT ANGLES; THENCE RUN WEST ALONG A LINE 500.00 FEET NORTH OF, AND PARALLEL TO, THE SOUTH LINE OF SAID TRACT 6, AS MEASURED AT RIGHT ANGLES, FOR A DISTANCE OF 631.9 FEET MORE OR LESS TO A POINT; THENCE RUN SOUTH 0°38'55" WEST FOR A DISTANCE OF 327.79 FEET TO A POINT; THENCE RUN NORTH 89° 24'30" WEST FOR A DISTANCE OF 157.55 FEET TO A POINT OF NON-TANGENCY WITH A CIRCULAR CURVE CONCAVE TO THE WEST, THE CENTER OF WHICH BEARS NORTH 89°51'26" WEST FROM THE AFOREMENTIONED POINT OF NON-TANGENCY; SAID POINT ALSO BEING A POINT ON THE EASTERLY LINE OF BLOCK 5 OF THE PLAT OF HOLIDAY COLONY, AS RECORDED IN PLAT BOOK 50, PAGE 87 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CIRCULAR CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 3°14'04" AND A RADIUS OF 3081.59 FEET FOR A DISTANCE OF 173.96 FEET TO THE POINT OF BEGINNING.

AND

PARCEL 2

ALL THAT PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE SW ¼ , SECTION 32, TOWNSHIP 54 SOUTH, RANGE 42 EAST, IN THE CITY OF KEY BISCAYNE, COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.W. CORNER OF TRACT 6, SUBDIVISION OF A PORTION OF MATHESON ESTATE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46, PAGE 86 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN ALONG THE SOUTH LINE OF TRACT 6, EAST FOR A DISTANCE OF 1200.00 FEET TO A POINT OF NON-TANGENCY WITH A CIRCULAR CURVE CONCAVE TO THE WEST THE CENTER OF WHICH BEARS NORTH 86°37'22" WEST FROM THE AFOREMENTIONED POINT OF NON-TANGENCY, SAID POINT ALSO BEING THE SE CORNER OF THE PLAT OF HOLIDAY COLONY, AS RECORDED IN PLAT BOOK 50, PAGE 87 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CIRCULAR CURVE, HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 3°14'04" AND A RADIUS OF 3081.59 FEET FOR A DISTANCE OF 173.96 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE NORTHERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CIRCULAR CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 10°46'23" AND A RADIUS OF 3081.59 FEET FOR A DISTANCE OF 579.42 FEET TO A POINT ; SAID POINT ALSO BEING A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF EAST DRIVE; THENCE RUN ALONG THE SAID RIGHT WAY LINE, EAST FOR A DISTANCE OF 160.62 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG THE ARC OF SAID CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 80°19'47" AND A RADIUS OF 25.00 FEET FOR A DISTANCE OF 35.03 FEET TO A POINT OF COMPOUND CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE WEST, SAID POINT ALSO BEING A POINT ON THE WESTERLY RIGHT OF WAY LINE OF OCEAN BOULEVARD; THENCE RUN SOUTHERLY ALONG THE SAID WESTERLY RIGHT OF WAY LINE ON THE ARC OF THE CIRCULAR CURVE HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 4°03'53" AND A RADIUS OF 3260.29 FEET FOR A DISTANCE OF 231.29 FEET TO A POINT; THENCE LEAVING THE SAID RIGHT OF WAY LINE, RUN WEST 1.87 FEET TO A POINT; THENCE RUN SOUTH 0°38'55" WEST FOR A DISTANCE OF 327.79 FEET TO A POINT ; THENCE RUN NORTH 89°24'30" WEST FOR A DISTANCE OF 157.55 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

Disclosure of Ownership Interest for

Consultatio key Biscayne, LLC, Florida limited liability partnership

1. Consultatio Key Biscayne, LLC, Florida limited liability partnership 100%

A. Members	Class A Percentage Interest	Class B Percentage Interest
Consultatio Real Estate, Inc. 1200 Brickell Avenue - Suite 1950 Miami, FL 33131	100%	
Biscayne Coast Corp. 701 Brickell Av. - Suite 1460 Miami, FL 33131		4.0%
Cantomi KB Inc. Juan Carlos Gomez 1348, Apto. 501 Montevideo República Oriental del Uruguay		6 0%
Consultatio Real Estate, Inc. 1200 Brickell Avenue - Suite 1950 Miami, FL 33131		50.0%
Fordsand Key Biscayne Inc. 1455 Ocean Drive - #1004 Miami, FL 33139		4.0%
Kilak Developments, Inc. Rio Arriba N.6, Casa de Campo, La Romana 07803 República Deminicana		4 0%
Losdono Inc. 201 Alhambra Circle- Suite 901, Coral Gables, FL 33134		8 0%
Pacheco Trade Corp. 201 Alhambra Circle- Suite 901, Coral Gables, FL 33134		12.0%
Pampira, LLC 444 Brickell Av. #824 Miami, FL 33131		4.0%
Printemps Fund Real Estate Inc. Calle Treinta y Tres 1373, Suite 104 Montevideo República Oriental del Uruguay		4.0%
Sisbro US Inc. Sarandi 1567 1251 - Ciudad A. de Buenos Aires Argentina		4 0%

B. Managers

Eduardo F. Costantini

Cristián Costantini

José M. Chouhy Oria

Jorge Brave

Marcos Corti Maderna

2. Consultatio Real Estate, Inc.

A. Shareholders	Percentage
Consultatio S.A.	100%

Av. Madero 900, 20° floor
C1106ACV - Ciudad de Buenos Aires
República Argentina

B. Board of Directors
Eduardo F. Costantini

José M. Chouhy Oria

Cristián Costantini

3. Consultatio S.A. (Public Company)

A. Shareholdres

	Percentage
Eduardo F. Costantini Av. Figueroa Alcorta 3051- Piso 14° C1425CKJ - Ciudad de Buenos Aires República Argentina	66,44%
Compañia Inmobiliaria San Martin de Tours (*) Viamonte 1453, 9floor - Suite 60 C1055ABA - Ciudad de Buenos Aires República Argentina (*) Wholly owned by Eduardo F. Costantini (95%) and one of his daughters -Mariana Costantini- (5%)	1,07%
Administración Nacional de la Seguridad Social - Fondo de garantía de Sustentabilidad (**) Tucumán 500, 3° piso C1049AAJ - Ciudad de Buenos Aires República Argentina (**) National Pension Fund managed by the Govemment of the Argentine Republic	26,62%
Carlos A. Reyes Terrabusi Av. Alvear 1597 C1014AAC - Ciudad de Buenos Aires República Argentina	3,78%
Floating at the "Buenos Aires Stock Exchange" Sarmiento 299 C1041AAE - Ciudad de Buenos Aires República Argentina	2,09%

B. Directors

Eduardo F. Costantini	President
Cristián Costantini	Vice-President
Carlos A. Reyes Terrabusi	Director
Juan Güiraldes	Director
Patricio Furlong	Director
José M .Chouy Oria	Alternative Director
María José van Morlegan	Alternative Director

4. Consultatio Key Biscayne, LLC - Class B Percentage Interest

Entity Owning Class B % interest in Consultatio Key Biscayne, LLC	Entity Owing 100% interest in entity disclosed in previous column	Ultimate Beneficial Owner
Consultatio Real Estate, Inc.	Consultatio S A	(already described in 2 &3 above)

Biscayne Coast Corp.	N/A	Camilo Mendez Chong
Cantomi KB Inc.	Cantomi Uruguey S.A.	Carlos J. Miguens
Fordsand Key Biscayne Inc.	N/A	
Kilak Developments, Inc.	N/A	Carlos Eduardo Antonio Maria Oliva Funes
Losdono Inc.	N/A	Rodolfo Raul D'Onofrio
Pacheco Trade Corp.	Pacheco Trade Corp.	Adrian G. Sucari Martin Horacio Sucari
Pampira, LLC.	N/A	Claudio Scalise M. Gabriela Scalise
Printemps Fund Real Estate Inc.	N/A	Martin N Huffmann Laura M. Huffmann Carolina M. Huffmann Federico N. Huffman
Sisbro US Inc	N/A	Guillermo Horacio Varela Mabel Angelica Varela

LAW OFFICES
SHUBIN & BASS
PROFESSIONAL ASSOCIATION

Via Hand Delivery

July 15, 2011

Mr. Jud Kurlancheek, AICP
Building, Zoning & Planning Director
Village of Key Biscayne
85 West McIntyre Street
Key Biscayne, Florida 33149

Re: Application for Redevelopment of 350 Ocean Drive, Key Biscayne, Florida

Dear Mr. Kurlancheek:

Please accept this correspondence and the enclosed application (the "Application") for the redevelopment of 350 Ocean Drive, Key Biscayne, Florida (the 'Subject Property") on behalf of Consultatio Key Biscayne, LLC. In order to accomplish the redevelopment of the Subject Property as previously presented to the Village of Key Biscayne Council (the "Council"), the Village has advised that the redevelopment requires the following applications and approvals by the Council: (1) site plan application approval; (2) two variance requests from Section 30-103(b) (one for each side of the building); and, (3) vacation of right of way of Ocean Drive from 115 feet to 55 feet.

The Proposed Project

The project as proposed includes 154 multi-family dwelling units with various amenities for the residents which include pools, spa, recreation area, gym, meeting space, kid's play area, lounge, and bar, grill and restaurant (the "Project").

Documentation & Studies

As part of these applications, we are submitting a number of different plans, documents and studies, which include the following:

1. Site plans, elevations, renderings, landscape plans, etc. which satisfy the requirements for site plan review approval process;
2. Traffic Impact Analysis dated June, 2011, prepared by the Corradino Group;

3. Concurrency Study for Water, Sewer, and Solid Waste dated June, 2011,prepared by VSN Engineering, Inc.;

4. Ocean Drive Right of Way Vacation Sketches and Legal Descriptions signed and sealed July 12, 2011;

5. Waiver of Objection by Miami Dade County Water and Sewer executed on July 13, 2011;

6. Adjacent Property Setback Analysis dated July 1, 2011; and

7. Project Summary Data and Comparison Sheet dated July 15, 2011.

Variance Requests

Pursuant to Section 30-63 of the Village Zoning Code, Consultatio is requesting two variances from Section 30-103(b) ,which requires that "no portion of Building may extend beyond a 'building envelope' formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each." The project as proposed is seeking base angles of 79 degrees each on both the North and South sides of the Project.

Section 30-63 states that a variance may be granted upon a finding that the desired Variance meets the following criteria:

1. The Variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and that the general welfare, stability and appearance of the community will be protected and maintained.

   Response:

   The Variances as requested are consistent in all material respects with the intent and purpose of these Regulations. As demonstrated in the attached adjacent property setback analysis, the neighboring properties all provide for base angles in excess of 63 degrees (approximately 80 degrees). The general welfare, stability and appearance of the community will be protected and maintained in that the Project provides for more than a 390 foot setback from the West property line, which necessitates the Variance requests. In addition, the Variances are slightly less than that of the neighboring properties and therefore maintain the appearance of the community.

2. The Variance will be compatible with the surrounding land Uses, and otherwise consistent with these Regulations and Comprehensive Plan, and will not be detrimental to the community.

Response:

The Variances are compatible with the surrounding properties and are consistent with the Regulations and Comprehensive Plan in that the Variances are similar to (and actually less than) the neighboring properties. The Variances will not be detrimental to the community. The property is being developed with medium-density multi-family residential dwelling units. The Zoning Code does not require the base angles of 63 degrees; however, the HR Zoning District does.

In summary, the Variance requests are consistent and compatible with the surrounding properties and maintains the general welfare, stability and appearance of the community.

Vacation of Right of Way

Ocean Drive currently provides for a 115 foot right of way. This amount is far in excess of what is needed or required for access and circulation. The remaining 55 ft. proposed is more than adequate to service this area. The vacation of the right of way from 115 ft. to 55 is necessary in order to facilitate better traffic circulation, and provide additional buffering for the residents in Holiday Colony. The vacation, in addition to the easements provided by Consultatio, also provides for enhanced beach access. The sketches and legal descriptions of the existing tight of way, proposed abandoned right of way, and new right of way are attached hereto as composite Exhibit "4." Miami Dade County Water and Sewer has no objection to the vacation request.

Traffic Analysis

The attached Traffic Analysis completed by the Corradino Group concludes that the Project is well within the acceptable levels of service. In addition, the Traffic Analysis also concludes that the Project, in comparison to the previously approved project, generates fewer trips and has a positive impact on the transportation network.

Concurrency Study for Water, Sewer and Solid Waste

The attached Concurrency Study completed by VSN Engineering, Inc. finds that the existing water system is adequate to provide water and fire protection for the Project. It also finds that there is a net decrease in the proposed water use as compared to the existing hotel. All sewer collection will be handled by the Pump Station currently on site and this system is adequate to serve this Project.

Recreation and Open Space (Pursuant to Comprehensive Plan)

Recreation and Open Space Required

2.47 persons per unit x 154 dwelling units = 380.38 or 381 people

381 people/ 1000 x 2.5 acres = 0.9525 acres

0.9525 ac x 43,560 sq ft/ac = **41,490.9 sq ft. of required recreation and open space**

Recreation and Open Space Provided

10' Dedicated Access Sonesta and Ocean Drive	5,042 sq. ft.
25' Dedicated South Beach Access	22,552 sq. ft.
25' Dedicated North Beach Access	14,794 sq. ft.
TOTAL:	**42,388 sq. ft. provided**

Approved Project

Pursuant to your request, attached please find a comparison data sheet which demonstrates that the proposed Project is less intense than the previously Approved Project. The proposed Project provides for an overall reduction of square footage, lot coverage and dwelling units, compared to the Approved Project.

Notwithstanding the filing of this application, Consultatio reserves all rights, approvals and permits to construct the development approved through Village of Key Biscayne Resolution 2007-16 (the "Approved Project"). The submission, processing and approval of this application shall not be construed as a waiver of its existing rights to develop the Approved Project.

Consultatio renews its commitment to move forward with the proposed Project in lieu of the Approved Project, provided that the proposed Project is reviewed and approved in a timely manner and not subject to an appeal.

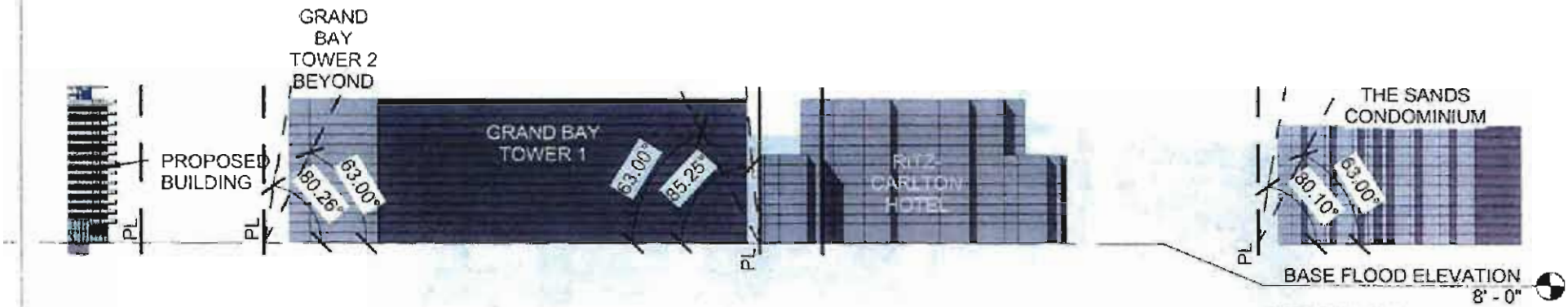
We look forward to working with the Village as we process these applications. As always, please feel free to contact me with any questions regarding this correspondence or its enclosures.

Sincerely,

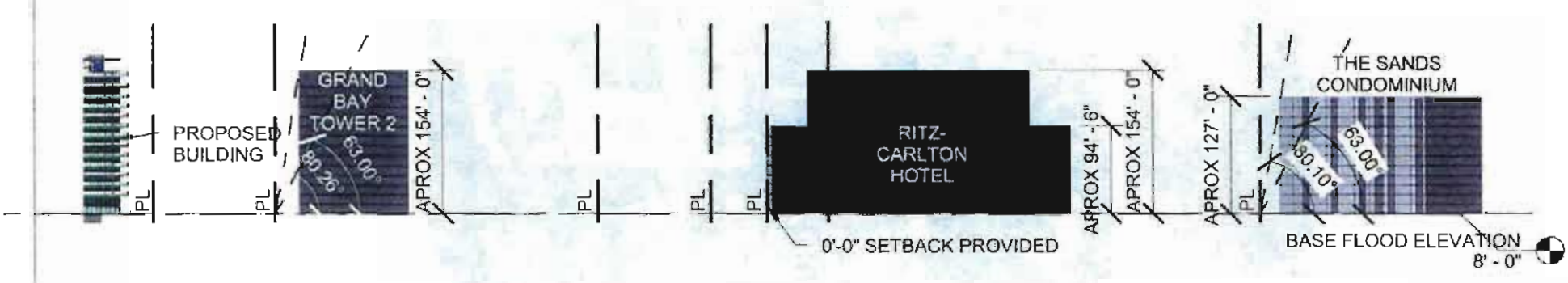
John K. Shubin, Esq.
For the firm

Enc.

cc: Stephen J. Helfman



1 SECTION 1
1" = 160'-0"



2 SECTION 2
1" = 160'-0"

ARQUITECTONICA
2900 Oak Avenue
Miami, Florida 33133
305.372.1812 TEL
305.372.1175 FAX
www.arquitectonica.com
AAC000465

PROJECT
PROPOSED SITE PLAN

PROJECT NO: 2793
SHEET NAME: ADJACENT BUILDINGS SECTIONS STUDY

DATE: 06/22/11

DRAWING
SK062211-6

OVERALL ADJACENT BUILDINGS SITE PLAN
1" = 300'-0"

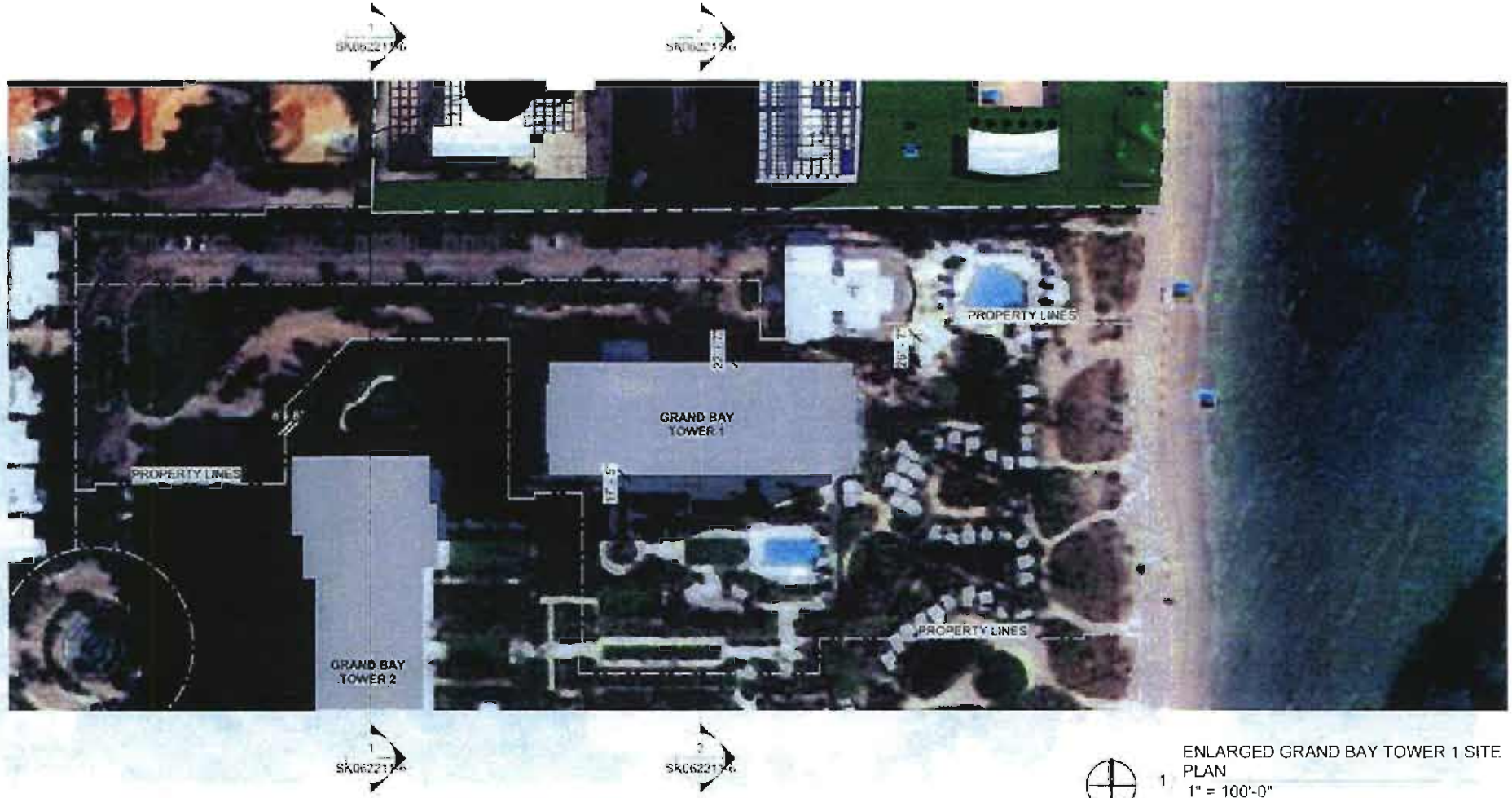
ARQUITECTONICA

PROJECT
PROPOSED SITE PLAN

PROJECT NO 2795
SHEET NAME OVERALL ADJACENT PROPERTIES SITE PLAN

0' 100 200 400

DATE 7/1/2011 9:43:25 AM
DRAWING
SK062211-1



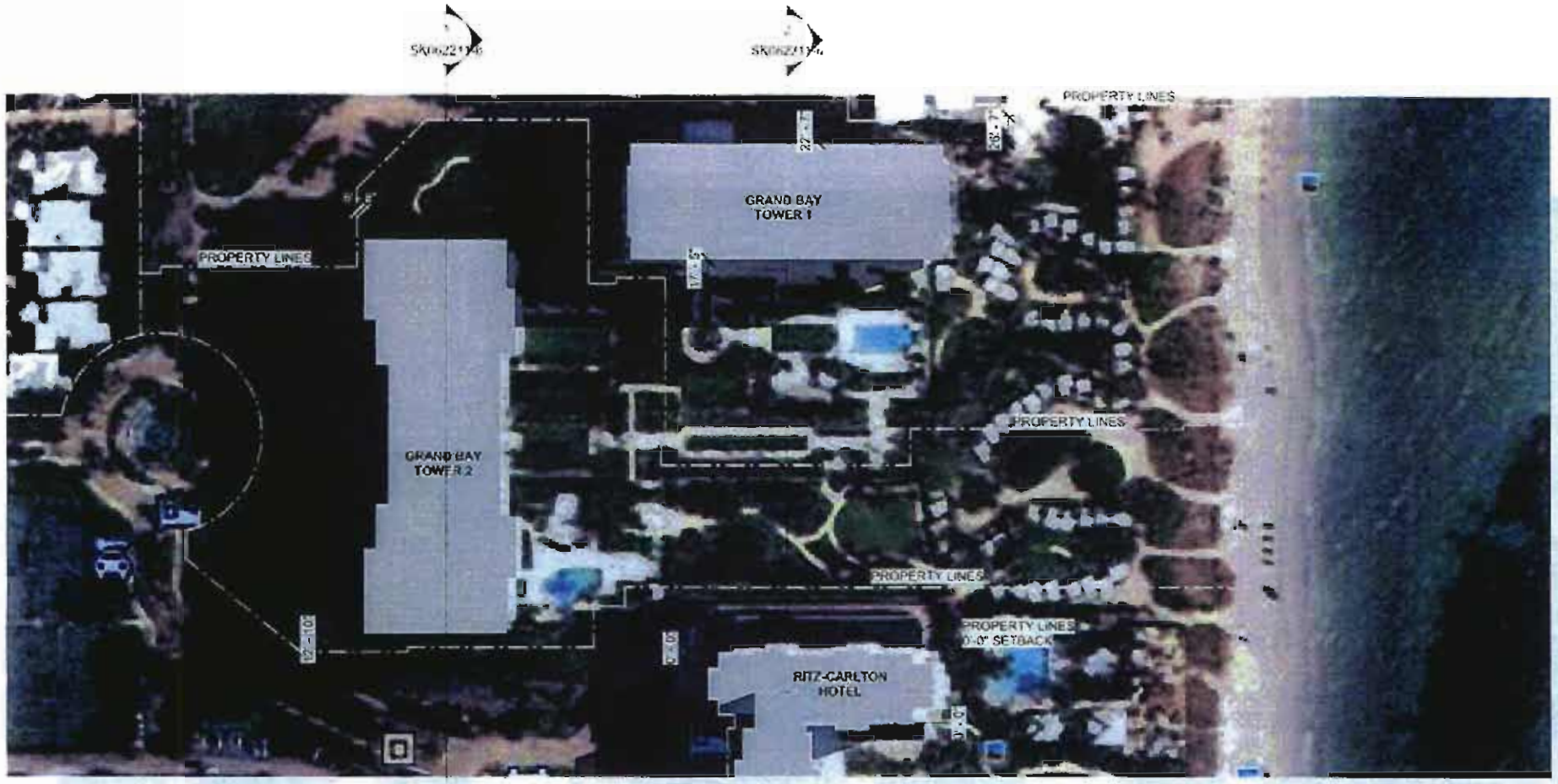
1 ENLARGED GRAND BAY TOWER 1 SITE PLAN
1" = 100'-0"

ARQUITECTONICA

PROJECT
PROPOSED SITE PLAN

PROJECT NO 3799
SHEET NAME GRAND BAY TOWER 1 SITE PLAN

DATE 7/1/2011 9:44:00 AM
DRAWING
SK062211-2



ENLARGED GRAND BAY TOWER 2 SITE PLAN
1" = 100'-0"

ARQUITECTONICA

PROJECT
PROPOSED SITE PLAN

PROJECT NO 2791
SHEET NAME GRAND BAY TOWER 2 SITE PLAN

DATE 7/7/2011 9:44:13 AM
DRAWING
SK062211-3

ENLARGED THE SNADS CONDOMINIUM SITE PLAN
1" = 100'-0"

ARQUITECTONICA

PROJECT
PROPOSED SITE PLAN

PROJECT NO 275
SHEET NAME THE SANDS CONDOMINIUM SITE PLAN

0' 50' 100' 200'

DATE 7/1/2011 9:44:23 AM
DRAWING
SK062211-4

CECELIA WARD AICP
PRESIDENT
JC CONSULTING, INC.

MEMORANDUM

TO: Ms. Amy Huber, Esquire
Shubin & Bass

FROM: Cecelia Ward, AICP
JC Consulting, Inc.

RE: Planning and Zoning Analysis and Findings Regarding the Application for Side Yard Variances for Redevelopment of 350 Ocean Drive, Key Biscayne, Florida - on Behalf of Consultatio Key Biscayne, LLC

DATE: July 23, 2011

The following provides a planning and zoning analysis and findings of consistency with the criteria for granting approval of two Variances from Section 30-103 (b) for each side setback of the proposed multifamily residential building (the "Project"), as requested for the redevelopment of 350 Ocean Drive, Key Biscayne, Florida (the "Subject Property") on behalf of Consultatio Key Biscayne, LLC., the applicant.

A review of the following documents has been performed for reference and as a foundation of the findings provided herein:

1. The Village of Key Biscayne Master Plan, as amended through Dec.9, 2008
2. Village of Key Biscayne Zoning and Land Development Regulations (Chapter 30)
3. Information provided by Shubin & Bass, P.A, prepared by Arquitectonica, including: Adjacent Property Setback Analysis dated July 2, 2011 and Project Summary Data and Comparison Sheet, dated July 13, 2011.

I. Summary of Findings:

1. The Variances requested for relief from the side yard setbacks, as required per Section 30-103 (b), to allow for base angles of 79 degrees on the North and South sides of the Project, where a maximum base angle of 63 degrees is allowed, would result in an opportunity for development of the Subject Property in a manner that is:
   - ***a.*** consistent with the intent of the City's Zoning and Land Development Regulations;
   - ***b.*** compatible with the character of existing development of the surrounding area; and
   - ***c.*** consistent with the Village of Key Biscayne Master Plan (Comprehensive Plan).
2. The request is also consistent with the criteria for granting the desired Variances, as required per Section 30-63 of the Village of Key Biscayne Zoning and Land Development Regulations (Chapter 30), as further described herein.

II. Basis of Findings:

A. Site Irregular Shape and Constraints on Placement of Buildings:

There are several unique circumstances that are specific to the Subject Property that warrant the side yard variances, as requested.

The irregular configuration of the Subject Property is challenging for determining the front, side or rear yards of the property and for citing the placement of buildings in relation to the surrounding uses. The site has an "L" shape, made up of 2 parcels, with *short* frontages on Sonesta Drive and Ocean Drive.

Section 30-109 (1), Determination of Yards, grants discretion to the Director of Building, Zoning and Planning the ability to make the determination of front, side and rear yards based on "***the pattern of development in the vicinity of the lot*** and the platting of the lots in question."

Making use of this section, the Director has made a determination that:

- the ocean side of the Subject Property is the "rear" of the property;
- the west property line the "front" of the property, adjacent to the rear yard of the adjacent single family residential dwellings; and
- the side yards are on the north and south property lines, adjacent to the multifamily and resort uses, and the subject of this Variance request.

There are also limitations in how far east the buildings may be located on the Subject Property. Approximately one-third of the property is located east of the Coastal Construction Control Line (CCCL) yards. That portion of the property which is located east of the CCCL may be counted for purposes of density and intensity calculations, but no habitable space may be built east of the CCCL.

B. Providing for Greater Setbacks Adjacent to Single Family Residential Area:

A key design element of the proposed site plan for the Subject Property is the provision of a ***much greater front yard setback*** to be provided on the west side of the property, adjacent to existing single family dwellings. A ***390 foot setback*** is proposed along the west side (front yard) of the Subject Property, ***where only a maximum of 50 foot front yard setback is required.***

A deviation from the base angle of 63 degrees is necessary in order to provide for this greater setback and still be able to achieve the density for Multifamily Residential development, as permitted by the Village (HR) Zoning District and by the (MF-ORH) Future Land Use designation, in a manner that is compatible with the pattern of multifamily and resort development within the surrounding area.

III. Compliance with Section 30-63 Variance Criteria:

The following describes how the requested Variances comply with all of the criteria contained within the provisions Section 30-63 Variance Procedures (a) Variance Criteria: (1) and (2):

Section 30-63 sets forth the following criteria for granting approval of the desired Variances:

> *(a) Variance criteria:* Subject to the exceptions states in subsection (b) of this Section 30-63, a Variance may be granted upon a finding that the desired Variance and the petition in support thereof meet the following criteria:
>
> (1) The Variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and the general welfare, stability and appearance of the community will be protected and maintained; and
>
> (2) The Variance will be compatible with the surrounding land Uses, and otherwise consistent with these Regulations and the Comprehensive Plan, and will not be detrimental to the community.

STATEMENTS OF COMPLIANCE:

1. ***The Variances will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations.***

   The requested Variances provide a reasonable side yard setback that is consistent with the base angles provided on adjacent properties with similar uses. As demonstrated in the adjacent property setback analysis prepared by Arquitectonica, the pattern of adjacent multifamily and hotel resort buildings is similar to the request, providing for an 80 degree base angle.

2. ***The Variances requested are beneficial to the general welfare, and help to ensure that the stability and appearance of the community will be protected and maintained.***

   The Project includes more than a 390 foot setback on the west side (front side yard), adjacent to the existing single family area. This proposed setback is 340 feet ***greater*** than the maximum 50 foot front yard setback required in the HR Zoning District by Section 30 -103 of the Code.

   The Variances requested will result in a Project that provides for a much greater setback from the single family area to the west of the Subject Property, which is beneficial to the general welfare of that area as it helps to ensure the stability and appearance of the Holiday Colony Subdivision.

3. ***The Variances are compatible with the surrounding land Uses, and otherwise consistent with these Regulations and the Comprehensive Plan.***

The ability to provide a greater setback from the single family area is contingent upon the ability to obtain relief from the side yard setbacks so as to achieve the density necessary to support multifamily development of the Subject Property, consistent with the MF-ORH land use designation of the Subject Property.

The Variances requested are for the north and south sides of the Subject Property, facing multifamily high rise and resort uses that are similar in density, height, and setbacks as the proposed Project.

As further illustrated in the adjacent property analysis prepared by Arquitectonica, these neighboring properties provide base angles of up to 80 degrees, which is compatible with the request for a 79 degree base angle for the Project.

As such, the granting of the Variances will result in greater protection of the residential single family character of existing development to the west of the Subject Property, while simultaneously allowing multifamily development on that is compatible with the existing pattern of the surrounding multifamily and resort development.

As such, the Variances advance the purpose and intent of the Village Zoning and Land Development Regulations and the Village Master Plan (Comprehensive Plan), by promoting multifamily development in the HR Zoning District and by protecting the community character of the area, as expressed in Goal 1 and Objective 1.1 of the Future Land Use Element of the Village Master Plan.

> Village of Key Biscayne Zoning and Land Development Regulations - Purpose and Intent of the HR Zoning District: "to ***promote*** the development of ocean resort hotels **and *multiple family residences.***"
>
> Village of Key Biscayne Master Plan - Future Land Use:
>
> **Goal 1 Achieve the Following Community Character:**
> *Key Biscayne should be a residential community.*
> *Development policies should protect residential character.*
>
> **Objective 1.1 Future Land Use Categories**
> *Maintain existing development and achieve new development and redevelopment which is consistent with the community character statement articulated as Goal 1.*

4. ***The Variance will not be detrimental to the community.***

The Variance will be to the benefit of the community as the Variances will allow for placement of the proposed buildings on the Subject Property with a much greater setback from the adjacent single family area to the west, than would otherwise be required by the code, and with side yards that are comparable to the existing pattern of surrounding multifamily and resort development.

LAW OFFICES
SHUBIN & BASS
PROFESSIONAL ASSOCIATION

Via Hand Delivery

July 22, 2011

Mr. Jud Kurlancheek, AICP
Building, Zoning & Planning Director
Village of Key Biscayne
85 West McIntyre Street
Key Biscayne, Florida 33149

Re: Variance Application for 350 Ocean Drive, Key Biscayne, Florida

Dear Mr. Kurlancheek:

Please accept this correspondence and the enclosed variance application (the "variance application") for the redevelopment of 350 Ocean Drive, Key Biscayne, Florida (the 'Subject Property") on behalf of Consultatio Key Biscayne, LLC. Pursuant to your recent review, you advised Consultatio that development of the Proposed Project (submitted to you on July 15, 2011) will require a variance from Section 30-112 (h) a of the Village Zoning Code.

Documentation & Studies

In support of this variance application, we are submitting renderings, comparison of adjacent rooftop structures, and a line of site study.

Variance Request

Pursuant to Section 30-63 of the Village Zoning Code, Consultatio is requesting a variance from Section 30-112 (h) a, which requires that " the maximum Floor Area of any rooftop Structures listed above is limited to ten percent of the roof area of the entire Building." The project as proposed is seeking to cover approximately thirty-eight (38) percent of the roof area as depicted in the attached documents.

The roof area includes the elevator bulkheads, cooling towers, mechanical equipment, and six (6) swimming pools for the penthouse unit owners. Consultatio maintains that the swimming pools are not "rooftop Structures" as that term is identified in Section 30-112 (h) of

46 S.W. 1st Street, 3rd Floor, Miami, FL 33130 Ph: 305•381•6060 Fx: 305•381•9457 www.shubinbass.com

the Village Code. With respect to the rooftop structures identified in Section 30-112 (h), these roof top structures will be completely screened with a landscaped trellis and will not be viewed by the public in compliance with the Zoning Code and as illustrated in the attached rendering and line of site study.

Section 30-63 states that a variance may be granted upon a finding that the desired Variance meets the following criteria:

1. The Variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and that the general welfare, stability and appearance of the community will be protected and maintained.

   Response:

   The variance as requested is consistent in all material respects with the intent and purpose of these Regulations. As demonstrated in the attached adjacent property rooftop analysis, the neighboring properties all provide for rooftop structures well in excess of ten percent. The general welfare, stability and appearance of the community will be protected and maintained in that the all of the rooftop Structures are completely screened and will not be able to be seen from the street.

2. The Variance will be compatible with the surrounding land Uses, and otherwise consistent with these Regulations and Comprehensive Plan, and will not be detrimental to the community.

   Response:

   The variance is compatible with the surrounding properties and is consistent with the Regulations and Comprehensive Plan in that the variance is similar to the neighboring properties as depicted in the adjacent property rooftop analysis. The Variance will not be detrimental to the community as it will not be seen from the street and will not any of the surrounding properties. The Proposed Project complies with all of the provisions of Section 30-112 (h) a., including the maximum height restriction for rooftop strictures.

In summary, the Variance request is consistent and compatible with the surrounding properties and maintains the general welfare, stability and appearance of the community.

Notwithstanding the filing of this application, Consultatio reserves all rights, approvals and permits to construct the development approved through Village of Key Biscayne

Resolution 2007-16 (the "Approved Project"). The submission, processing and approval of this application shall not be construed as a waiver of its existing rights to develop the Approved Project.

Consultatio renews its commitment to move forward with the proposed Project in lieu of the Approved Project, provided that the proposed Project is reviewed and approved in a timely manner and not subject to an appeal.

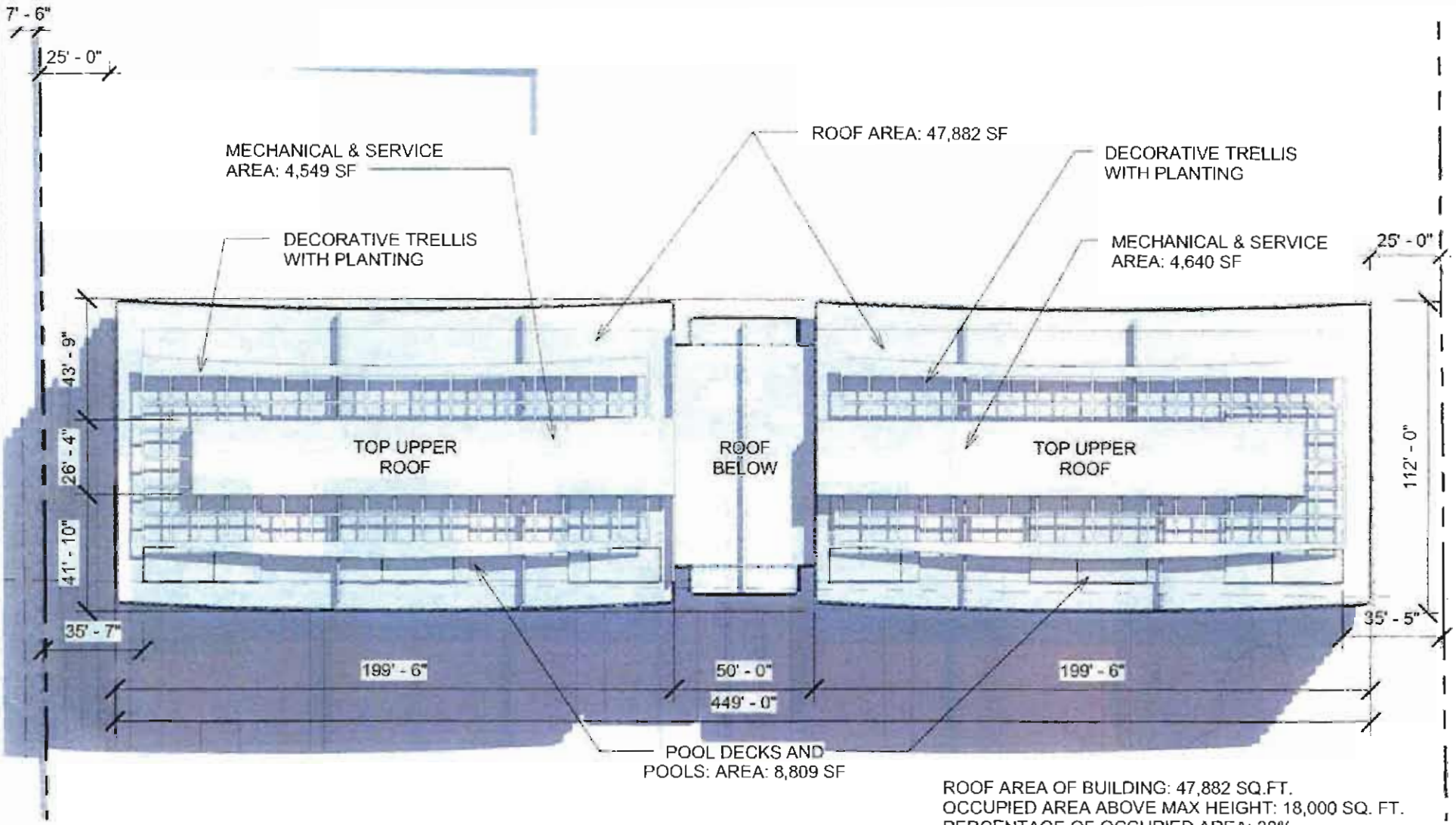
We look forward to working with the Village as we process these applications. As always, please feel free to contact me with any questions regarding this correspondence or its enclosures.

Sincerely,

John R. Shubin, Esq.
For the firm

Enc.

cc: Stephen J. Hellman, Esq.



ROOF AREA OF BUILDING: 47,882 SQ.FT.
OCCUPIED AREA ABOVE MAX HEIGHT: 18,000 SQ. FT.
PERCENTAGE OF OCCUPIED AREA: 38%

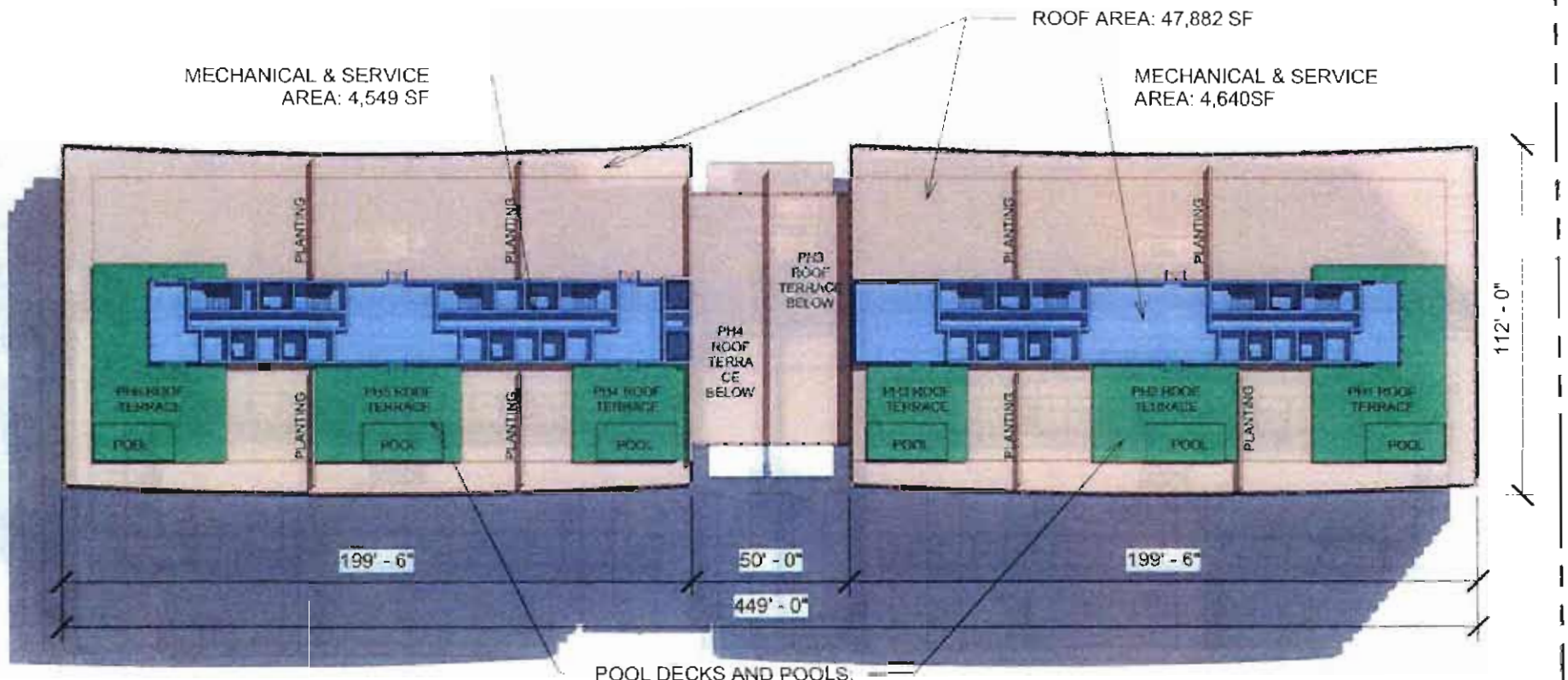
1 SITE PLAN
1" = 50'-0"

ARQUITECTONICA
2900 Oak Avenue
Miami, Florida 33133
305.372.1812 TEL
305.372.1175 FAX
www.arquitectonica.com
AAC000465

PROJECT
PROPOSED SITE PLAN

PROJECT NO: 2793
SHEET NAME: ROOF PLAN OCCUPATION STUDY

DATE: 07/21/11
DRAWING
SK072111-2



1 ROOF PLAN
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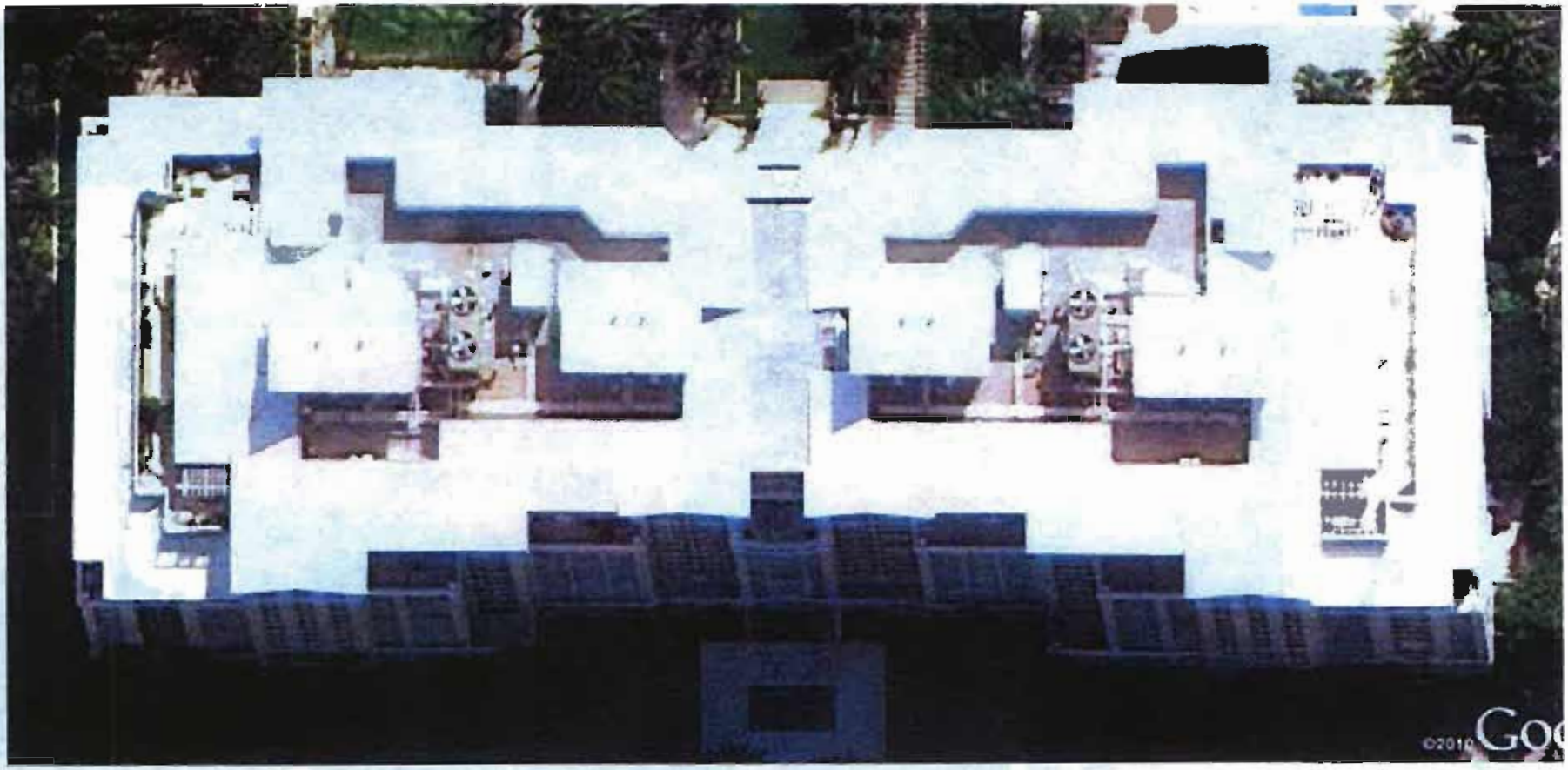
PROJECT NO: 2793
SHEET NAME: ROOF PLAN OCCUPATION STUDY

DATE: 07/21/11
DRAWING
SK072111-1

GRAND BAY ROOF (TOWER 1)



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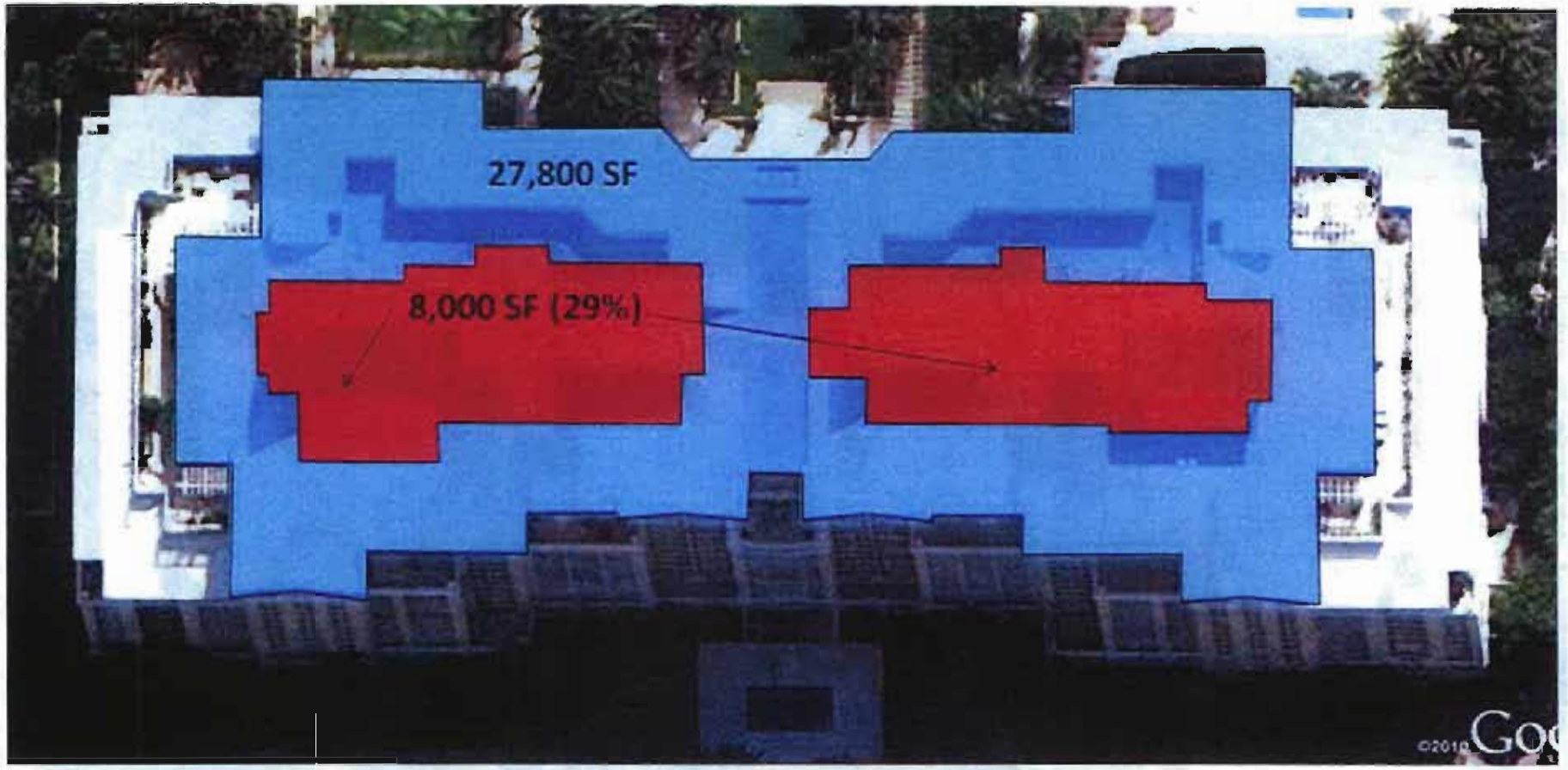
PROJECT
PROPOSED SITE PLAN

PROJECT NO: 2793
SHEET NAME: GRAND BAY ROOFTOP STRUCTURES STUDY

DATE: 07/22/11
DRAWING
SK072111-5

GRAND BAY ROOF (TOWER 1)



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PROJECT
PROPOSED SITE PLAN

PROJECT NO: 2793
SHEET NAME: GRAND BAY ROOFTOP STRUCTURES STUDY

DATE: 07/22/11
DRAWING
SK072111-6

GRAND BAY ROOF (TOWER 2)

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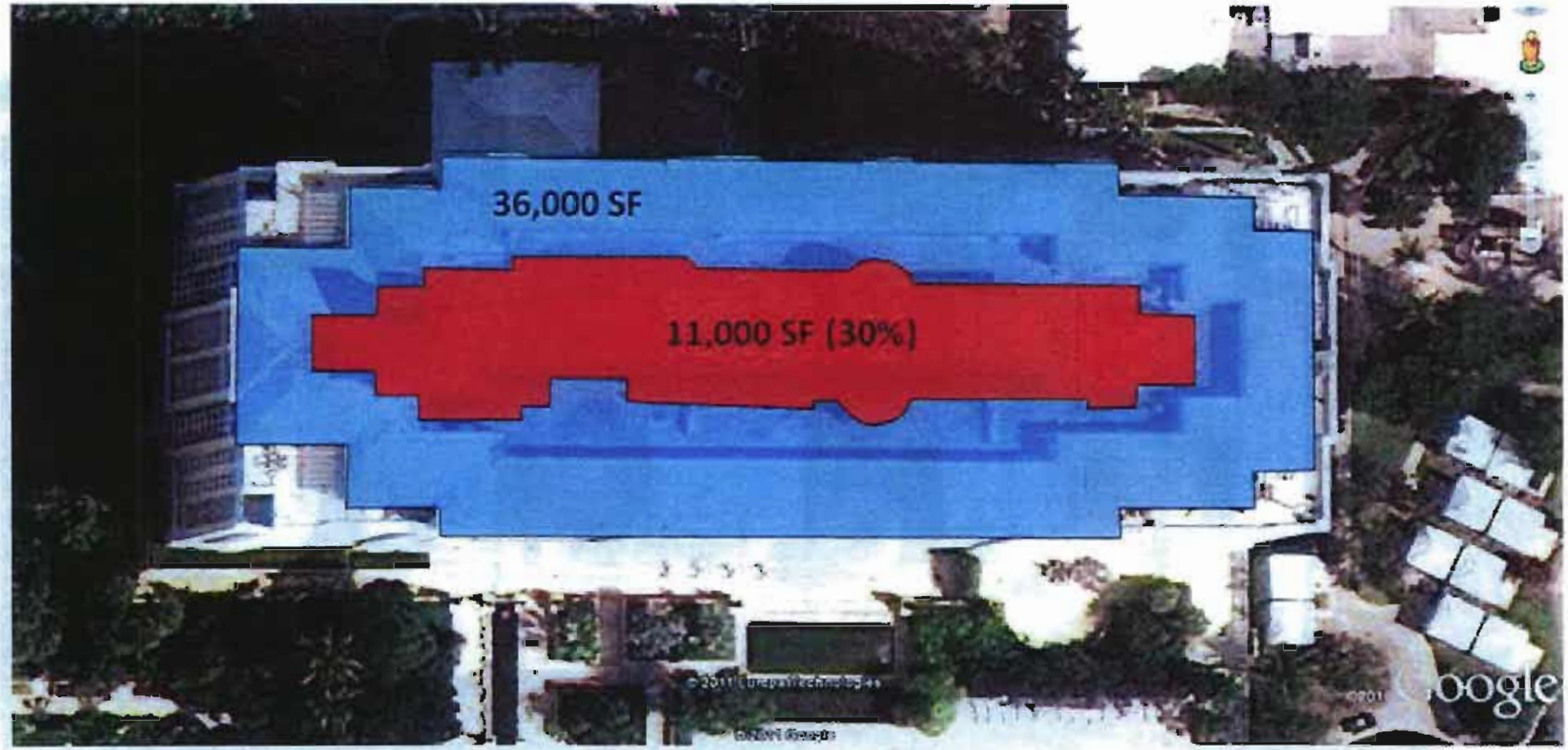
PROJECT
PROPOSED SITE PLAN

PROJECT NO: 2793
SHEET NAME: GRAND BAY ROOFTOP STRUCTURES STUDY

DATE: 07/22/11
DRAWING
SK072111-3

GRAND BAY ROOF (TOWER 2)



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PROJECT
PROPOSED SITE PLAN

PROJECT NO: 2793
SHEET NAME: GRAND BAY ROOFTOP STRUCTURES STUDY

DATE: 07/22/11
DRAWING
SK072111-4

CECELIA WARD AICP
PRESIDENT
JC CONSULTING, INC.

MEMORANDUM

TO: Ms. Amy Huber, Esquire
Shubin & Bass

FROM: Cecelia Ward, AICP
JC Consulting, Inc.

RE: Planning and Zoning Analysis and Findings Regarding the Application for a Variance from Section 30-112 (h) a., of the Village Zoning Code, Maximum Floor Area of Rooftop Structures

DATE: July 26, 2011

The following provides a planning and zoning analysis and findings of consistency with the criteria for granting approval of a Variance from Section 30-112 (h) a., regarding the maximum amount of floor area that is permitted by the Code for rooftop structures for the proposed multifamily residential building (the "Project"), as requested for the redevelopment of 350 Ocean Drive, Key Biscayne, Florida (the "Subject Property") on behalf of Consultatio Key Biscayne, LLC., the applicant.

A review of the following documents has been performed for reference and as a foundation of the findings provided herein:

1. The Village of Key Biscayne Master Plan, as amended through Dec.9, 2008
2. Village of Key Biscayne Zoning and Land Development Regulations (Chapter 30)
3. Information provided by Shubin & Bass, P.A, prepared by Arquitectonica, including: Adjacent Rooftop Analysis dated July 22, 2011.

I. Summary of Findings:

1. The Variance request for relief from the maximum floor area for rooftop structures, as provided in Section 30-112 (h) a., to allow for a maximum rooftop coverage of thirty-eight (38%) percent, where a maximum of ten (10) 10% is permitted by the code, would result in an opportunity for development of the Subject Property in a manner that is:
   - ***a.*** consistent with the intent of the City's Zoning and Land Development Regulations;
   - ***b.*** compatible with the character of existing development of the surrounding area; and
   - ***c.*** consistent with the Village of Key Biscayne Master Plan (Comprehensive Plan).
2. The request is also consistent with the criteria for granting the desired Variance, as required per Section 30-63 of the Village of Key Biscayne Zoning and Land Development Regulations (Chapter 30), as further described herein.

II. Basis of Findings:

Section 30-112 (h) provides for a list of rooftop structures that are exempt from the height regulations in a zoning district. Subsection "a." limits the maximum percent of any of the rooftop structures provided in this list to a maximum ten (10%) percent of the roof area of an entire building. The intent of such rooftop restrictions is to reduce the potential impact in appearance from mechanical equipment, including elevator bulkheads, cooling towers, and the like, so as to reduce the potential visual impact that could otherwise be created by such rooftop structures.

A. Proposed Luxury Condominium Warrants Rooftop Structures

The Variance requested is necessary to accommodate private elevators and private penthouse pools, which are customarily, associated with newer, luxury condominium developments, such as the Mosaic and the W South Beach Luxury Condominiums located in Miami.

The rooftop area also includes other necessary and functional rooftop structures, such as cooling towers and mechanical equipment. The elevator bulkheads, cooling towers and mechanical equipment account for 19% rooftop coverage.

The six (6) rooftop swimming pools proposed for the penthouse unit owners, account for an additional 19% rooftop coverage.

B. Compliance with All Other Rooftop Structure Provisions of the Code

A significant amount of rooftop screening will be provided in the form of a landscaped trellis to ensure that the rooftop structures are not visible from the street, as required by Section 30-112 (h) of the Code.

Additionally, the Project complies with all other provisions of Section 30-112 (h), including compliance with the maximum height restrictions for such rooftop structures.

III. Compliance with Section 30-63 Variance Criteria:

The following describes how the requested Variance complies with all of the criteria contained within the provisions Section 30-63 Variance Procedures (a) Variance Criteria: (1) and (2):

Section 30-63 sets forth the following criteria for granting approval of the desired Variance:

> *(a) Variance criteria:* Subject to the exceptions stated in subsection (b) of this Section 30-63, a Variance may be granted upon a finding that the desired Variance and the petition in support thereof meet the following criteria:
>
> (1) The Variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and the

general welfare, stability and appearance of the community will be protected and maintained; and

(2) The Variance will be compatible with the surrounding land Uses, and otherwise consistent with these Regulations and the Comprehensive Plan, and will not be detrimental to the community.

STATEMENTS OF COMPLIANCE:

1. ***The Variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations.***

   The requested Variance allows a reasonable percentage for rooftop coverage to accommodate structures that are necessary to the function and design of a luxury condominium, in a manner that is consistent with the rooftop percentage of structures provided for adjacent properties with similar uses. As demonstrated in the adjacent property rooftop analysis prepared by Arquitectonica, neighboring multifamily and hotel resort buildings provide for rooftop structures well in excess of the ten percent maximum.

   The Proposed Project also complies with all other provisions of Section 30-112 (h) a., including the maximum height restriction and screening of rooftop structures.

2. ***The Variance is beneficial to the general welfare, and help to ensure that the stability and appearance of the community will be protected and maintained.***

   The rooftop landscaped trellis has been designed to provide extensive screening of the rooftop structures and thereby ensure that the appearance of the community is protected and maintained.

3. ***The Variance is compatible with the surrounding land Uses, and otherwise consistent with these Regulations and the Comprehensive Plan.***

   The Variance is compatible with the pattern of development of surrounding properties. As illustrated in the adjacent property rooftop analysis prepared by Arquitectonica, neighboring multifamily and resort developments provide areas encompassing rooftop structures well in excess of the ten percent maximum

   The Variance advances the purpose and intent of the Village Zoning and Land Development Regulations and the Village Master Plan (Comprehensive Plan), by promoting multifamily development in the HR Zoning District and by protecting the community character of the area, as expressed in Goal 1 and Objective 1.1 of the Future Land Use Element of the Village Master Plan.

Village of Key Biscayne Zoning and Land Development Regulations - Purpose and Intent of the HR Zoning District: "to ***promote*** the development of ocean resort hotels **and *multiple family residences.***"

Village of Key Biscayne Master Plan - Future Land Use:

Goal 1 Achieve the Following Community Character:
Key Biscayne should be a residential community.
Development policies should protect residential character.

Objective 1.1 Future Land Use Categories
Maintain existing development and achieve new development and redevelopment which is consistent with the community character statement articulated as Goal 1.

4. The Variance will not be detrimental to the community.

The Variance will be to the benefit of the community as it will allow for rooftop structures to accommodate private elevators and private penthouse pools, as well as other functional mechanical equipment, necessary to support the development of the Subject Property for a luxury condominium, in a manner that is consistent with the rooftop coverage that exists on similar neighboring properties, and with the inclusion of landscape trellis to provide extensive rooftop screening so as to ensure that there are no visual impacts.

KEY PLAN

PROPOSED SITE PLAN
350 OCEAN DRIVE

CONSULTATED KEY BISCAYNE LLC

ARQUITECTONICA

PROPOSED SITE PLAN SET

ISSUE #	DESCRIPTION	DATE

ROOF EQUIPMENT - LINE OF SIGHT

A7.2