MINUTES

ZONING MEETING
KEY BISCAYNE, FLORIDA

MONDAY, APRIL 16, 2007

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Vice Mayor at 7:05 p.m. Present were Councilmembers Michael W. Davey, Steve Liedman, Thomas Thornton, Patricia Weinman and Vice Mayor Jorge E. Mendia. Absent were Councilmember Enrique Garcia and Mayor Robert L. Vernon. Also present were Village Manager Jacqueline R. Menendez, Village Clerk Conchita H. Alvarez and Village Attorney Stephen P. Helfman.

2. **PLEDGE OF ALLEGIANCE:** Mr. Charles Viscito led the Pledge of Allegiance.

3. **AGENDA:** There were no changes to the agenda.

4. **APPROVAL OF MINUTES:** The Clerk brought to the Council's attention an error on the recorded vote on page 4 of the minutes. Councilmember Liedman made a motion to approve the minutes of the April 10, 2007 Regular Council meeting as amended. The motion was seconded by Councilmember Davey and approved by a 5-0 voice vote. The vote was as follows: Councilmembers Davey, Liedman, Thornton, Weinman and Vice Mayor Mendia voting Yes.

5. **BUILDING, ZONING AND PLANNING:** All witnesses giving testimony in the public hearing were sworn in by the Clerk.

Hearing Number SP 17. SBR - Fortune Associates, LLLP, 350 Ocean Drive, the applicant, is requesting approval of a site plan that provides for 165 units in four apartment buildings and related accessory uses.

The Manager and Director Kurlancheek addressed the Council recommending that the Village Council approve the site plan for a 165 unit apartment project. This recommendation is subject to the following conditions: 1. Pursuant to policy 1.4.1 (1) (B) of the Village of Key Biscayne Master Plan and the Land Development Regulations. This approval is subject to the condition that the necessary parks and recreation facilities of 2.5 acres per 1,000 permanent population are in place and available either: 1) prior to the issuance of the first Certificate of Occupancy; 2) or construction of the facilities may begin up to one year after the issuance of the Certificate of Occupancy if the facilities are subject to a binding executed contract for the construction of the facilities to be completed within one year of the time the certificate of occupancy is issued; 2. A detailed Landscape Plan for the project for all site landscaping shall be approved by the Village Building, Zoning, and Planning Director prior to the issuance of the first building permit for a principal building; 3. A detailed Sidewalk and Walkway Master Plan with finishes shall be approved by the Village Building, Zoning, and Planning Director prior to the issuance of the first building permit for a principal building; 4. The Applicant shall construct a 16 inch water main on the Applicant's property pursuant to regulatory standards and easements; 5. The Applicant shall provide written documentation from the appropriate regulatory agencies that domestic water and fire protection needs have been satisfied. This documentation shall be approved by the Village prior to the issuance of a building permit; 6. The Applicant shall grant the Village, as shown on the approved site plans, an improved 25 ft. wide public dedicated beach access easement, in a form acceptable to the Village Attorney, on the north side of the property from Ocean Drive to the public beach prior to the issuance of the first Certificate of Occupancy. Improvements in said easement shall be constructed and maintained by the Applicant pursuant to plans approved by the Village Building, Zoning, and Planning Director; 7. The Applicant shall grant to the Village, as shown on the approved site plans, a improved 25 ft. wide public dedicated beach access easement, in a form acceptable to the Village Attorney, on the south side of the property from the East Heather property line to the public beach prior to the issuance of the first Certificate of Occupancy. Improvements in said easement shall be constructed and maintained by the Applicant pursuant to plans approved by the Village Building, Zoning, and Planning Director; 8. As shown on the Site Plans, the Applicant shall grant to the Village an improved dedicated easement guaranteeing perpetual public access over an area varying from 75 – 100 ft. wide (the intent being to provide the maximum amount of public access reasonably feasible), in a form acceptable to the Village Attorney, on the west side of the property from Sonesta Drive to East Enid Drive prior to the issuance of the first Certificate of Occupancy. Improvements in said easement shall be constructed and maintained by the Applicant pursuant to plans approved by the Village Building, Zoning, and Planning Director; 9. The Applicant shall construct a six foot high CBS wall containing sound buffering and absorbing materials generally along the west property line. In addition, a gate shall be provided to each property owner abutting such wall should the owner request a gate the archway over said gate may reach a maximum height of eight (8) feet; 10.

The Applicant shall reconstruct the improvements, including sidewalk, paving, drainage, and landscaping on Sonesta Drive and Ocean Dr from the project main entrance to Crandon Boulevard. The design of such improvements shall be approved by the Village Building, Zoning, and Planning Director no later than the last Village Council meeting in December 2007 and the owner shall construct the improvements prior to the issuance of the final Certificate of Occupancy for the first building completed; 11. During the period of construction, Sonesta Drive shall be primarily used for construction vehicles, deliveries, guests, and employees as the means of accessing the project. The Village Manager may authorize the use of East Heather Drive on those occasions when Sonesta Drive can not reasonably be used; 12. During the period of demolition and construction, an eight ft. high construction fence with dust screening shall be erected along each property boundary prior to the issuance of the first demolition permit and shall remain in place until the first Certificate of Occupancy is issued or other perimeter fences or walls are erected. Said fence may be temporarily moved or removed to allow for construction of improvements or landscaping to be placed along the property lines as required by the approved plans or these conditions; 13. If the Village Council should find that the westerly 50 ft. of the Ocean Drive right of way is not necessary for right of way purposes after a duly noticed and properly conducted public hearing (the "Excess Right of Way") and decides to vacate the Excess Right of Way within 6 months of the Site Plan approval, the applicant agrees to develop the property substantially in accordance with the Alternate Site Plan for "Sonesta Resort" prepared by Glover Smith Bode Inc.: dated 3/29/07 and last revised April 13, 2007, (the "Alternate Site Plans"), which are hereby conditionally approved as part of this Site Plan approval. As shown on the Alternate Site Plans the applicant agrees to increase the westerly tower setbacks to 100 feet and increase the width of the westerly public access easement on the northerly 300 feet of the property; 14. Whenever the term "substantially in accordance with" or "substantially in compliance with" is used in this Resolution or any voluntary covenant or agreement, said determination shall be made by the Building, Zoning, and Planning Director in his/her reasonable discretion; 15. The elevations presented on pages A7.0 and A7.1 shall be used for the project.

Steve Sonnabend, Coconut Lane, President; Edgardo Defortuna, 760 Harbor Drive, President of Fortune; Carter McDowell, with Bilzin Sumberg Baena Price Axelrod LLP, Attorney representing the applicant and Architect Ryan Eschelman with Glover, Smith, Bode, Architects made a presentation to the Council.

The applicant proffered a Voluntary Covenant which provides for the applicant to contribute the following to the Village: $7,000,000 for open space and recreation; $1,500,000 towards the Community Center, and $1,500,000 primarily for sewers in Holiday Colony.

Councilmember Liedman made a motion to approve the site plan subject to the above mentioned conditions. The motion was seconded by Councilmember Weinman.

The Vice Mayor opened the public hearing. Alan Ojeda, 410 Island Drive; Arnold Munoz, 151 Crandon Boulevard; Inigo Ardid, 745 N. Mashta Drive; Leo Caraballo, 170 Ocean Lane Drive; Jose Rasco, Jr., 255 Galen Drive; Carlos Guinaud, 6 Turtle Walk; Hector Dasso, 735 Harbor Drive; Camille Guething, 260 Seaview Drive; Blanca Ceballos, 121 Crandon Boulevard; Adib Chartouni, 328 Crandon Boulevard; Dr. Robert L. Maggs, 155 Ocean Lane Drive; Cecile Sanchez, 260 Cypress Drive; Santiago Steed, 365 Harbor Drive; Carmen Nohelia Siddons, 55 Ocean Lane Drive; Ira M. Elegant with Buchbinder & Elegant, Miami and Harold Rosen, Attorneys for Julio A. Padilla and Sara Fulton, 325 and 335 Atlantic Road; Planner Jack Luft, Planner from Sanibel, Florida on behalf of Julio Padilla; Julio A. Padilla, 325 Atlantic Road; Mary Jo Pinedo, 365 Atlantic Road; Michael Kelly, 395 Gulf Road; Betty Sime Conroy, 785 Crandon Boulevard; Max Puyanic, 480 S. Mashta Drive; Carolina Tozzi, 325 Atlantic Road; John Petricola, 165 Buttonwood Drive; Karen Beber Futernick, 325 Pacific Road; Charles Viscito, 141 Crandon Boulevard; Sara Fulton 335 Atlantic Road and Bradley Newsom, 345 Pacific Road. The Vice Mayor closed the public hearing.

At 9:45 p.m. the Council took a recess. The meeting was reconvened at 9:55 p.m.

Mr. James Gran, P.E., Vice President of Civil Works, Inc. and Ramon Castella with 3CTS addressed the Council regarding the review of the Proposed Sonesta Key Biscayne Resort Traffic Impact Report.

There was extensive discussion from Council regarding the site plan and the voluntary covenant.

The Attorney addressed the Council regarding the site plan and the voluntary covenant.

Councilmember Thornton made a motion to extend the meeting to 11:30 p.m. The motion was seconded by Councilmember Davey and approved by a 5-0 voice vote. The vote was as follows: Councilmembers Davey, Liedman, Thornton, Weinman and Vice Mayor Mendia voting Yes.

It was the consensus of Council to add the following condition to the site plan approval: The restaurant(s), spa, and beach bar and grill within the development shall be accessible to the general public, subject to reasonable rules and regulations on access.

Councilmember Thornton made a motion to extend the meeting to 11:45 p.m. The motion was seconded by Councilmember Weinman and approved by a 5-0 voice vote. The vote was as follows: Councilmembers Davey, Liedman, Thornton, Weinman and Vice Mayor Mendia voting Yes.

The site plan and voluntary covenant were approved by a 5-0 roll call vote. The vote was as follows: Councilmembers Davey, Liedman, Thornton, Weinman and Vice Mayor Mendia voting Yes.

It was the consensus of Council to direct staff to bring before Council an ordinance addressing the regulation of condo-hotels and hotel only within the HR district.

6. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.

7. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was provided to the Council.

8. **ADJOURNMENT:** The meeting was adjourned at 11:45 p.m.

Respectfully submitted:

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Conchita H. Alvarez, CMC
Village Clerk

Approved this ___ day of May, 2007:

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Robert L. Vernon
Mayor

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.