Village of Key Biscayne

AGENDA

Hotel Resort Zoning District Workshop

Tuesday, January 16, 2007
7:00 p.m.

Council Chamber
560 Crandon Boulevard
Key Biscayne, Florida

VILLAGE OF KEY BISCAYNE

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

HOTEL RESORT ZONING WORKSHOP
TUESDAY, JANUARY 16, 2007

7:00 P.M.

1. **CALL TO ORDER/ROLL CALL OF MEMBERS**

2. **WRT HOTEL RESORT ZONING PRESENTATION**

3. **ADJOURNMENT**

I. ANY PERSON WISHING TO ADDRESS THE VILLAGE COUNCIL ON AN ITEM ON THIS AGENDA IS ASKED TO REGISTER WITH THE VILLAGE CLERK PRIOR TO THAT ITEM BEING HEARD. PRIOR TO MAKING A STATEMENT, PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

II. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS PROCEEDING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE VILLAGE CLERK, 88 WEST MCINTYRE STREET, KEY BISCAYNE, FLORIDA 33149, TELEPHONE NUMBER (305) 365-5506, NOT LATER THAN TWO BUSINESS DAYS PRIOR TO SUCH PROCEEDINGS.

III. 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 (F.S.286.0105).

IV. IN ACCORDANCE WITH VILLAGE CODE SECTION 2-161, ADOPTING SECTION 2-11.1(s) OF THE MIAMI-DADE COUNTY CODE, ANY PERSON ENGAGING IN LOBBYING ACTIVITIES, AS DEFINED THEREIN, MUST REGISTER AT THE VILLAGE CLERK'S OFFICE BEFORE ADDRESSING THE COUNCIL ON THE ABOVE MATTERS OR ENGAGING IN LOBBYING ACTIVITIES.

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VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Robert Oldakowski, *Mayor*
Robert L. Vernon, *Vice Mayor*
Enrique Garcia
Steve Liedman
Jorge E. Mendia
Thomas Thornton
Patricia Weinman

Village Manager
Jacqueline R. Menendez

DT: January 11, 2007

TO: Honorable Mayor and Village Council

FR: Jacqueline R. Menendez, Village Manager

RE: WRT Hotel Resort Zoning District Assessment

RECOMMENDATION

It is recommended that the Village Council discuss the WRT Hotel Resort Zoning District Assessment Report.

ANALYSIS

Should the Council wish to move forward on any of the WRT recommendations, then that direction can only occur at a Council meeting. The earliest Council meeting to consider that direction is at the January 23, 2007 meeting which follows the Sonesta Workshop. Should the Council direct staff to draft a zoning ordinance, staff would then initiate the public hearing process which includes a hearing before the Local Planning Agency and two public hearings before the Village Council. These meetings require public notice.

The attached table compares the current requirements, existing zoning regulations, Preserve Our Key Biscayne Proposal, and WRT recommendations.

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Village of Key Biscayne -- Hotel-Resort District Zoning District Analysis

Compararative Review

November 15, 2006

Requirement	Existing Zoning	POKB Proposal	WRT Recommendation
Intent	To promote the development of ocean resort hotels and multiple family residences.	Same as existing?	Village to clarify intent regarding "hotel condos," which is currently not a permitted use in this district.
Permitted Uses - as of right	Hotel, Apartment Building	Same as existing?	Dependent on Village decision regarding "hotel condos"
Permitted Uses - conditional	None	Same as existing?	Same as existing
Accessory Uses	Any use that is customarily associated with the main permitted uses (see Sec. 30-111)	Same as existing?	Same as existing
Prohibited Uses	Any use not listed as a main permitted use, conditional use, or accessory use (see Sec. 30-111)	Same as existing?	Same as existing
Minimum Lot Size	The site shall be subdivided as of the date of this ordinance	Same as existing?	Same as existing
Density/Intensity	**Hotel:** 30 units/ac, No development to exceed 350 hotel units. **Apartment building:** 16 units/ac. If a development contains hotel and apartment units, then the lot area which is counted toward one use cannot be counted towards the other use.	Same as existing	Same as existing
Floor Area Ratio	0.40, however oceanfront and bayfront buildings buildings that provide a 7.5 dedicated easement on each side of the property from the street to the beach shall use the following: **1 story:** 0.4 **2 stories**: 0.6 **3 stories:** 0.8 **4 stories**: 1.0 **5 stories:** 1.2 **6 stories:** 1.4 **7 stories:** 1.6 **8 stories:** 1.8 **9 stories +**: 2.0 The dedicated easement shall be counted in the FAR calculation. The easement shall be improved with landscaping and a hard paved surface. The improvement shall require approvaly by the BZ&P director prior to the issuance of a building permit and must be installed prior to the issuance of a C.O.	Same as existing	0.40, however oceanfront ~~and bayfront~~ buildings that provide a ~~7.5~~ 15 foot dedicated easement on each side of the property from the street to the beach shall use the following: **1 story:** 0.4 **2 stories**: 0.6 **3 stories:** 0.8 **4 stories**: 1.0 **5 stories:** 1.2 **6 stories:** 1.4 **7 stories:** 1.6 **8 stories:** 1.8 **9 stories +**: 2.0 ~~The~~ Each dedicated easement shall be counted in the FAR calculation. The easements shall be improved with landscaping and a hard paved surface capable of accommodating emergency vehicle access. The improvement shall require approvaly by the BZ&P director prior to the issuance of a building permit and must be installed prior to the issuance of a C.O. Dedicated easements on other sides of the property shall not grant additional FAR, but shall comply with the above stated requirements.
Lot Coverage	0.4	Same as existing	Same as existing
Maximum Building Height	150 ft.	~~150~~ 80 ft. However additional height to a maximum of 120 ft. may be allowed at a rate of 1 foot in height for additional foot of baseline setback adjacent to the lower density residentially zoned land.	Same as existing. However, the maximum height for any portion of a building located within 100 feet of the lot line of property zoned for single family residential use shall be 35 ft.
Maximum Building Length	None	None	The maximum length of any individual structure on a development site shall be 150 feet.
Distance Between Buildings	None	None	The minimum distance between buildings on a development site shall be 50 feet, measured from the outer edge of any balcony or projection.
Required Yards/Setbacks	**Front:** 25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft. **Side:** 25 ft. minimum (however no portion of a 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). Side setbacks shall be measured from the dedicated easement as required in the floor area ratio calculations. **Rear:** 25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.	**Front:** 25 ft. + ~~5~~ 10 ft. step back per floor above the first floor but not to exceed ~~50~~ 80 ft. Except that where adjacent to lower density residentially zoned property, the minimum setback is 100 ft. + 5 ft. step backs per floor not to exceed 150 ft. **Side:** 25 ft. minimum - but 100 feet where adjacent to lower density residentially zoned property (however no portion of a 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). Side setbacks shall be measured from the dedicated easement as required in the floor area ratio calculations. **Rear:** 25 ft. + ~~5~~ 10 ft. step back per floor above the first floor but not to exceed ~~50~~ 80 ft. Except that where adjacent to lower density residentially zoned property, the minimum setback is 100 ft. + 5 ft. step backs per floor not to exceed 150 ft.	To ensure clarity and avoid ambiguity in the application of setbacks to the property line conditions found in the HR zoning district, where the definition of such may be subject to interpretation pursuant to Section 30-109 of the Land Development Code, the following represents our recommendation for the treatment of setbacks. (Refer to Figure X for a key): **A:** 25-foot minimum. **B:** 25-foot minimum. However, no portion of a 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. Where an easement has been dedicated along B (see Floor Area Ratio calculations), the setbacks shall be measured from the dedicated easement. **C:** 25-foot minimum + 5 feet per floor above the first floor, but not to exceed 50 feet. **D:** 25-foot baseline setback + 75 foot of additional setback for any portion of a building that exceeds 35 feet in height.
	(3) Circulation and Parking: All circulation systems and parking facilities within a proposed development shall be designed and located in such a manner as to comply with the following: a. A clearly defined vehicular circulation system shall be provided which allows free movement within the proposed development while discouraging excessive speeds. Said systems shall be separated insofar as practicable from pedestrian circulation systems. b. Whenever possible in proposed rsidential developments, living units should be located on residential streets or courts that are designed to discourage nonlocal through traffic. c. Off-street parking areas shall be provided which adequately accommodate maximum vehicle storage demands for the proposed project and are located and designed in such a manner so as to conveniently serve the uses to which they are accessory and not create incompatible visual relationships. d. Safe and efficient access to all areas of the proposed development shall be provided for emergency and service vehicles, as required in Chapter 52.11 of the South Florida Building Code. e. Sidewalks shall be provided as required by the Village regulations. f. Handicapped accessibility shall be provided as required by all applicable regulations.	(3) Circulation and Parking: All circulation systems and parking facilities within a proposed development shall be designed and located in such a manner as to comply with the following: a. A clearly defined vehicular circulation system shall be provided which allows free movement within the proposed development while discouraging excessive speeds. Said systems shall be separated insofar as practicable from pedestrian circulation systems. b. Whenever possible in proposed residential developments, living units should be located on residential streets or courts that are designed to discourage nonlocal through traffic. c. Off-street parking areas shall be provided which adequately accommodate maximum vehicle storage demands for the proposed project and are located and designed in such a manner so as to conveniently serve the uses to which they are accessory and not create incompatible visual relationships. d. Safe and efficient access to all areas of the proposed development shall be provided for emergency and service vehicles, as required in Chapter 52.11 of the South Florida Building Code. e. Sidewalks shall be provided as required by the Village regulations. f. Handicapped accessibility shall be provided as required by all applicable regulations. (g) Internal drives and parking areas shall be located no closer than 100 feet from any adjacent residentially zoned property. All internal drives and parking areas shall be buffered from view and noise from adjacent residences. Buffering is effective at ground level and must extend in height to the highest level of the adjacent residences.	Same as existing

Requirement	Existing Zoning	POKB Proposal	WRT Recommendation
Off-Street Loading	1 bay per 50 units (except in hotels with less than 10 rooms)	Same as existing.	Hotels over 10 units but less than 30: 1 bay Hotels over 30 units but less than 50: 2 bays Hotels over 50 units but less than 100: 3 bays Hotels over 100 units but less than 200: 4 bays One additional bay per additional 100 units or fraction thereof, up to the maximum # of rooms.
Compatibility Standards	None	(The above modifications are intended to provide better compatibility between nonresidential sites zoned HR and adjacent lower density residentially zoned areas.)	The intent of the following standards is to maximize compatibility of use and promote continuity of scale, massing, and architectural features between proposed HR development and adjacent properties: 1. Stepbacks allow for more natural light and wind and sun and break up the massing of a building, bringing it down to a more "human" scale. Structures exceeding 100 feet in height (up to the maximum allowed) and located within 200 feet of the lot line of property zoned for single family residential use shall comply with the following stepbacks to break up the massing and reduce the perceived scale of the buildings: -Any portion of a structure between 100 and 120 feet in height: a 10 ft. stepback measured from the required baseline setback line -Any portion of a structure between 121 and 150 feet in height: a 20 ft. stepback measured from the required baseline setback line These stepbacks shall be required on one side of the structure if the structure is equal to or less than 100 feet in length, and on two opposite sides if the structure exceeds 100 feet in length (up to the maximum length allowed) 2. Cornice forms provide continuity of perceived scale, by creating shadow lines and strong edges that help to "scale down" the massing of a building. A discernible, continuous cornice line shall be applied to the facades of buildings that abut single family residential use at the following façade plane heights: -35 foot height (or equivalent of 2-3 story) -100 foot height -Top of the building or maximum height of 150 feet 3. Additional architectural elements shall be used to articulate building facades in a manner compatible with the surrounding development and the structure's own architectural style. Use architectural features such as fenestration, recessions and projections, roof shapes, architectural detailing, and materials and colors, to create a 4. Internal drives and parking areas located adjacent to single family residential districts shall be located no less than 25 feet from the property line and shall be screened so that no headlights, light fixtures, or cars are visible from the adjacent single family residential use. Screening shall be effective at ground level and shall extend in height to the highest level of the adjacent residences. Any such internal drives and parking areas shall not be used for commercial vehicle traffic or parking, including taxis, buses, trucks, or any type of service or delivery vehicles. 5. All mechanical equipment, storage, and refuse collection areas shall be screened from view by surrounding uses. The screening may be accomplished by providing a fence, wall, or vegetation.

Relevant Code definitions

Hotel unit
Apartment building
Setback
Yard
Plot line
Frontage

Relevant Code sections:

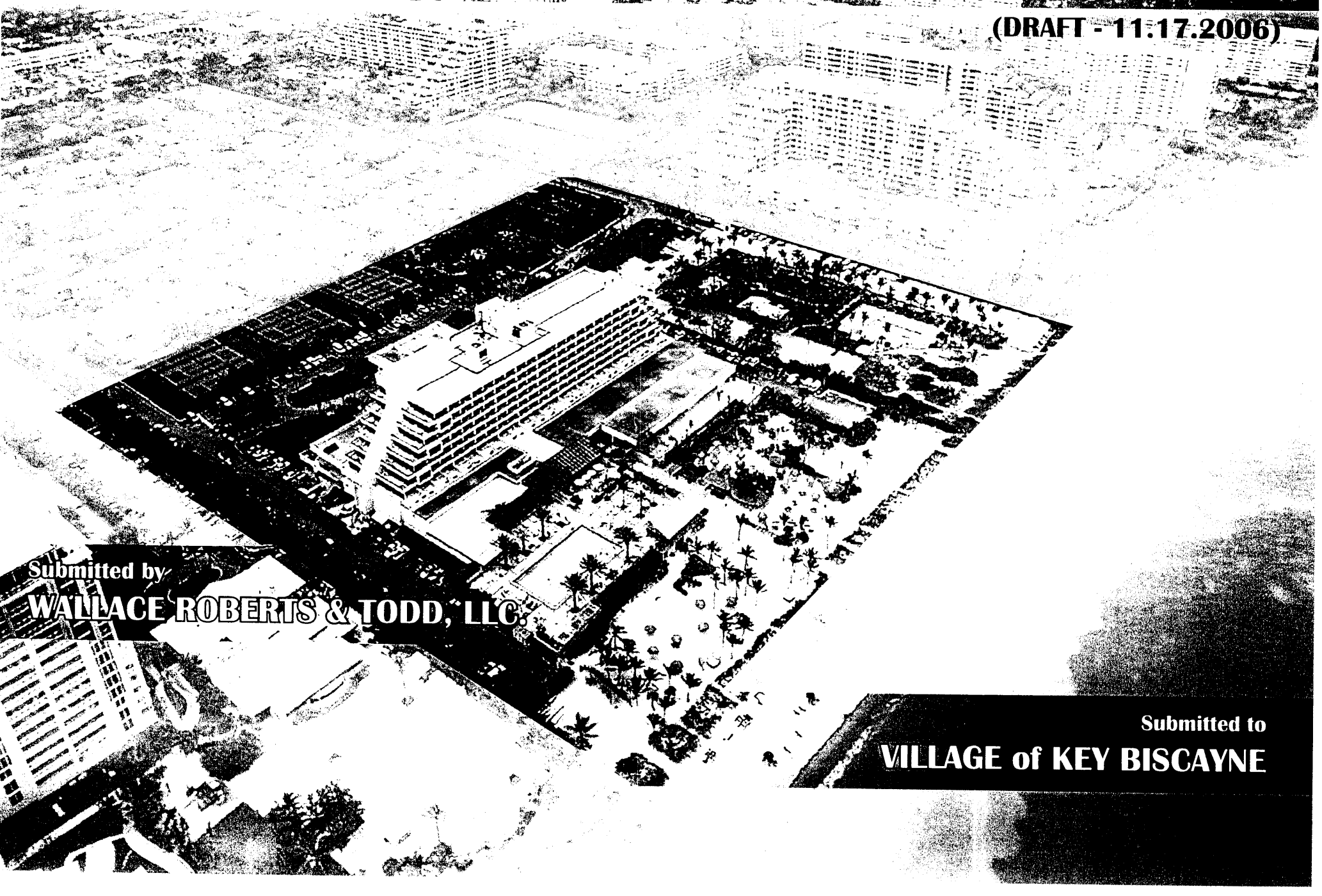
30-11 Definitions
30-103 Hotel Resort District
30-109 Supplemental Setback Regulations
30-111 Accessory Use Regulations

WRT

VILLAGE of KEY BISCAYNE

HOTEL - RESORT ZONING DISTRICT ASSESSMENT

(DRAFT - 11.17.2006)



Submitted by

WALLACE ROBERTS & TODD, LLC

Submitted to

VILLAGE of KEY BISCAYNE

WRT

VILLAGE of KEY BISCAYNE

HOTEL - RESORT ZONING DISTRICT ASSESSMENT

(DRAFT - 11.17.2006)

Submitted to

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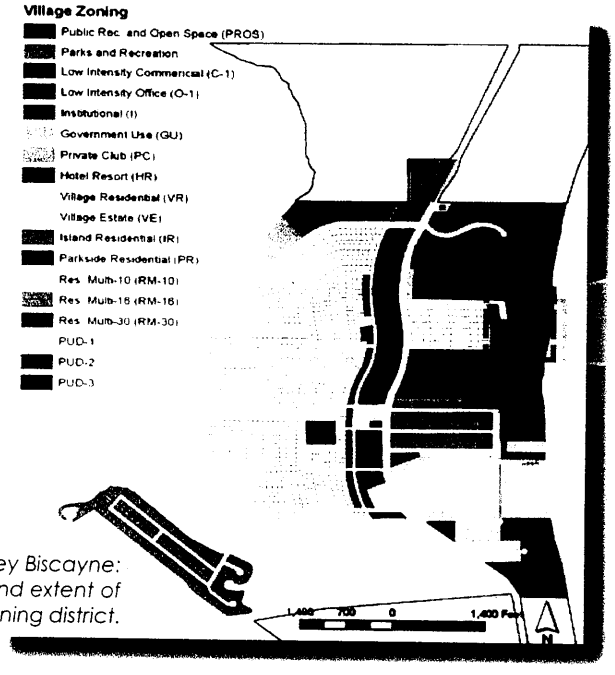
WALLACE ROBERTS & TODD, LLC.

1. INTRODUCTION

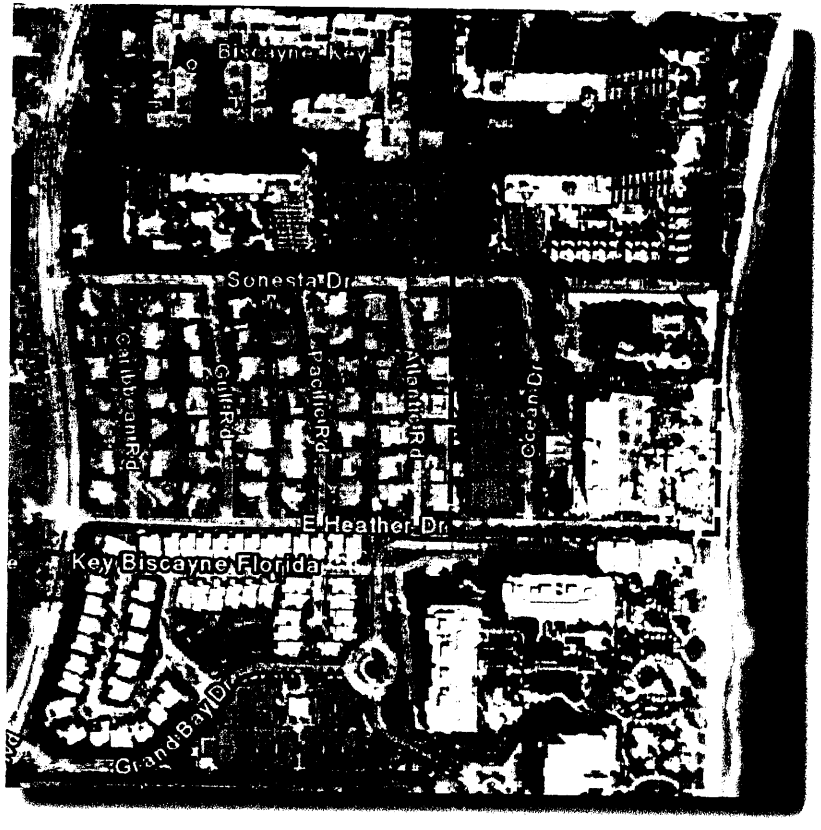
A. Purpose and Scope of the Study

The Village of Key Biscayne retained Wallace Roberts & Todd, LLC, to conduct an evaluation of the suitability of current land development regulations applicable in the Hotel-Resort (HR) Zoning District, which encompasses the sites of the former Sonesta Beach Resort and the Silver Sands Beach Resort. Our charge is to conduct an objective analysis of the existing zoning and of two current proposals—which include a redevelopment application for the Sonesta site and alternative regulations for the HR resort introduced by a resident group—in order to allow all parties involved to understand the differences between, and ramifications of, the various proposals.

This analysis focuses on the regulatory criteria of setbacks, height, bulk, density and intensity. Issues pertaining to uses, buffers, parking, and on-site circulation are considered to the extent that they are interconnected to the density and dimensional regulations. Ultimately, the intent of this analysis is to develop a set of preliminary recommendations for development guidelines applicable to the HR district that are reasonable given the site context.



Village of Key Biscayne: Location and extent of HR zoning district.

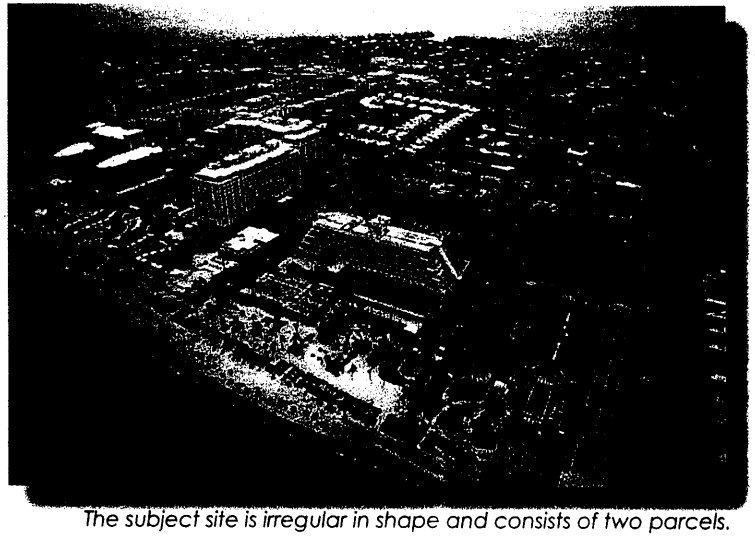


B. Background / Context

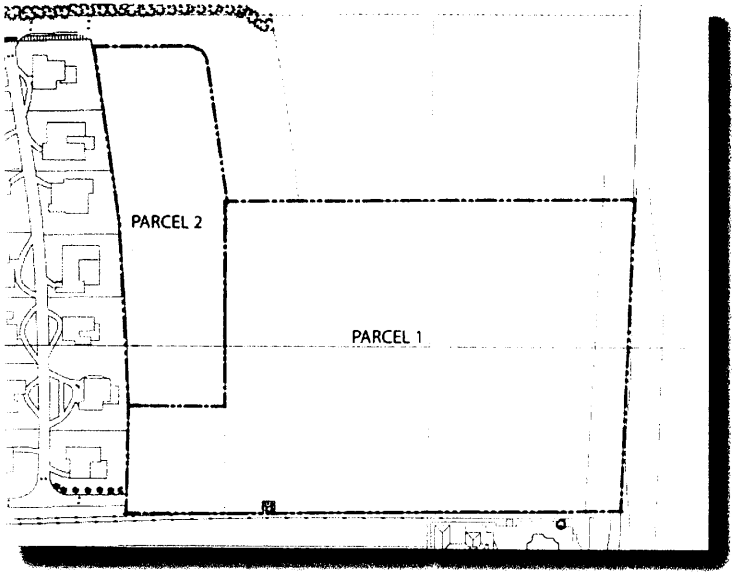
The circumstance that gave rise to this analysis is a recent proposal to redevelop the Sonesta Beach Resort site as an "ultra-luxury" resort. The former hotel consisted of approximately 164,000 sq. ft. of space in a 292 room, 6-story building, according to the Miami-Dade County Property Appraiser records. The resort also included a variety of complementary amenities such as a spa, fitness center, several restaurants and bars, meeting and banquet rooms, and other accessories that complemented the hotel resort.

The proposed project, according to the latest revision dated October 9, 2006, includes 849,011 square feet divided into 63 residential units and 191 hotel-condo units, as well as a number of high-end resort amenities. The application submitted to the Village indicates this proposal is meant to comply with current regulations. The plans appear to propose less total units than the former hotel had. At the same time, because the units and ancillary uses are larger, they involve significantly more square footage than what exists on the site today. However, the former resort (built in 1969), could be considered underdeveloped under the current regulations, in that it contained less development volume than allowed by the Code today.

The site is irregular in shape, consisting of two distinct parcels which total 10.33 acres of land area. Approximately one-third of the property is located east of the Coastal Construction Control Line (CCCL). The property is located within the Hotel Resort zoning district which is designated for the development of hotel and apartment building uses only. This zoning allows hotels up to a density of 30 dwelling units per acre, and apartment buildings up to a density 16 dwelling units per acre as principal uses. For the purpose of calculating maximum allowable development where mixed uses are proposed, land area can only be



The subject site is irregular in shape and consists of two parcels.



counted once for each use. Further, 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.

The property is located approximately ¼ mile east of Crandon Boulevard between Sonesta Drive and Heather Drive, and is surrounded by either hotel use or high-rise, high-density residential use to the north and south. To the west, however, the property line adjoins the easternmost limit of Holiday Colony, the only remaining low-rise, single family residential neighborhood located on the east side of the island. Holiday Colony is a stable, thriving neighborhood. The prospect of a large-scale redevelopment of the site that they see as so close to them has raised fears and objections among the residents, and has led them to propose changes to the zoning code and/or to the Village Charter, to ensure that the character of their neighborhood, and what they see as the desirable quality of life in the Village, are adequately protected and preserved

For its part, the Village Council is looking to respond in a balanced manner to the concerns of both residents and the Sonesta site property owner. A decade ago, the Village undertook a comprehensive review of its zoning ordinance via a residents' committee (ZORC). At that time, however, the Hotel Resort zoning district was not evaluated and as a result did not consider potential changes to those regulations. This study is an opportunity to complete that task.

It is noteworthy that the Village recently completed a Vision Plan for the long-term future (2020) that contains several seemingly very germane ideas to consider in this study. The Plan includes a Vision Statement which affirms, among other things that, by the year 2020, the Village will have:

- "...Maintained our small-town, island character by managing the scale and density of development on a neighborhood-by-neighborhood basis.
- Expanded and improved visual and physical access to Biscayne Bay and the Atlantic Ocean.
- Recognized the positive economic impact of tourism and the role of hotels in providing amenities to residents and as community partners.
- Promoted effective and respectful communication among residents who have different opinions."

"The feeling was, we have an obligation to the residents and to the developer, and we found ourselves in a place where we had to respond to both."
(Former Mayor Robert Oldakowski)

C. Process

The process for conducting our analysis and developing our recommendations was structured as a sequence of discrete steps, consisting of the following tasks:

1. Review existing zoning and comprehensive plan requirements for the HR district (i.e., the Sonesta and Silver Sands properties), with the aim of gaining an in-depth understanding of the current development regulations that control setbacks, height, bulk, density and intensity in this district.

2. Conduct interviews with representatives of the developer team and the two resident groups that have proposed alternative development criteria, to understand their respective proposals.

3. Conduct a site reconnaissance of the Sonesta site and surrounding properties to understand the context within which the proposed development will occur.

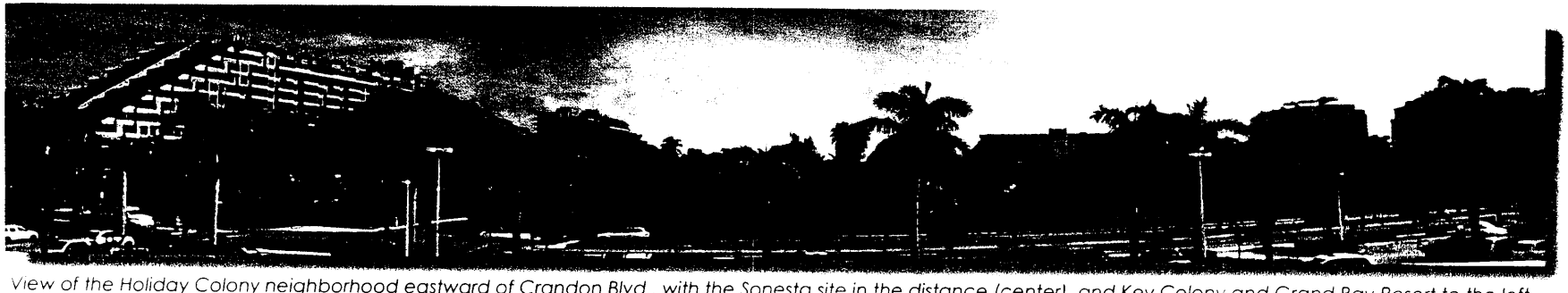
4. Analyze the developer proposal and the two sets of alternative development controls proposed by resident groups to identify the areas on which the proposals differ or concur.

5. Based on the outcome of tasks 1-4, develop initial ideas about development criteria that might be appropriate for the Hotel-Resort Zoning District (which might or might not reflect existing zoning, or one or another of the various "alternatives").

6. Prepare a summary memorandum comparing the alternative development approaches and WRT's preliminary development criteria.

7. Conduct one workshop with Village Council to review the findings of the analysis and WRT's recommendations.

This report represents the product of Task 6. To date, steps 1-6 of the process have been completed over a period of approximately 6 weeks. The Council workshop is scheduled to occur on November 28, 2006



View of the Holiday Colony neighborhood eastward of Crandon Blvd., with the Sonesta site in the distance (center), and Key Colony and Grand Bay Resort to the left (north) and right (south)

2. SUMMARY of INFORMATION COLLECTED/REVIEWED

WRT conducted as exhaustive an examination of background information and materials provided by the Village, the stakeholders, and independent sources as it was feasible to do within the condensed timeframe of our assignment. We met with various stakeholders—including two residents' groups, neighbors of the properties in question, the owner and developer for the proposed Sonesta site redevelopment, and Village representatives—at the outset of the process to gain an understanding of their concerns, objections, preferences and wishes. A summary of those conversations is included in the following page. The summary is not a detailed transcript of the conversations, nor does it reflect WRT's opinions or conclusions. Rather, it attempts to capture those expressed by the participants during our conversations.

WRT also conducted a site and context area reconnaissance to familiarize ourselves with the existing conditions and with issues that have raised concerns among the community, as well as those that might influence the developer's design.

We reviewed both the Preserve Our Key Biscayne's proposed ordinance to amend sections of the Zoning and Land Development Regulations and the preliminary plans submitted by the developer to the Village. We also collected and reviewed a number of related documents and studies such as traffic reports, white papers, site analyses, and plans—including the Village's Master Plan. Finally, we conducted considerable research on the subjects of planned resort, hotel, or tourist-oriented zoning, and of regulations used by other communities to mitigate the impacts of differing land uses, as a starting point for identifying parameters appropriate to the development of property in the Hotel Resort zoning district.

A. Stakeholder Meetings

i. Preserve Our Key Biscayne, Inc.

WRT met with members of POKB and its representatives on October 10, 2006. The Village Attorney and the Director of Building, Zoning and Planning, who were also in attendance at this meeting, made the introductory remarks, explaining the intent of the Council in retaining WRT—that is, to obtain an independent analysis and recommendations concerning the appropriate development parameters for the HR zoning district—the scope and steps of our process, the anticipated timeline for completion, and the potential paths or actions that the Council might or might not take once this process is complete.

WRT went on to clarify what is not in the study's scope to do. Specifically we are not conducting an economic or market analysis; we are not undertaking site plan review of the developer's proposal; we are not performing a legal analysis of any proposal; and we are not acting as mediators between the various parties.

POKB described their effort as being not the result a group of "disgruntled citizens" but rather the consequence of community-wide sentiment of concern about the impact of the Sonesta project on the Village. The aim is to ensure that the future development of this site is compatible not just with the immediate surroundings, but also with the desired long-term character of the Village as a small, close-knit island community with a tranquil, laid-back ambiance, a place that embraces the families who have come to live here after falling in love with

the community's unique quality of life. While other high-density, high-rise projects exist on this side of the island, east of Crandon Blvd., there are unique conditions to consider in the case of the Sonesta property because the site adjoins an established, stable single family neighborhood.

Holiday Colony is a stable single family neighborhood, one of the oldest in the island.

Another major fear or suspicion seems to be that the proposed project could comprise all new residential dwellings (condominiums), despite the developer's assurances that the "condo-hotel" component will be rented as hotel units. If the units were, in fact, apartments, this could have major implications on traffic, services, etc., for the community. The condo-hotel model is still a relatively untested market with an uncertain future; if this project fails, the units too easily could be converted to all dwelling units due to their large size.

The group summarized its rationale for the proposed ordinance – it reflects what the group believes is the community's vision of what and how the Village should be encouraging redevelopment of the Sonesta Site, namely:

- A traditional hotel
- Building heights, massing, and placement of the buildings that are congruent with the adjacent uses
- Setbacks sufficient to buffer the adjacent uses from the impacts of the proposed development
- Mitigation of off- and on-site traffic impacts

The group sees its proposed ordinance as the minimum which they expect the Council to do—but they trust that WRT will be able to improve upon it.

II. Petitioners' Committee for Charter Amendment and Zoning Code Amendment

WRT met with Mr. Max D. Puyanic on October 10, 2006, together with the Preserve Our Key Biscayne group. Mr. Puyanic is spearheading a petition initiative to amend the Village Charter to require voter approval for any modification of the zoning code that would create a new zoning district or amend an existing district. A second petition would amend the zoning code to limit the size of hotel rooms or units to a maximum of 600 square feet and restrict such rooms or units from having cooking facilities. The grounds for this is the perception that the developer proposal is an actual condo project "disguised" as a hotel. The definition of hotel condominium was considered to be a major issue that will need to be tackled in this project.

The petition initiatives themselves were discussed in some detail at this meeting. However, it was generally agreed that the initiatives are different in nature and moving on a track distinct from (albeit related to) the other two proposals. For this reason, this report does not include a detailed or comparative analysis of the initiatives.

iii. SBR/Fortune International, LLP

WRT met with the representatives and designers for SBR/Fortune International on October 12, 2004. The participants began by providing a background of their development application process. The original Oppenheim design was described as the result of consultations between the Village and the property owners. It was understood that elements proposed in the original design would exceed the allowed zoning envelope and therefore warranted a PUD submittal. The Grand Bay project was used as the precedent for this approach. However, there was a concerted effort on the part of the owner and the designer to take into consideration the neighborhood's concerns—this drove design decisions such as voluntarily putting the parking underground and preserving the view corridors.

From the perspective of the owners, the main concerns of the neighborhood include:

- the use of the hotel condo nomenclature;
- the size of the units;
- the density on the site;
- the height of the structures

With the mobilization of the citizenry, the owners decided to go back to the drawing board to pursue design schemes that would meet current zoning. The discernible difference between the resubmitted proposals (revised since the meeting) was the number of towers; otherwise the designs were very similar and varied only in architectural appearance.

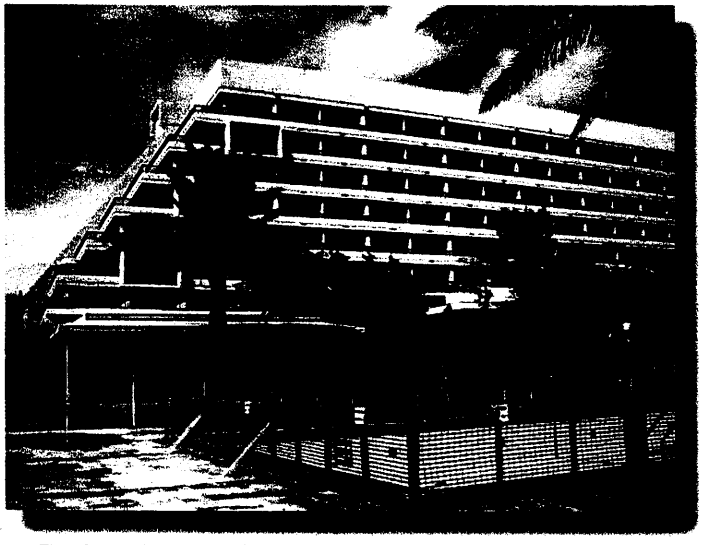
The owners noted that the adjacent Grand Bay and nearby Key Colony complexes are both denser that the proposed development. Holiday Colony remains as an incongruity on this side of the island. Prior to incorporation, the area was zoned RU4-L (County zoning), intended for multi-family zoning, A deed restriction was put in place to preserve the area for single family residential use. * The deed restriction supersedes the zoning or future land use designations (i.e., they conform to the terms of the deed restriction).

Back in the 70's, the Sonnabends owned some 24 homes (out of a total of 50 that exist), which were leased out or rented on a short-term basis. The intent was to redevelop the area, but a suit was filed to coerce enforcement of the terms of the deed restriction, and the Sonnabends divested themselves of the homes. The hotel was completed in 1969. Until then, the single family homes in the neighborhood would have had a clear view to the ocean, but not for the past 37 years.

In the early 1990's, Hurricane Andrew destroyed many waterfront properties on the island. The Sonesta was inoperable for 13 months, coinciding with the preparation of the Master Plan. There were plans, later discarded, to replace the hotel with high-rise multi-family buildings. The Master Plan had a significant impact on the development potential of the property: under the County's Comprehensive Plan, the density was set at between 50-75 du/ac; under the Key Biscayne Master Plan, the density was reduced to 30 units per acre for hotel, with a maximum cap of 350 units, and to 16 du/ac for apartments.

* In the Village's Future Land Use and Zoning maps, Holiday Colony is designated Single-Family Medium Density Residential and Village Residential, respectively.

Since 2000, the hotel has been losing money. There are significant, and costly, structural problems that probably date back to the original construction, as well as to the repairs completed after Andrew. These are the reasons behind the closure and plans for redevelopment of the property.



The Sonesta closed in August, after some 37 years of existence.

The Village's code is unfriendly to waterfront resort development. For one thing, Key Biscayne is "the only community" that prohibits any construction seaward of the CCCL—only limited accessory uses and structures are allowed. The CCCL is not a state imposed prohibition. In addition, the code is not conducive to the development of hotels in a manner that is economically feasible (and therefore successful) in today's hotel market—particularly in the luxury resort market. It is conceivable that additional impositions such as a maximum room size could contribute to the failure of the hotel. If the hotel use is a concern, this concern could be addressed by imposing a deed restriction prohibiting permanent residential use. Other communities use different approaches, such as Sunny Isles, where a limited percent of units in a hotel condo is permitted for residential use to meet concurrency standards.

Other conditions that were mentioned as "unique" to Key Biscayne include:

- loading standards (considered excessive for hotel use)
- the 63 degree angle requirement (adopted from the County code)
- the odd designation of front, sides, and rear on an irregularly shaped site
- the density and unit cap combination
- counting of the lockouts as separate units
- the unique Coastal Construction Control Line restrictions

Stakeholder Interviews:

- Mike Kelley
- Mary Jo Pineiro
- Julio and Caroline Padilla
- Tucker Gibbs
- Max D. Puyanic
- Joseph Herndon
- Sebastian Salvat
- Alan Sonnabend
- Phil Elwell
- Ryan Eschelman
- Steve Aldman
- Carter McDowell
- Edgardo de Fortuna

B. "Preserve Our Key Biscayne, Inc." and SBR-Fortune Associates, LLP proposals.

i. POKB Ordinance Amending the Zoning and Land Development Regulations

A copy of the ordinance proposed by Preserve Our Key Biscayne was supplied by the Village Building, Zoning, and Planning Director on September 27, 2006, and is included in the Appendix. The ordinance was prepared by Mr. Tucker Gibbs, Esq., for POKB. The ordinance proposes changes to the following sections of Chapter 30 of the Key Biscayne Zoning and Land Development Regulations. A more detailed analysis of the amendments proposed to Sec. 30-103 are described in a subsequent section of this report.

Sec. 30-11, Definitions: the proposed amendments specify that hotel rooms or units shall not exceed 1,000 sq. ft. in size without obtaining special exception approval, and clarify the term "permanent dwelling" as one that is "used for a period or more than three months."

Sec. 30-23(b)(2), Replatted Lots and Resubdivision of Hotels and Motels: the proposed amendments prohibit the resubdivision of hotels or motels, or conversion of such (by installation of cooking facilities) into multifamily dwellings wihohut special exception approval.

Sec. 30-80, Site Plan Review Procedures: the proposed amendments: (1) add language to the purpose of the site plan review procedure focusing on the need to ensure that where projects are to adjacent lower density residential parcels, these parcels are protected from the impacts of higher density or commercial development; (2) establishes additional submittal requirements aimed at ensuring that the scale and character of the project is considered in relation to its context area, presumably to fully understand the potential impacts of the project; and (c) adds a criterion for review or the proposed project's circulation and parking, requiring a 100 foot separation and buffering of internal drives and parking areas that are locations adjacent to residentially zoned property.

Sec. 30-103 (b), Hotel Resort District: the ordinance proposed amending the maximum building height allowances and the required setbacks and stepbacks. A more detailed analysis of these amendments is provided later in this report.

ii. SBR-Fortune Associates LLP Development Proposal

WRT received copies of the original PUD presentation; subsequent application for site plan approval dated August 29, 2006, and plan revisions dated October 29, 2006.

According to the latest plans, the program for the site includes 59 residential units in three towers that rise 14 levels each; 4 attached "villas," each approximately 6,400 square feet; and one hotel tower with 191 units, over 60% of which are one-bedroom units. The plans indicate that a FAR of approximately 1.89 is being proposed. Under the current Code, this is achievable by dedicating a 7.5 easement on each side of the property running from the street to the beach.

The developer, in conversations with WRT and the Village, as well as in the latest revision to their plan submittals for site plan review (dated October 27, 2006), has indicated that their proposal complies with the Village's current regulations in terms of density/intensity, lot coverage, setbacks, building height, parking/loading, landscaping, and internal traffic circulation.

C. Other plans, studies, and reports

WRT reviewed relevant documents both for reference, and as a foundation to the subsequent analysis. These include:

i. Village of Key Biscayne Master Plan

ii. Village of Key Biscayne Zoning and Land Development Regulations (Chapter 30).

iii. Village of Key Biscayne 2020 Vision Plan and Vision Statement.

iv. Village of Key Biscayne – Building, Planning and Zoning Review of SBR-Fortune Associates, LLP proposals (first round)

v. Mark Alvarez's PUD Ordinance Amendment Impact Analysis, dated June 22, 2006

vi. Mark Alvarez's Sonesta Beach Resort Site Redevelopment Analysis, dated May 22, 2006

vii. Preserve Our Key Biscayne's "Sonesta's Residential Condominium Project Continues to Masquerade as a "Hotel" to Circumvent the Village of Key Biscayne's Master Plan and Zoning Code and Land Development Regulations," a report hand-delivered to WRT's office without return address on October 27, 2006.

viii. Petitioner's Committee Affidavit to amend the Charter of the Village of Key Biscayne to require approval by vote of electors before any modification to the Zoning Code could be made, provided by Max D. Puyanic on October 4, 2006.

ix. Petitioner's Committee Affidavit to amend the Charter of the Village of Key Biscayne to amend Section 30-11, provided by Max D. Puyanic on October 4, 2006.

x. Village Attorney's courtesy review of proposed amendment to Sec. 30-11, dated September 20, 2006.

D. Precedents and comparables

WRT extensively researched other communities' approaches to zoning for hotel, hotel-condominium, and other types of tourist-oriented uses and, most particularly, to dealing with compatibility issues between single family residential districts and non-residential or higher density residential districts that are adjacent to each other. Our research of case studies extended from New York to California and beyond to Hawaii. Ultimately, the following codes from nearby Florida waterfront communities were found most relevant to the issues at hand. Only topics of interest are summarized in this section.

i. Coral Gables

In recent years, the City of Coral Gables has confronted the challenge of dealing with the issue of intense development encroaching onto single family residential neighborhoods, as areas developed with low- and mid-rise, medium density multifamily uses increasingly come under pressure from developers. The test for Coral Gables has been to continue to accommodate the allowable density, while promoting compatibility of scale and reducing conflicts of use. A moratorium was adopted while solutions could be explored through the City's Code rewriting process, which was recently completed and is now under review.

Coral Gables' highrise

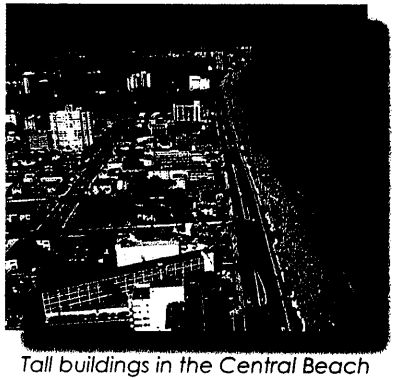
In its new Code, the City proposes transitions in height for the Multifamily 2 (MF-2) and Multifamily Special Area (MFSA) districts. Properties in these districts have a height limitation of between 35 and 45 feet when located within 50 feet of an adjacent, abutting or contiguous (including streets, waterways, or alleys) Single Family Residential (SFR) and/or Multifamily 1 (MF1) properties. Further, MFSA properties have a height limitation of three (3) floors or forty-five (45) feet, whichever is less, on the remaining portions of a property adjacent, abutting or contiguous (including streets, waterways, or alleys) to a SFR and/or MF1 property.

In addition, in zoning districts where mixed uses are permitted, or where non-residential or higher intensity residential uses abut lower intensity residential uses, additional performance and design standards have to be satisfied. For example, in the MXD district, vertical building stepbacks of a minimum of 10 feet are required above the height of three (3) floors or forty-five (45) feet (whichever is less) on all façades, and additional stepbacks may be requested to further reduce the potential impacts of the building bulk and mass. In the Commercial Limited (CL) district, a height limitation similar to that imposed in the MF-2 and MFSA districts is applied, and performance standards for nighttime uses are in place to reduce visual, noise, and other types of intrusions (e.g., screening and restricted use of parking lots; limited delivery hours; etc.)

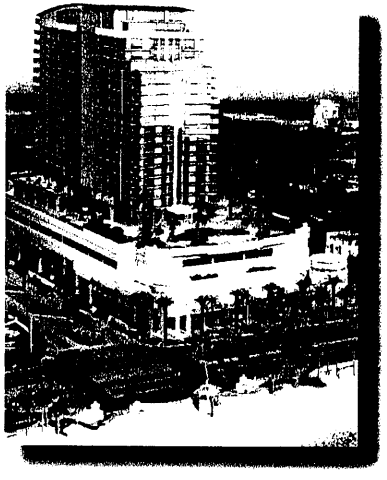
ii. Fort Lauderdale

The City's designated "Central Beach Districts" are generally established to promote development and redevelopment within the central beach area in manner appropriate to a high activity, high quality destination (Section 47-12 in the Fort Lauderdale Unified Development Code). In these districts, densities for hotel use vary between 50 and 90 rooms per acre, whereas residential density, where permitted, is set at about 48 du/ac. Development in these districts, however, may be subject to the following conditions to mitigate the impacts of intense development:

- Beach shadow restrictions (Sec. 47-23.6): The restrictions outlined in this section impose additional setbacks on buildings that exceed 35 feet in height, when located in specific designated areas within these districts.
- Neighborhood compatibility requirements (Sec. 47-25.3): Among other things, this extensive section establishes standards for the regulation of smoke, odors, emissions of particulate matter and noise; lighting; architectural features; screening of loading, mechanical equipment, storage, and refuse collection; landscaped buffers; and setback requirements to mitigate the impacts of development and to protect adjacent residential properties from encroachment.



Tall buildings in the Central Beach area may be subject to additional setbacks to minimize beach shadows or protect adjacent residential.



Similarly to Coral Gables, the City of Fort Lauderdle requires an additional yard span when the yard for a non-residential property is

contiguous to a residential property. When any side of a structure greater in height than forty (40) feet is contiguous to residential property, that portion of the structure shall be set back one (1) foot for each one (1) foot of building height over forty (40) feet up to a maximum width equal to one-half (1/2) the height of the building, in addition to the required setback, as provided in the district in which the proposed nonresidential use is located.

Applying a three-dimensional treatment to the buillding facade reduces the perceived scale of the building.

The Central Beach district regulations also establishes various design requirements, the principles of which Key Biscayne might consider adding to its own Code. These requirements are aimed at controlling the massing of buildings on a site—individually and as a group as may apply—through minimum building separations; building orientation on a site; maximum length and width of buildings; vertical plane moderation, cornice height, and facade treatment guidelines.

iii. Longboat Key

Section 158.009(R) of the Town of Longboat Key's Code creates two districts— Low-Medium-Density Tourist Resort Commercial (T-3) and High-Density Tourist Resort Commercial (T-6)— designed "to accommodate the unique land needs for resort-oriented facilities. These facilities generally are marketed as vacation accommodations for tourists and other transients seeking an environment with a high level of amenities." While the established densities (3 units/ac and 6 units/ac, respectively) are hardly comparable with those of Key Biscayne, what is worth citing is the remainder of the description of purpose and intent, which goes on to state:

> *"...Regulations shall be provided to minimize adverse impact on the transportation system, realizing that trip generation for transient residential facilities is generally higher than year-round accommodations. Similarly, the regulations shall provide for recreation and open space amenities on site, consistent with the purpose and intent of these districts. All commercially provided recreational activities requiring shoreline or near-shore water utilization shall be concentrated at the commercial hotel facilities."*

It is not suggested that the Village should adopt this or similar language. However, further refining the intent of the Hotel Resort district in a manner that reflects the consensus of the community might go a long way toward addressing some of the issues that have been raised through this process. Once the purpose—in essence, the destination—is clear, crafting the rules to accomplish that end will be much simpler.

The other aspect some of interest in this ordinance is the provision (Sec. 158.150) for transitional side and rear yards, and substantial screening requirements when a residential district abuts a side or rear yard in a nonresidential district, or where a side yard of a single-family residential district abuts a multifamily residential district. The requirement is for a side or rear yard at least equal in depth to that required in the residential district.

iv. Hollywood

Numerous zoning districts allow hotel and motel uses within the City, but there is no single district that focuses on hotel or resort uses. In most cases where such uses are permitted, building heights for these uses are consistent with the overall character of the district in which they are located.

Setbacks, while modulated depending on adjacent uses and building height, are typically narrow (between 15 and 25 feet) but also involve significant stepbacks (e.g., 10 feet per floor up to a maximum setback and building height). The maximum height of a structure is controlled through the proximity of the proposed development to property in other zoning districts. Thus, the maximum height may be limited to 35 ft. if the building is located within 100 feet from property zoned single family or other similar zoning with height limits of 35 ft.

Hollywood is among the latest in a group of Broward County communities that have unambiguously dealt with the issue of hotel condominiums. New regulations, passed in June after much debate, limit the number of rooms in a condo-hotel to 200. The ordinance declares that "a condo-hotel is considered to be a transient hotel/motel use, and not a residential use." As such, the building is required to have a lobby, central telephone system and key-card entry system. The ordinance further states that "it is the intent of the zoning and land development regulations to ensure that condo-hotels are operated and governed in substantially the same manner as conventional hotels/motels. Condo-hotels are strictly inconsistent with residential use." The new regulations prohibit condo-hotel units from being used as residential homes or timeshares. However, the length of time it allows unit owners to stay are quite more liberal than those adopted by other communities—a maximum of 150 days in any 12-month period.

v. Pompano Beach

Pompano Beach does not have a hotel or resort-focused zoning district. These uses are permitted in a variety of districts, and the scale and intensity of these tends to be lower than in Key Biscayne. Development along the beach, however, is allowed at a higher density and similar (though still lower) maximum height. No significant compatibility standards were found in the City's Code, although at least one single family neighborhood was found nestled among higher-density, mid- and high-rise uses. This area, however, appears to be part of a Community Redevelopment Area and might be expected to redevelop for higher intensity uses in the future.

An interesting development in the City of Pompano Beach, however, is a recent ordinance adopted to regulate hotel condominiums. Concerns about too much density on the beach were the driving force behind this ordinance.

Like Hollywood's, the new ordinance prevents the conversion of condo-hotels to multifamily dwellings. The city was also concerned about parking and other services which would have to be provided if the units converted to multifamily dwellings. The ordinance says hotel rooms or suites within a condo-hotel cannot be occupied by the same occupant for more than three times of 30 days each within a calendar year. Further, the ordinance directs that a condo-hotel must be run as a hotel. Among other things, "a hotel must make available a central-reservation system and maid service, and shall be responsible for receipt and disbursement of keys and mail by an attendant at the desk in the lobby or office."

3. ASSESSMENT of EXISTING HOTEL RESORT REGULATIONS & POKB PROPOSED ORDINANCE

The following offers a comparison of the existing HR regulations and corresponding proposals in the POKB-sponsored ordinance. It is not meant to be an exhaustive analysis of each approach, but rather to provide detail enoght to communicate the differences between them, their implications and relevance. A comparative tabular summary of the existing and proposed text is provided at the end of the report.

a. Intent: Section 30-103 of the Key Biscayne Zoning and Land Development Regulations describes the purpose of the Hotel-Resort zoning district as "to promote the development of ocean resort hotels and multiple family residences." Section 30-11 of the Village Code defines a hotel as "a building, or part thereof, in which sleeping accommodations are offered to the public, primarily on a short term or transient basis." and multiple family residence as "a dwelling occupied by three or more families; a dwelling comprised of three or more dwelling units."

The present district intent does not address the issue of hotel condominiums. This is a relatively new use, and many coastal communities in Florida—where most of these projects would be attracted to—are just beginning to grapple with it. Key Biscayne could choose to allow it and thus to regulate it, or it may choose to prohibit it entirely. The current language seems to suggest that the use is not permitted. However, if the Village chose to permit the use the Village could then regulate it by limiting the length of stay for such units to a specific maximum per year; or, as the City of Hollywood did, it could specify that "a condo-hotel is considered to be a transient hotel/motel use, and not a residential use."

POKB does not propose to modify the intent of the HR zoning. Instead, it suggest changes to the Sec. 30-11, Definitions, and Sec. 30-23(b)(2), Replatted Lots and Resubdivivision of Hotels and Motels. Specifically, the modifications are aimed at preventing unauthorized use or conversion of hotel units and use to permanent residency or to multifamily dwelling. The proposed changes to these two sections would specify the term of unit occupancy that would render the unit a *permanent dwelling* (e.i., "more than three months") , and would require special exception approval for any requested conversion or resubdivision of hotels into multifamily dwellings.

b. Permitted Uses: Permitted uses as of right are limited to hotels and apartment buildings. These uses are consistent with the stated intent of the district and therefore appropriate to achieve it. A hotel use is defined per Section 30-11 as "a building in which sleeping accommodations are offered to the public, primarily on a short-term or transient basis." Apartment buildings are defined as "a building with or without resident supervision, occupied or intended to be occupied by more than two families living separately with separate cooking and sleeping facilities in each unit." Additional related definitions include those of apartment unit: "a room or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities," and of hotel room or unit: "a room or group of rooms with ingress or egress [sic], intended for rental to transients on a day-to-day, week-to-week, or month-to-month basis; but not intended for use or used as a permanent dwelling. The definition includes: (1) a sleeping room within a hotel; (2) a living

or sleeping room within a dwelling having a separate entrance from outside the dwelling other than the principal entrance of the dwelling; and (3) a living or sleeping room within a dwelling unit of a multiple family dwelling having a separate entrance from outside the dwelling unit." Section 30-112, Supplemental Use Regulations, establishes additional parameters for "suites hotels or suite hotel units" that include limitations on the extent of cooking facilities and a requirement for a registration desk and lobby, among other things.

Apartment hotels or hotel condominiums are not listed as permitted uses in this district. The code contains no definition for "hotel condominium" or any variation of this term, nor, to reiterate, any specific regulation of this use.

No land uses are permitted as conditional uses. Permitted accessory uses, however, include activities that are presumed to be customarily associated with the main permitted uses, including retail uses "sized to serve the needs of hotel guests," and "bars, restaurants, lounges, and recreational facilities sized to serve the needs of hotel guests.

As mentioned previously, POKB does not attempt to modify the list of permitted uses. Instead, the proposed amendment to Sec. 30-11 narrows the definition of hotel room to "a sleeping room or group of rooms including living and sleeping areas *not exceeding 1000 square feet*. In our research, we did not come across any communities that restricted the size of hotel rooms; most, instead, set a minimum, and some an average, room size.

c. Minimum Lot Size: There is no minimum lot size—the site is required to have been subdivided as of the date of the adoption of the Code. Likely for this reason, the ordinance by POKB does not speak on this topic.

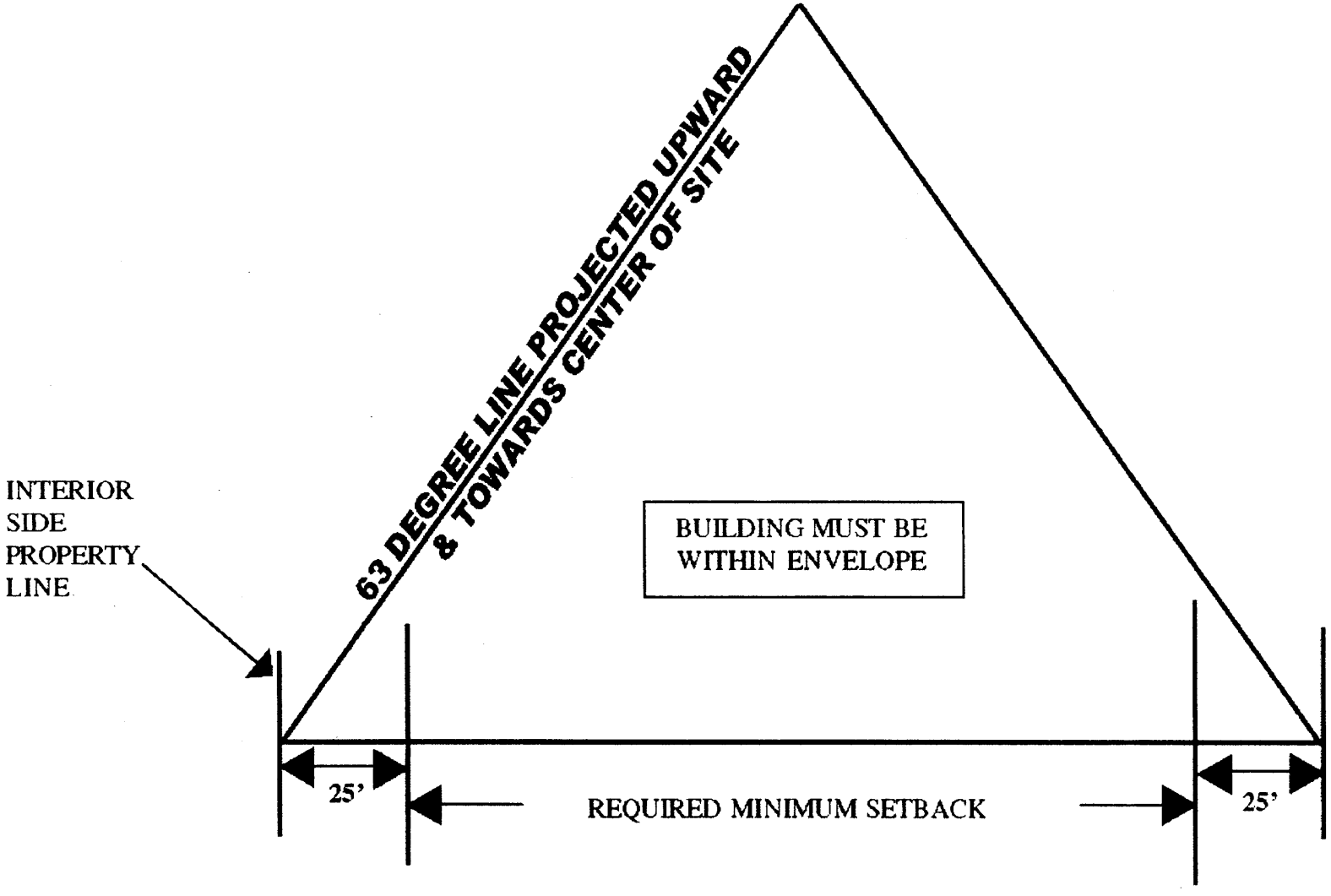
d. Density: The established density for the HR district is 30 rooms per acre for hotel use, and 16 du/acre for multifamily. These densities are in the average for this type of use in this type of district, in this size of community, and POKB does not propose to amend them.

e. Floor Area Ratio: The base floor area ratio is 0.40 with a sliding scale that allows aditional FAR up to 2.0, depending on the height of the building, up to the maximum height, in exchange for the dedication of 7.5 paved easements to the Village, running on both sides of a property from the street to the beach. The POKB's ordinance does not include changes to the existing floor area ratio,

f. Lot Coverage: The lot coverage for the HR district is 0.40. This is in the range for higher intensity uses in the Village. The POKB ordinance does not propose changes to this requirement.

j. Required Yards/Setbacks: The setback requirements are probably the most difficult concept to grasp, and to apply, in the regulations. The HR zoning district requires the following yards:

> Front: 25 ft. plus an additional 5 ft. per floor above the first floor, but not to exceed 50 feet.
>
> Side: 25 ft. minimum, however no portion of a 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. In addition, if an easement is dedicated per the FAR requirement, the side setback must be measured from the easement line.
>
> Rear: 25 ft. plus an additional 5 ft. per floor above the first floor but not to exceed 50 feet.



Measurement of Side Setback in the HR district

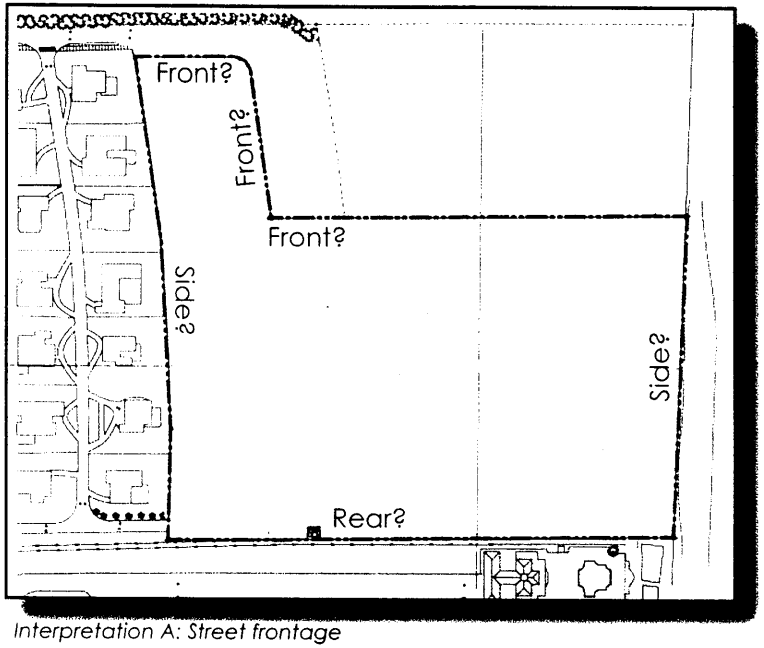
In addition to interpreting the setback requirements themselves, the following definitions from Section 30-11 together serve as the basis for the application of setback requirements to a site:

> Setback: The minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building (as the case may be), including terraces or any covered projection thereof, including steps.
>
> Yard: A space on the same plot with a structure or use, open and unobstructed from the ground to the sky except by encroachments specifically permitted in these regulations.[...]Yards shall extend and be measured perpendicular and inward from the respective plot lines. The term yard includes the term setback, and these terms are synonumous.
>
> Yard, front: a yard extending across the full width of the plot along the front plot line from side plot line to side plot line.
>
> Yard, rear: a yard extending across the full width of the plot along the rear plot line from side plot line to side plot line.
>
> Yard, required: the minimum required yard or setback required by these regulations.
>
> Yard, side: a yard extending along the side plot line from the front yard to the rear yard.
>
> Yard, side (street): a side yard adjacent to a street.
>
> Plot or site: land occupied or to be occupied by a building or use, and their accessory buildings and accessory uses, together with such yards and open spaces as required. A plot may consist of one or more platted lots, portions thereof, and/or unplatted land, abutting and not separated or interrupted by any other parcel of land, right of way, or body or water.
>
> Plot line, front: the line dividing a plot from a street (public road right-of-way). On a corner plot, the front plot line shall be that street plot line in line with the front line of the adjacent interior plot. If this situation exists with both street plot lines on a corner plot (reversed corner), then both such plot lines shall be considered front plot lines for applying the required front yard setbacks and plot width. On through plots both front plot lines shall require front yard setbacks.
>
> Plot line, rear: the plot line opposite and most distant from the front plot line.
>
> Plot line, side: any plot line other than a front or rear plot line.

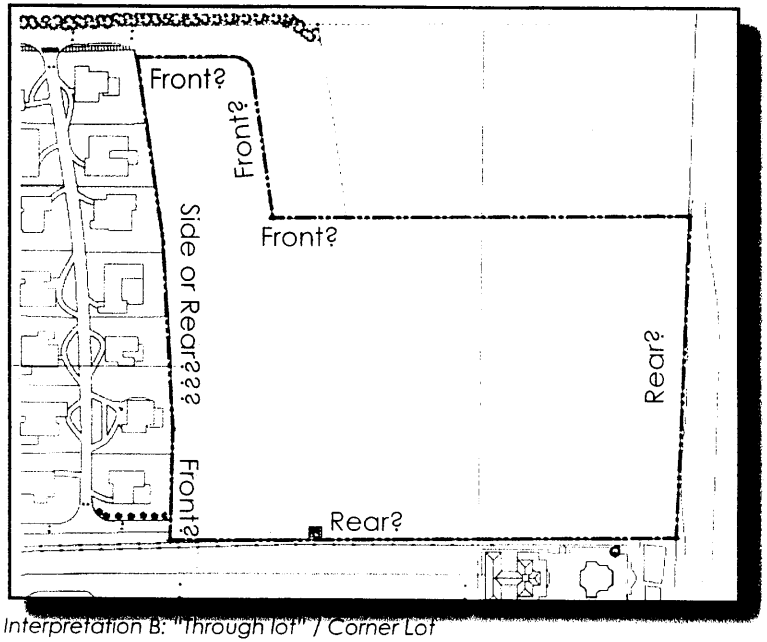
Based on our reading of these definitions, the existing setback regulations found in Section 30-103 can be applied without difficulty to the Silver Sands Beach Resort site, thanks to its symmetrical shape. On the other hand, the irregular configuration of the Sonesta property proves challenging to classify for the purpose of determining the required yards.

The parcel is "L" shaped, with short frontages on Sonesta Drive and Ocean Drive, suggesting that front yard setbacks could be required along both of these property lines; technically, at least a portion of the property could be considered a "corner lot" since it is found at the intersection of the two roads.

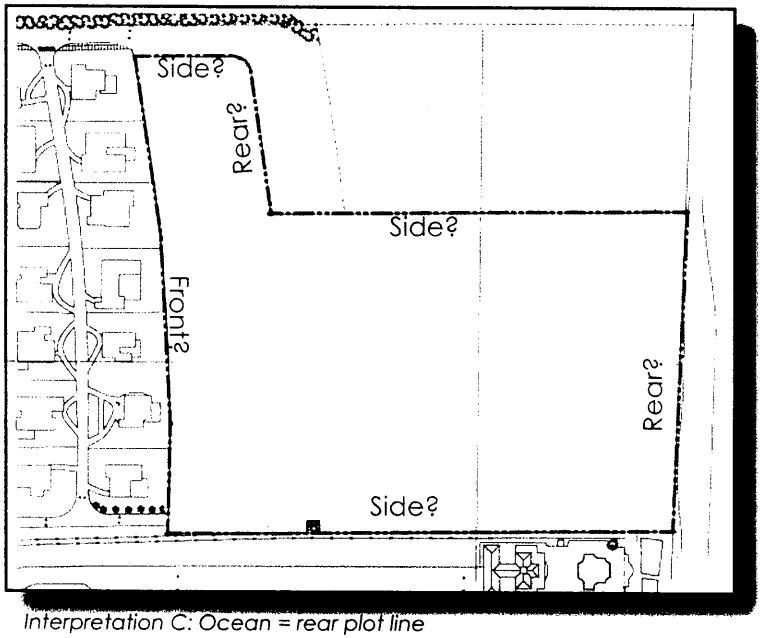
At the same time, the property might be considered a "through-lot" in that additional (though secondary) frontage occurs on Heather Drive—thereby requiring an additional front yard setback on that road,



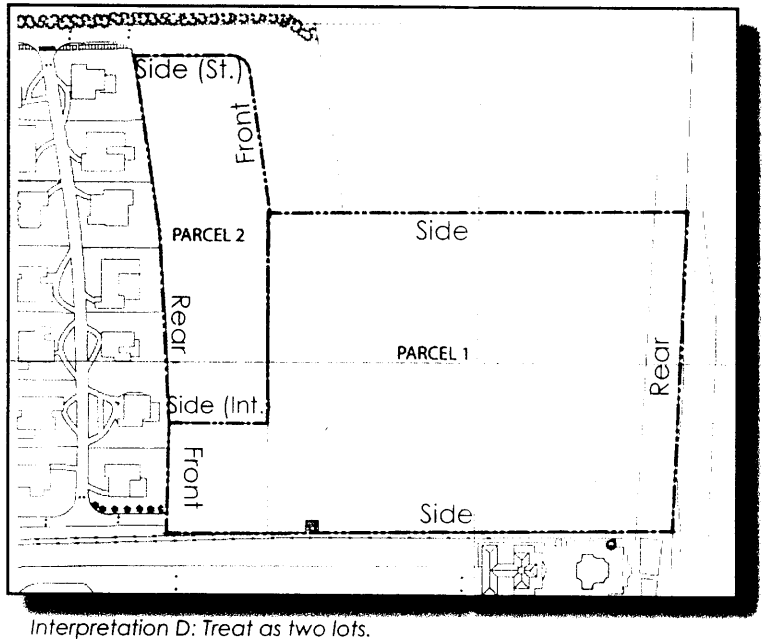
Interpretation A: Street frontage



Interpretation B: "Through lot" / Corner Lot



Interpretation C: Ocean = rear plot line



Interpretation D: Treat as two lots.

and potentially making the east and west property boundaries "side plot lines."

However, for oceanfront sites on this side of the island, the ocean is typically identified as the "rear" of the property for setback purposes. By definition, this would then render the west property line the "front" of the property, which would be highly unusual given that said property line provides no "frontage" whatsoever to the site, and instead adjoins the rear yard of the adjacent single family residential structures.

To add another layer of complexity, it appears that the property in question consists of two lots (Parcels 1 and 2), each surrounded by a distinct, diverse pattern of development—which creates yet another potential intepretation.

In cases such as this one, in which the definition of yards is insufficient to determine the front, side, or rear yards of a property, Sec. 30-109 (1), Determination of Yards, grants discretion to the Director of Building, Zoning and Planning to make the determination based on "the p attern 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 to consider the waterward plot line as the rear of the lot, and the opposite line, where typically there would be a street right-of-way, the front.

Abiding by this intepretation, the diagrams in the following pages are meant to represent the current determination and application of setback requirements to the Sonesta site. The application of setbacks to the Silver Sands site is also shown.

POKB's ordinance has also used this interpretation as the basis for its recommended amendments, and our understanding of how this interpretation applies to their proposals is also shown diagrammatically in the pages that follow. The ordinance essentially proposes two different applications of a setback requirement, depending on the condition at the property line:

Front and rear: These two dimensions are the same, applied to two different conditions:

- If the property line abuts lower density residential development: 100 feet minimum plus stebacks for each floor above the first, to a maximum setback of 150 feet; and

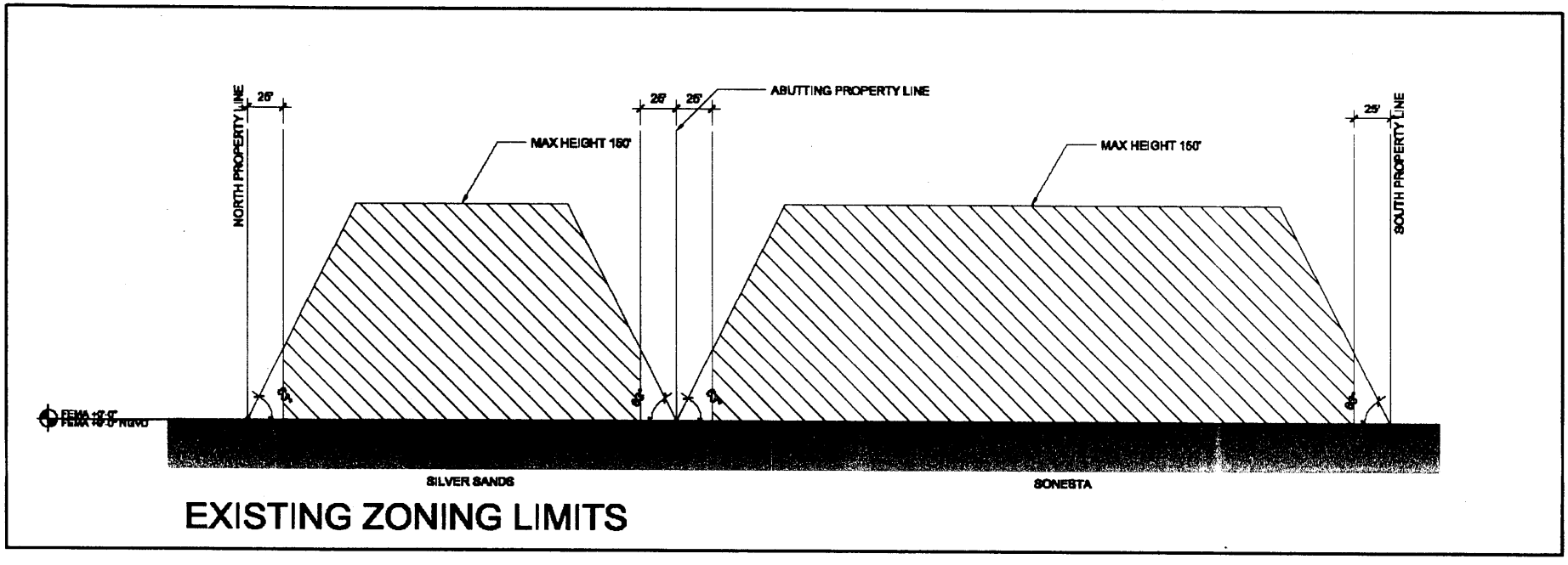
- If the property line does not abut lower density residential development: 25 feet minmum, plus stepbacks for each floor above the first to a maximum setback of 80 feet.

Side: Also applies to two distinct conditions:

- If the property line abuts lower density residential: 100 ft. minimum, but the building cannot extend beyond a plane (prism) extending inward from the property line at the 63 degree angle.

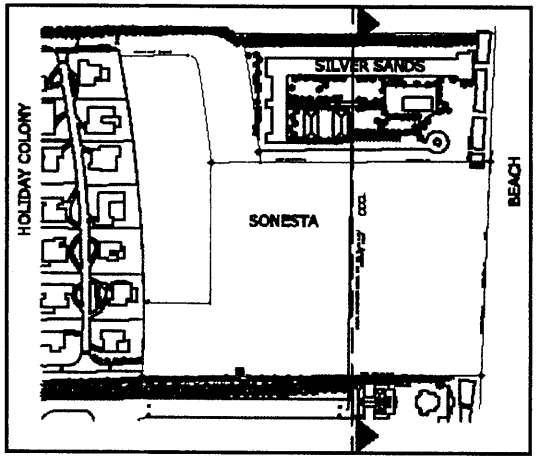
- If the property line does not abut lower density residential: 25 ft. minimum, but the building cannot extend beyond the same plane as above.

k.Building Height: 150 ft. maximum. This height appears consistent with the prevailing height of similar high rise development in the surrounding area, and with the established policy for similar high rise development in the respective sections of the Zoning and Land Development Regulations. The ordinance proposed by POKB would amend this to a maximum height of 80 feet, with additional height granted for additional setbacks, up to 120 feet. The setback and height regulations are intended to work together, but in practice appear to be internally conflictive. The results are represented in the diagrams that follow.



50' 25' 0 50' 100'

VILLAGE OF KEY BISCAYNE
HOTEL RESORT ZONING DISTRICT ANALYSIS
scale 1/128"=1'-0" date 11-16-08



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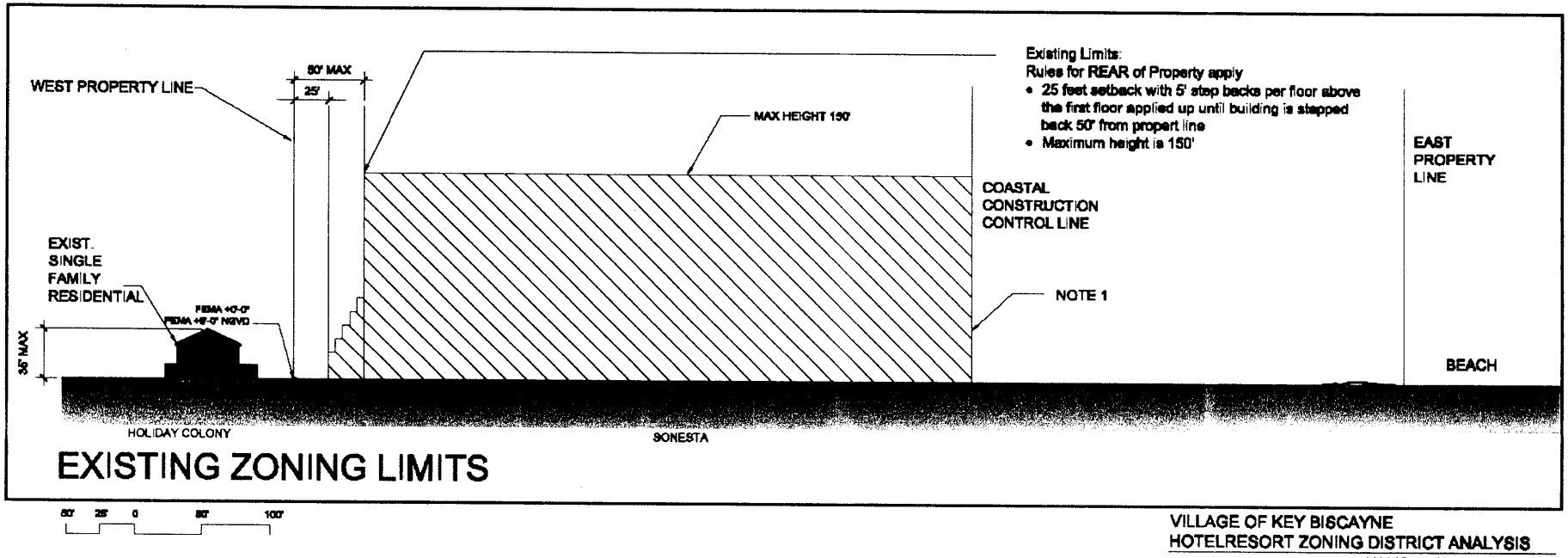


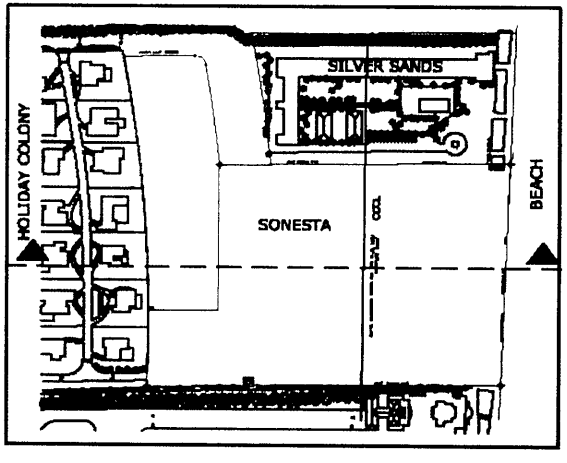
EXISTING ZONING LIMITS

50' 25' 0 50' 100'

VILLAGE OF KEY BISCAYNE
HOTELRESORT ZONING DISTRICT ANALYSIS
scale 1/128"=1'-0" date 11.15.06

NOTES:

1. REAR SETBACK NOT APPLICABLE DUE TO COASTAL CONSTRUCTION CONTROL LINE RESTRICTION ON DEVELOPMENT.



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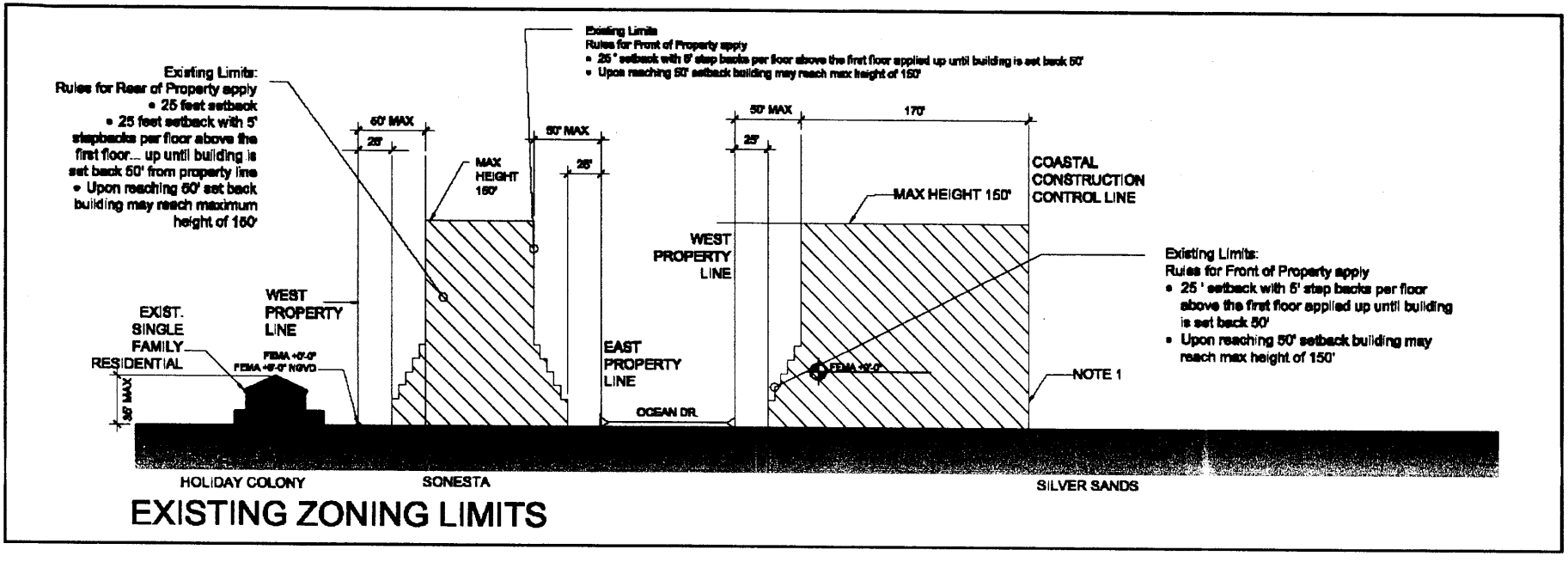

EXISTING ZONING LIMITS

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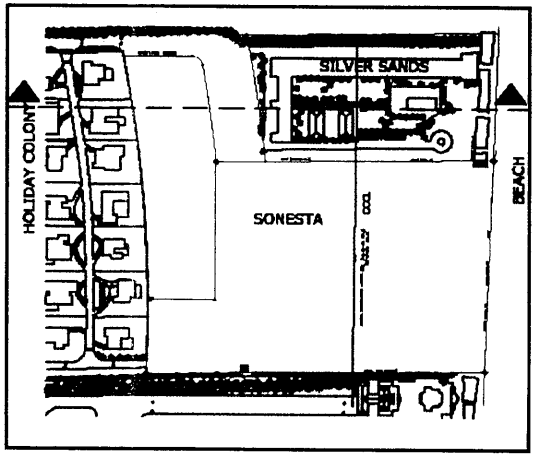
VILLAGE OF KEY BISCAYNE
HOTELRESORT ZONING DISTRICT ANALYSIS
date 11.15.06



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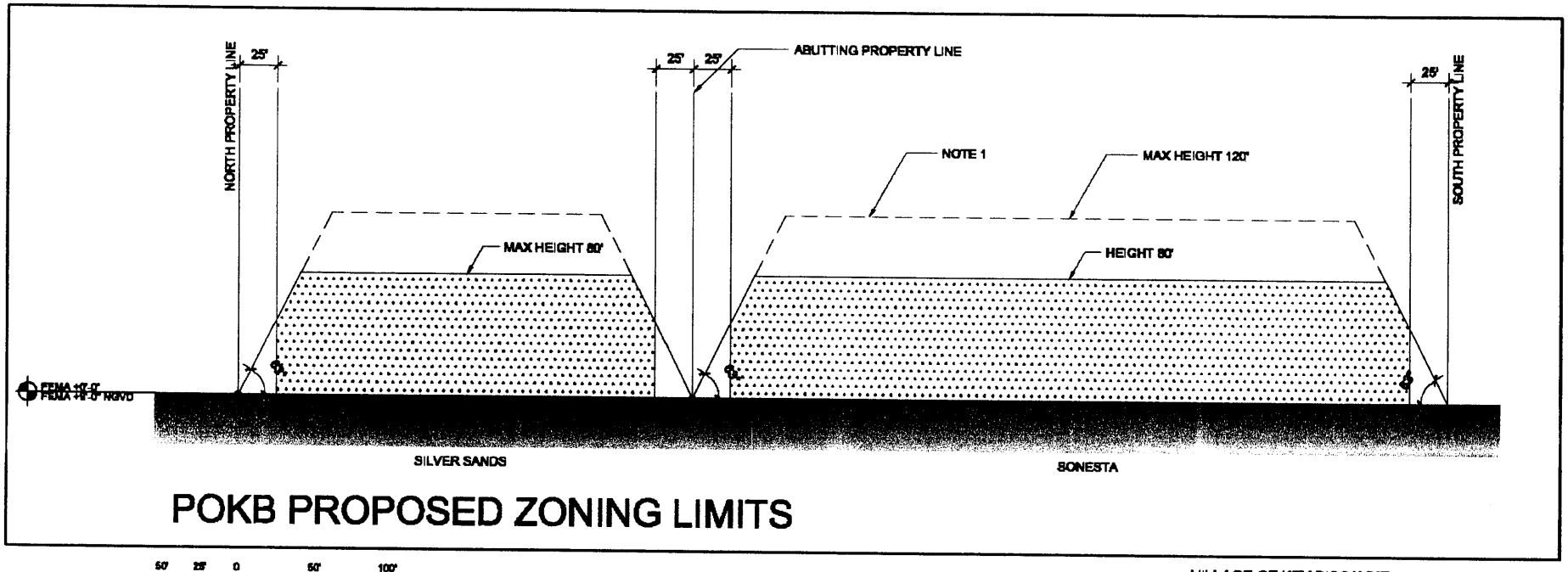
WRT Planning & Design

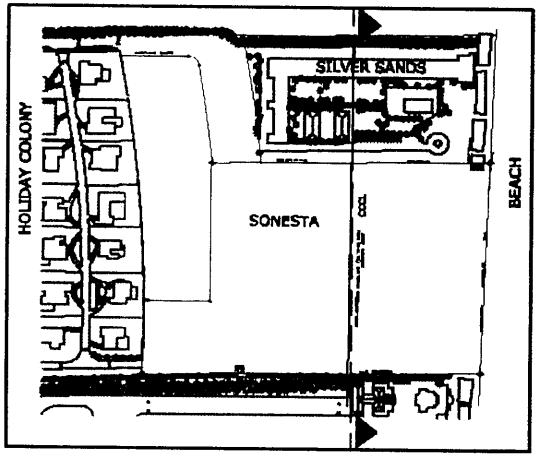


50' 25' 0 50' 100'

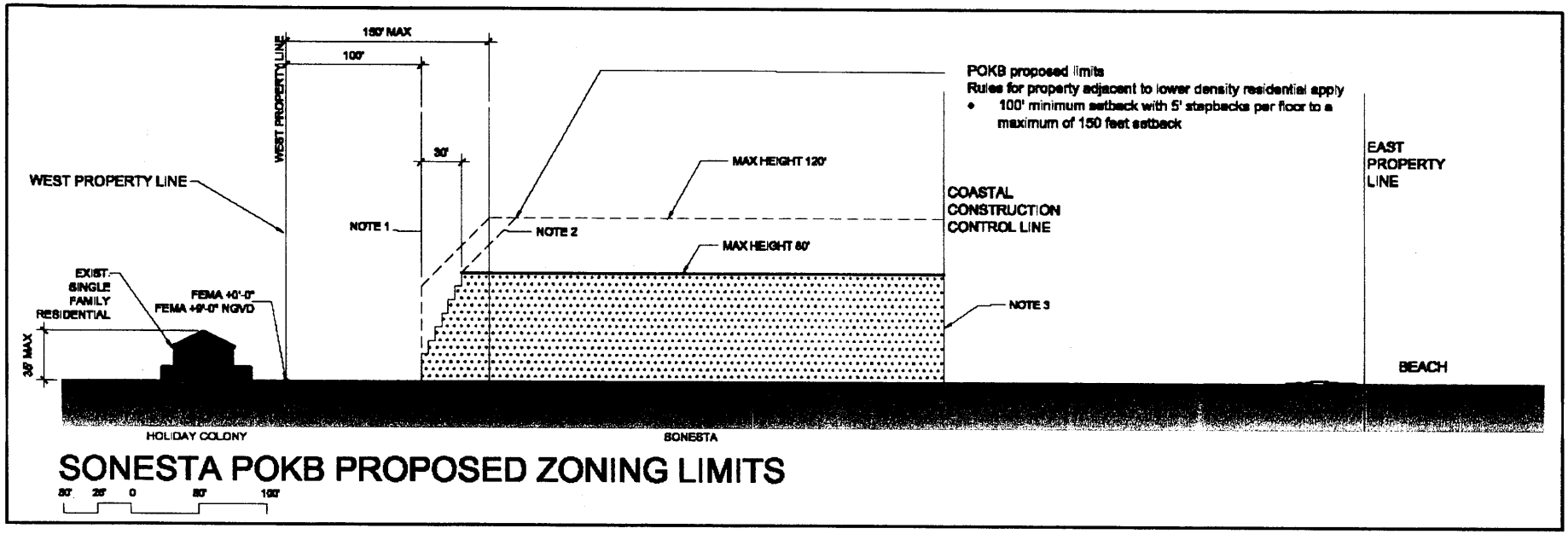
NOTES:

1. IT IS NOT CLEAR IN THE POKB PROPOSAL HOW TO INTERPRET THE PROVISION ALLOWING FOR HEIGHT INCREASE TO 120'.

VILLAGE OF KEY BISCAYNE
HOTEL RESORT ZONING DISTRICT ANALYSIS
date 11.18.06



WRT Planning & Design



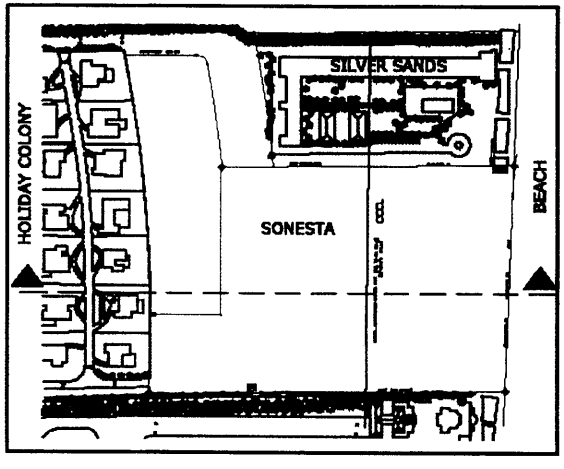
NOTES:

1. IT IS NOT CLEAR IN THE POKB PROPOSAL WHETHER FRONT, SIDE OR REAR SETBACKS SHOULD BE APPLIED TO PROPERTY LINE ABUTTING THE LOWER DENSITY RESIDENTIAL. IT HAS BEEN ASSUMED THAT "FRONT" SETBACKS REQUIREMENTS ARE INTENDED , CONSISTENT WITH VILLAGE OF KEY BISCAYNE INTERPRETATION OF APPLICABLE YARDS.

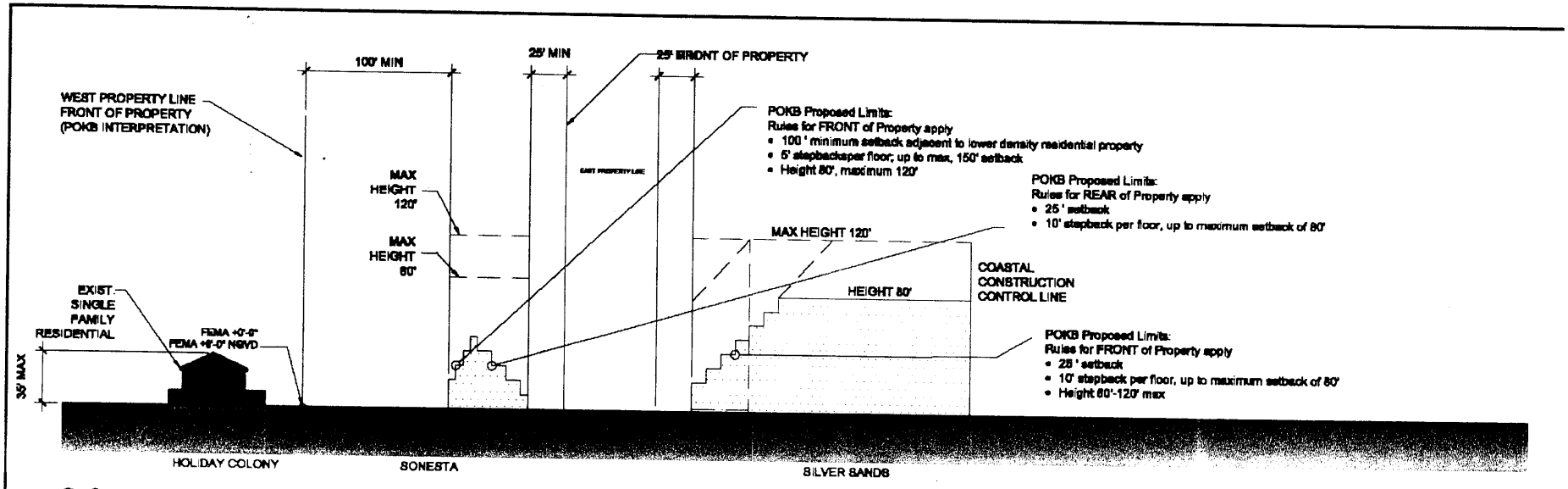
2. IT IS NOT CLEAR IN THE POKB PROPOSAL HOW TO INTERPRET THE PROVISION ALLOWING FOR HEIGHT INCREASE TO 120'.

3. REAR SETBACK NOT APPLICABLE DUE TO COASTAL CONSTRUCTION CONTROL LINE RESTRICTION ON DEVELOPMENT.

VILLAGE OF KEY BISCAYNE
HOTELRESORT ZONING DISTRICT ANALYSIS
date 11.15.06



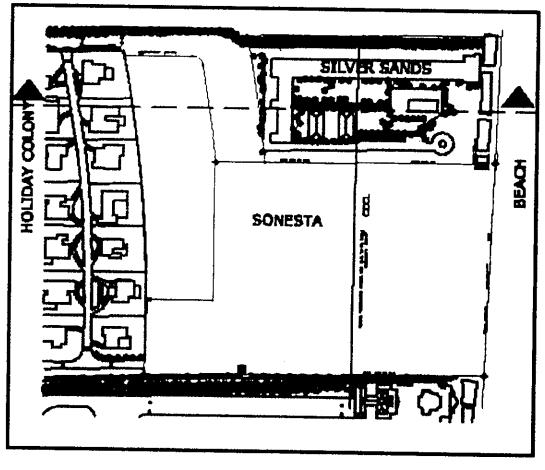
WRT Planning & Design



SONESTA POKB PROPOSED ZONING LIMITS

50' 25' 0 50' 100'

VILLAGE OF KEY BISCAYNE
HOTELRESORT ZONING DISTRICT ANALYSIS
scale 1/128"=1'-0" date 11.15.06



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3. REAR SETBACK NOT APPLICABLE DUE TO COASTAL CONSTRUCTION CONTROL LINE RESTRICTION ON DEVELOPMENT.

WRT Planning & Design

Mr. Mark Alvarez, a professional planner, was requested by POKB to review and comment on the ordinance. Mr. Alvarez prepared two analyses: one, dated May 22, 2006, of the site redevelopment potential of the Sonesta Beach Resort site; and the second, dated June 22, 2006, of the impact of the PUD ordinance amendment. A summary table of his comparison of the existing versus proposed regulations, below, is excerpted from one of his reports.

Based on his analysis, which is exhaustive, Mr. Alvarez concludes that the proposed amendments would not result in an inverse takings claim. However, this conclusion is based entirely on an theoretical volumetric model that bears little resemblance to real buildings designed to meet lot coverage and other restrictions in addition to setbacks and height. In addition, Mr. Alvarez's analysis also, among other things, discusses a proposed requirement for building separation (or internal setback), but the proposed ordinance is actually silent on that topic.

Requirement		Existing	Proposed
Hotel residential density		30 DU/Ac.	30 DU/Ac.
Apartment / Condominium residential density		16 DU/Ac.	16 DU/Ac.
Non Residential Density w/o Bonus		FAR=0.40	FAR=0.40
Non Residential Density with Bonus (9+ floors)		FAR=2.00	FAR=2.00
Maximum Lot Coverage		40% of lot	40% of lot
Maximum Height		150 feet	80 feet 120' w/ add. 40' setback
Setbacks:			
Not Adjacent to Single-Family Residential:			
Front Setback:	Base	25 feet	25 feet
	Per Floor	5 feet/floor	10 feet/floor
	Maximum	50 feet	80 feet
Side Setback:	Base	25 feet	25 feet
	Per Floor	63° angle	63° angle
	Maximum	none	none
Rear Setback:	Base	25 feet	25 feet
	Per Floor	5 feet/floor	10 feet/floor
	Maximum	75 feet	80 feet
Internal Setback between Buildings: Minimum		50 feet	50 feet
Adjacent to Single-Family Residential:			
Front Setback:	Base	25 feet	100 feet
	Per Floor	5 feet/floor	5 feet/floor
	Maximum	50 feet	150 feet
Side Setback:	Base	25 feet	100 feet
	Per Floor	63° angle	none
Rear Setback:	Base	25 feet	100 feet
	Per Floor	5 feet/floor	5 feet/floor
	Maximum	75 feet	150 feet
Internal Setback between Buildings: Minimum		50 feet	50 feet

4. RECOMMENDATIONS

Key Biscayne has a long history as a choice destination for visitors and tourists. The island is endowed with numerous geographic and natural advantages, including its proximity to—but simultaneously its comparative segregation from—the Miami metro area and its numerous tourist attractions and facilities; its climate, natural resources, scenic qualities, and laid back attitude, all of which provide an ideal setting for resort development.

In addition, in a small community like Key Biscayne, hotel development does not just satisfy the needs and desires of visitors, but also of residents, by offering basic amenities such as dining and entertainment, but often even retail and services. To do so, however, these developments must have the basic attributes that will support visitor accommodations and complementary facilities.

With proper planning, resort development will have a positive impact on the Key's social, economic and physical environment, and the visitor industry as well. A hotel-resort zoning should be flexible enough to provide for an evolution over time of hotel and ancillary facilities that will keep the visitor interested and entertained. At the same time, if this type of development is to coexist with the community, the regulations should be clear about, and especially mindful of, the need to appropriately address problems of compatibility, where these might be an issue.

One of the overarching concerns of residents in the Village appears to be that the present regulations do not sufficiently address spatial and visual compatibility issues between the two differing land uses. The explicit objective of the POKB ordinance is to harmonize the large scale development on the Sonesta site with adjacent lower-density residential uses. This is a legitimate concern anywhere where different land uses occupy adjoining parcels. Further, we believe it is possible to preserve the property rights of the owner while addressing this concern through the Land Development Regulations.

The following pages summarize our preliminary recommendations concerning modifications to relevant sections of the Zoning and Land Development Regulations.

Based on our review of the preliminary site plan submitted by the developer to the Village Building, Zoning and Planning Department, dated October 27, 2006, it is our opinion that permutations to the proposed design are practicable—e.g., by swapping or shifting the location of buildings or uses on the site—to make the target development volume/density achievable under the recommended parameters. This opinion should be confirmed through further design study, which is not within the current scope of this assignment to perform.

a. Intent: Most hotel resorts are designed to be competitive for the visitor market that prefers to stay at a single place for several days to several weeks. Sufficient activities and interests within the immediate resort area are necessary to accommodate the visitors to these resort complexes. The high end, ultra luxury resort, which caters not only to the transient visitor, but also offers ownership opportunities in the vacation home market,is a relatively recent trend in this market. We recommend that the Village clarify the intent of this zoning district regarding hotel condominiums (or condo-hotels, as they are also commonly called), which are not currently listed as a permitted use (as of right or conditionally) in this district.

b. Permitted Uses—Main: The uses currently permitted in the HR district are consistent with those found in similar district in other communities, and therefore deemed appropriate to this type of zoning. The list of permitted uses in the Key Biscayne Code was found to be somewhat more limited in scope than other such communities (several uses that are allowed only as accessories in Key Biscayne are permitted as-of-right). However, given the context, it seems entirely appropriate to limit the scope of activity in this district. Whether the list should or should not change to accommodate condo-hotels is dependent on the Village's decision with regard to the intent of this district, as described in the previous paragraph.

c. Permitted Uses—Conditional: WRT is not recommending changes to this section. (Again, whether this could evolve is subject to the Village's chosen approach to the issue of condo-hotels).

d. Permitted Uses—Accessory: No changes are being recommended to this requirement.

e. Prohibited Uses: No changes are being recommended to this requirement.

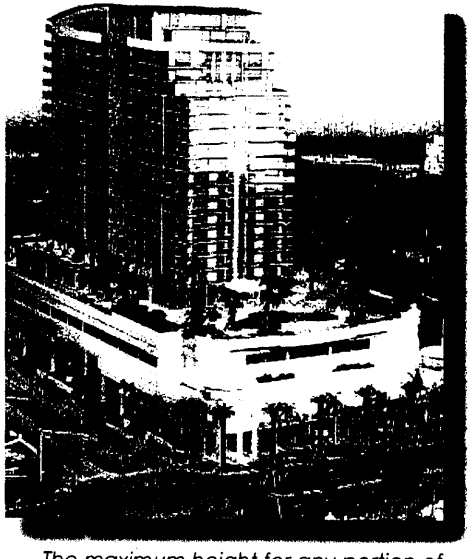
f. Minimum Lot Size: No changes are being recommended to this requirement.

g. Density/Intensity: The density and intensity allowances are pretty standard for this type of zoning, and seem appropriate to the community context. We are not recommending changes to this requirement.

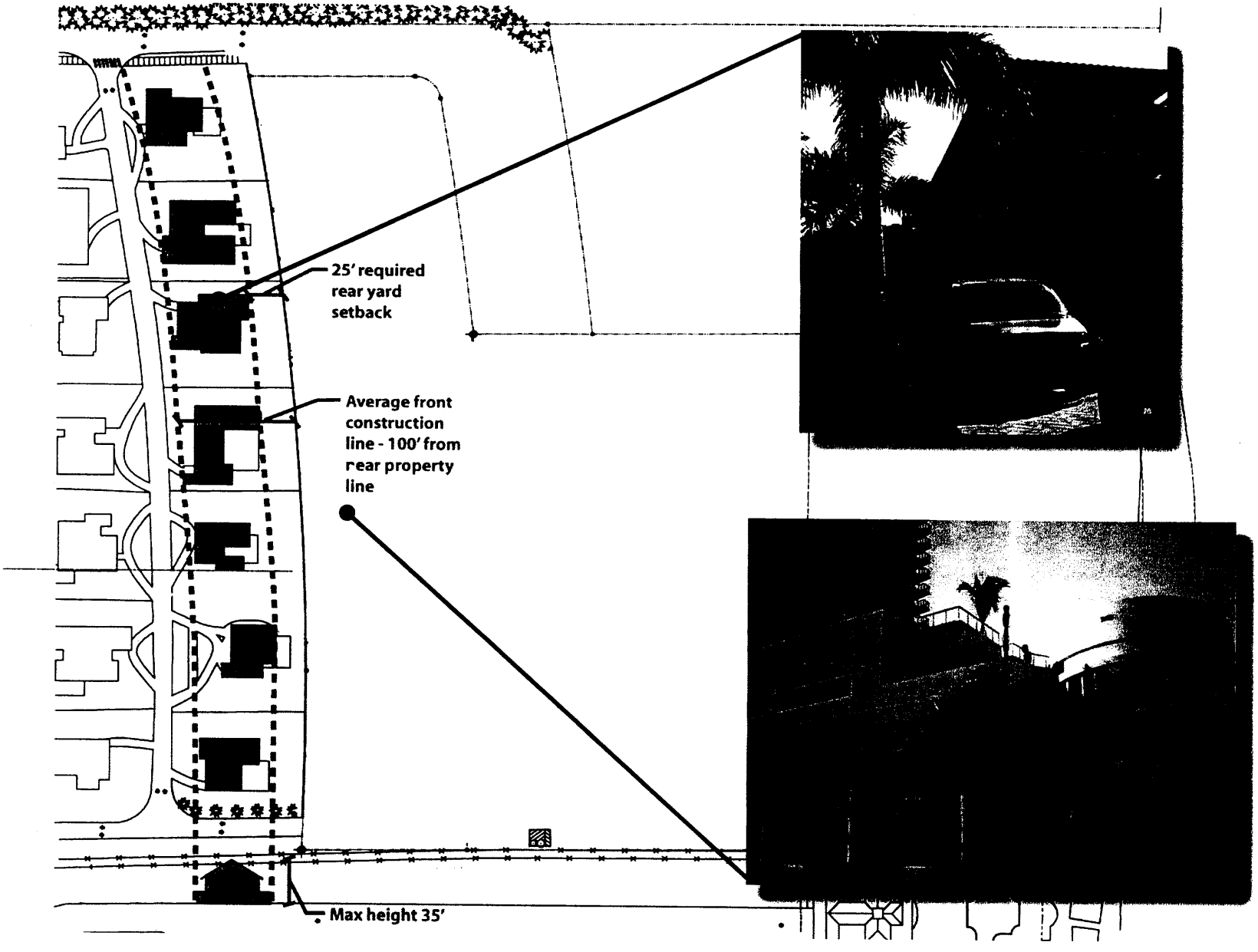
h. Floor Area Ratio: We believe the FAR bonuses, based on the height of buildings (in number of stories) might be excessively generous for what the Village is getting in return. Therefore we are suggesting a minor adjustment to this section. The base FAR requirement itself remains the same, as well as the sliding FAR scale. However, for the additional allowance, the Village would get a 15 foot dedicated easement (up from 7.5 feet) on each side of the property that runs from the street to the beach. This width will allow for better designed open spaces as well as provide for emergency vehicle access. We also suggest adding language that would make voluntary easements provided on other sides of a property subject to the same width and design requirements.

i. Lot Coverage: We are not recommending changes to this requirement.

j. Maximum Building Height: This appears to be one of the major points of contention. To promote continuity of scale between proposed development and adjacent single family neighborhoods, we suggest leaving the maximum height of 150 feet in place (which is compatible with the height of surrounding high rise development), but require that the maximum height



The maximum height for any portion of a building within 100 feet of single family residential should not exceed 35 feet.



Compatibility of building height and setback where HR property abuts single family residential - mirrors the condition on the lots to the west.

for any portion of a building located within 100 feet of the lot line of property zoned for single family residential use shall be 35 feet—the same as the maximum height for structures in the Village Residential district (Holiday Colony zoning designation). The requirement is depicted graphically with the setback application in the following pages.

k. Maximum Building Length: The current zoning does not include requirements to limit the length of structures. To moderate the massing of individual buildings, we recommend incorporating new language making the maximum length of any individual structure on a development site 150 feet.

l. Distance Between Buildings: The current regulations also do not include a separation requirement for designs that include multiple buildings on a site. As with the lack of a maximum building length, this could result in (apparent or actual) monolithic structures. We suggest a minimum separation between buildings on a development site of 50 feet, measured from the outer edge of any balcony or projection.

m. Required Yards/Setbacks: As described in the previous section, properties with unusual configurations, such as the Sonesta site, create serious challenges regarding the application of setback requirements. To ensure clarity and avoid ambiguity in the treatment of various property line conditions found in the HR zoning district, where the definition of such may be subject to interpretation pursuant to Section 30-109 of the Land Development Code, the following represents our recommendation for the handling of setbacks. (Refer to the diagram in the next page for key).

Condition A: 25-foot minimum.

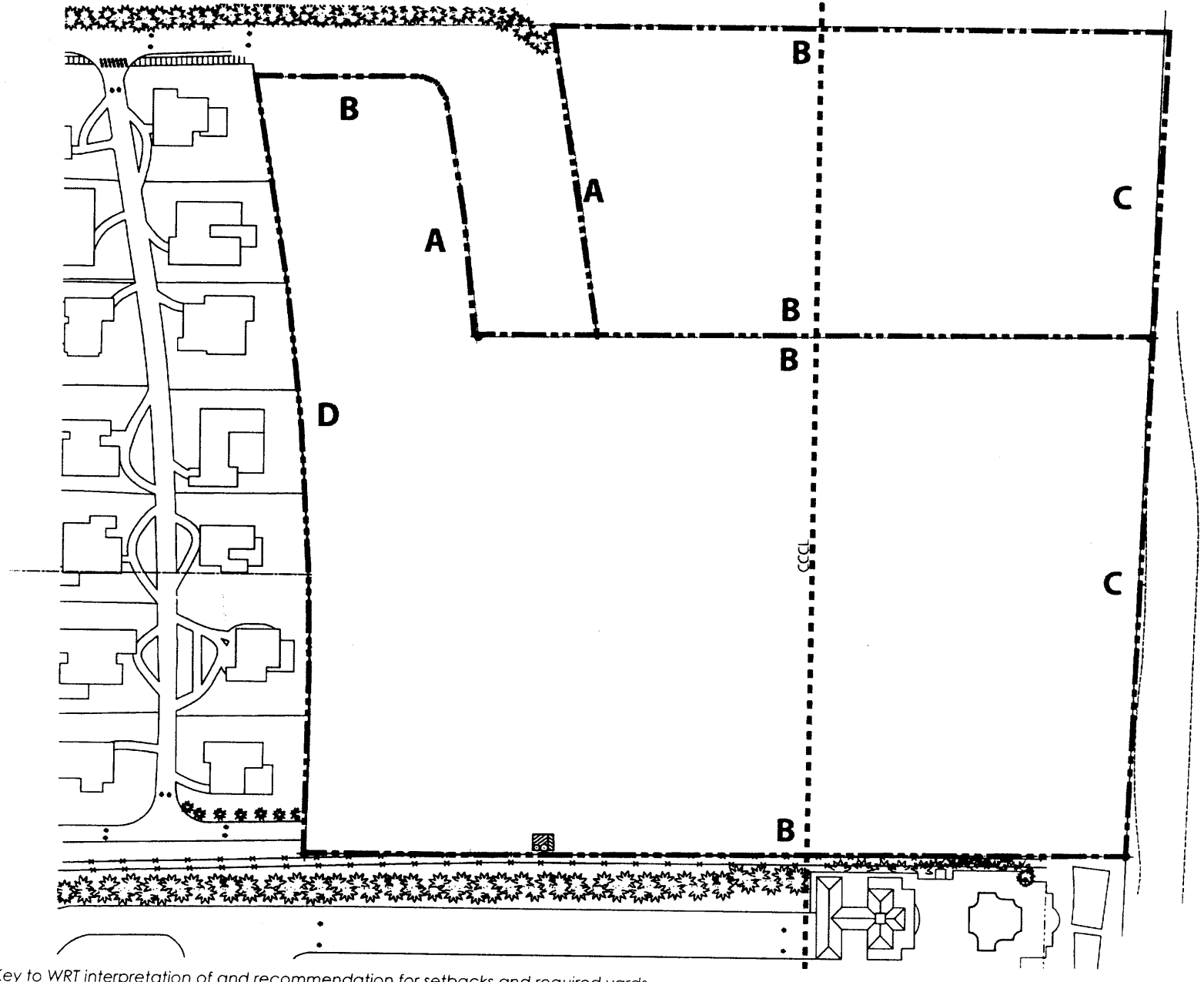
Condition B: 25-foot minimum. However, no portion of a building may extend beyond a building envelope formed by a prism, the base of which is formed by the lot boundaries and whose height is defined by two base angles of 63 degrees each. Where an easement has been dedicated along B (see Floor Area Ratio calculations), the setbacks shall be measured from the dedicated easement.

Condition C: 25-foot minimum + 5 feet per floor above the first floor, but not to exceed 50 feet.

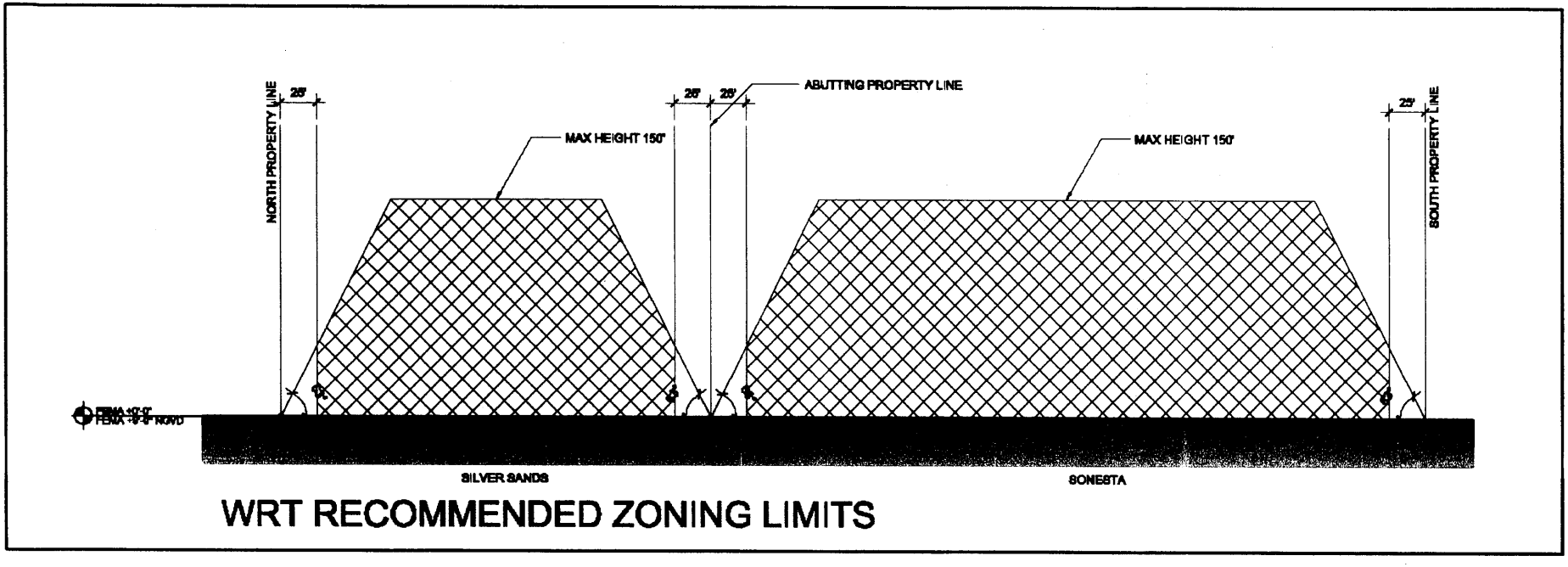
Condition D: To create a continuity of yards and building scale between the proposed and adjacent existing development, provide a 25-foot baseline setback + 75 foot of additional setback for any portion of a building that exceeds 35 feet in height. This requirement was based on the observation that homes that exist abutting the Sonesta site must meet a required rear yard setback of 25 ft. and a maximum height of 35 ft. Further, te front "built-to" line for these homes averages a distance of about 100 feet from the rear property line. Therefore, our recommendation essentially duplicates the pattern of existing development along the west property line of the property.

n. Circulation and Parking (Sec. 30-80(g)(3)): We are not recommending changes to this section of the Code, which deals with Site Plan review requirements and criteria.

o. Off-Street Loading (Sec. 30-184(c)(2): The loading requirements seem excessive for the permitted uses. We suggest considering a reduction of the current loading requirement. Miami Beach, for example, requires loading as follows: for hotels



Key to WRT interpretation of and recommendation for setbacks and required yards



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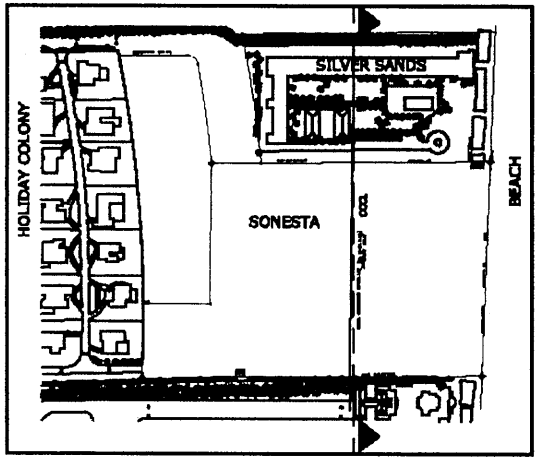
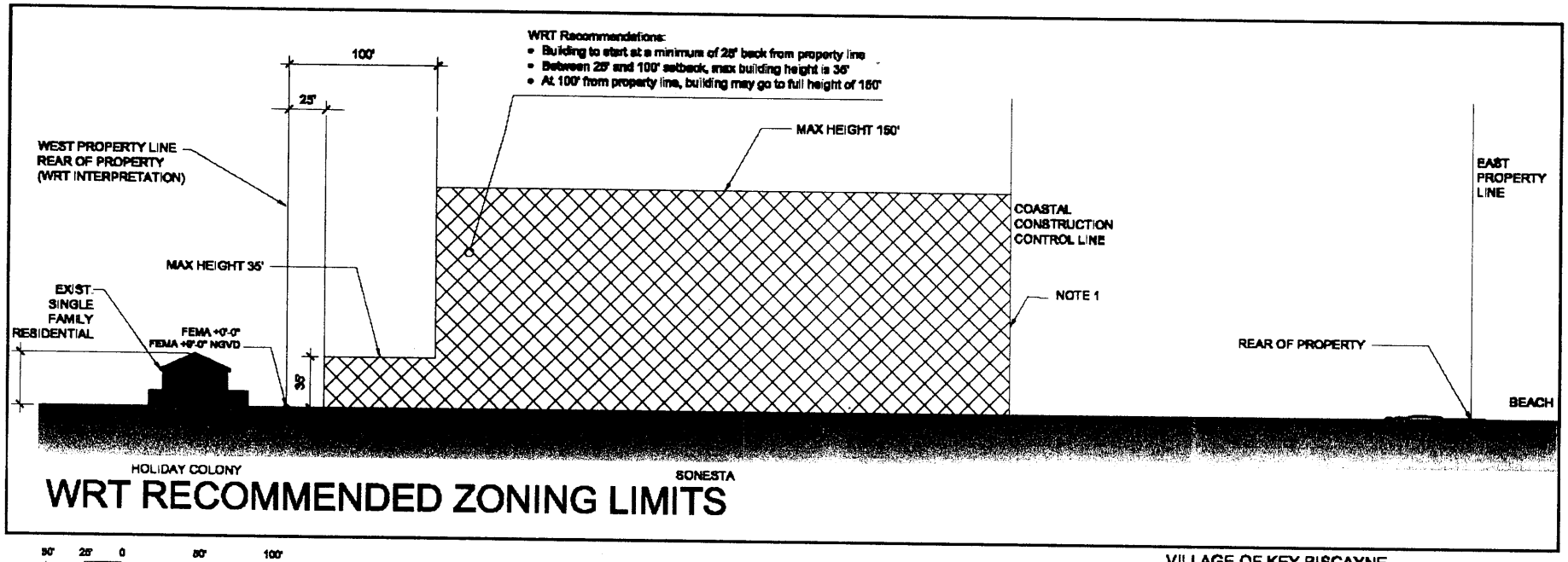


WRT Planning & Design



WRT RECOMMENDED ZONING LIMITS

50' 25' 0 50' 100'

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HOTELRESORT ZONING DISTRICT ANALYSIS
scale 1/128"=1'-0" date 11.15.08

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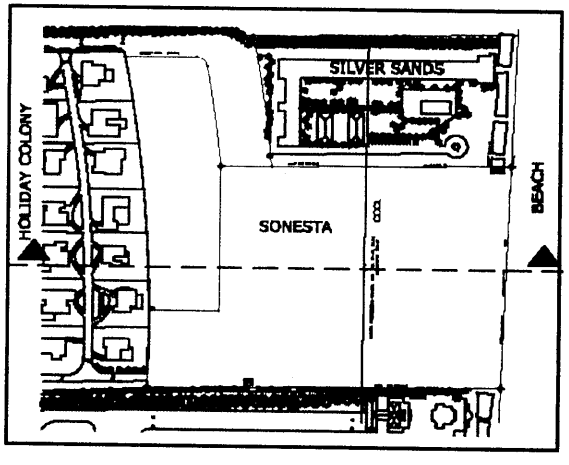

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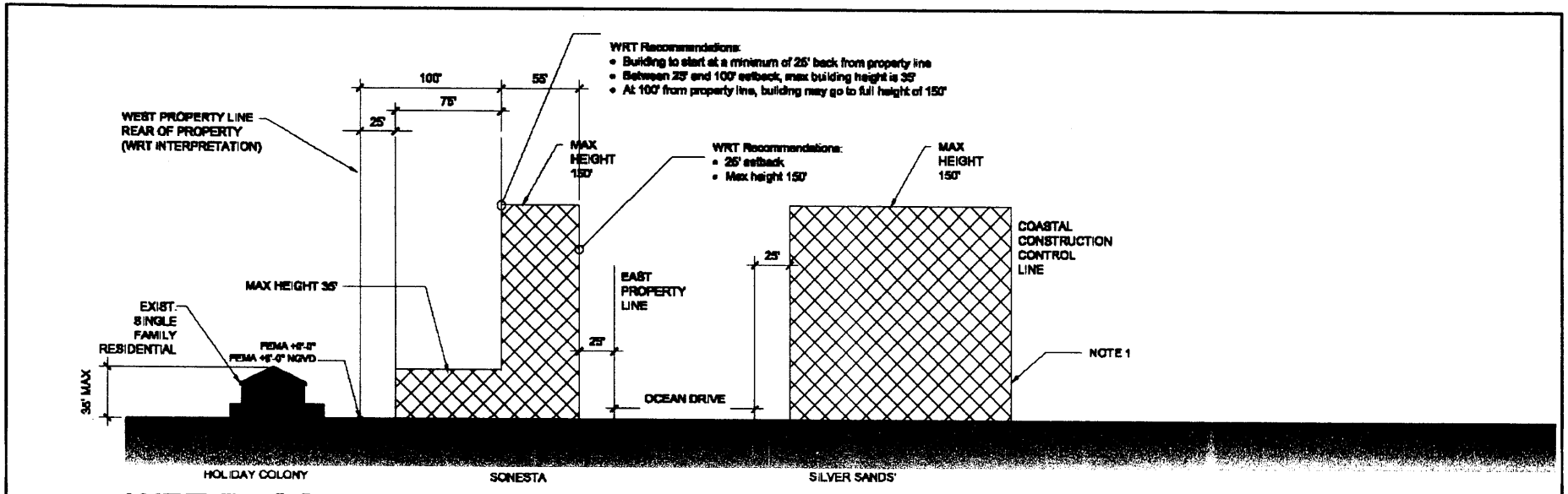

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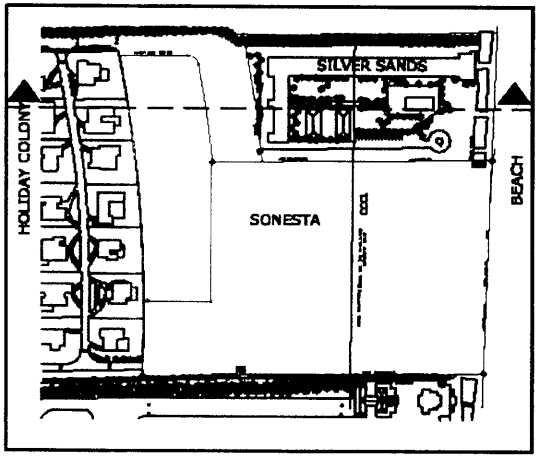


WRT Planning & Design

with over 36 units but not more than 50 units: 1 space; for hotels with over 50 units but less than 100 units: 2 spaces; for hotels with over 100 units but less than 200 units: 3 spaces; and for each additional 100 units or fraction thereof over 200 units: 1 space. The City of Hollywood requires loading bays for hotel uses as follows: 50-100 Units, 1 bay, + 1 bay for each additional 100 units or major fraction. An alternative path might be to establish criteria the Code for granting a reduction, if the owner or developer of a site can demonstrate that the proposed development requires less loading bays than called for in the Code.

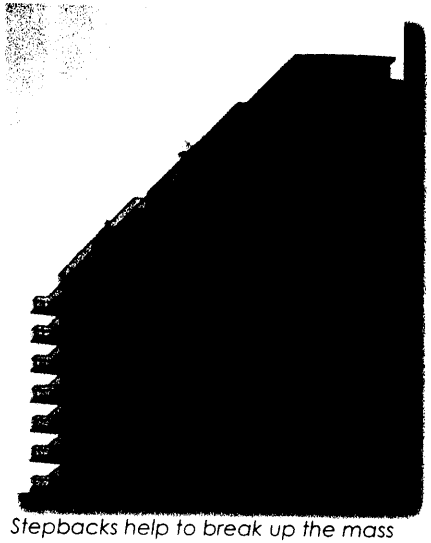
p. Additional Compatibility Standards:
While consonance in height, setbacks, FAR, and use are important, site and building design features that can greatly contribute to alleviate visual, spatial and operational conflicts between differing land uses. Therefore, we recommend that the Village consider incorporating additional standards such as those that follow, to encourage design characteristics compatible with the existing character. These standards are meant to address issues at the site level, including the following:

- Nuisance factors of certain uses.
- Mass and visual orientation
- Aesthetic impacts on immediate surroundings.
- Overall impact of building design.

Intent: The intent of the following standards is to maximize compatibility and promote continuity of scale, massing, and architectural features between proposed HR development and adjacent properties:

i. ***Stepbacks*** can have a significant impact on the impression of the scale and feel of a building. They also allow for more light/sun and breeze to penetrate into the areas surrounding tall buildings, and help to break up the massing of such buildings, bringing them down to a more "human" scale. Whereas setbacks are the minimum or maximum legal distances that a building must be from property lines, stepbacks are setbacks that occur at different levels of buildings above the ground floor.

Structures exceeding 100 feet in height (up to the maximum allowed) and located within 200 feet of the lot line of property zoned for single family residential use shall comply with the following stepbacks to break up the massing and reduce the perceived scale of the buildings:



Stepbacks help to break up the mass and perceived scale of the building, and allow more light and wind to go through

1. Any portion of a structure between 100 and 120 feet in height: a 10 ft. stepback measured from the required baseline setback line.

2. Any portion of a structure between 121 and 150 feet in height: a 20 ft. stepback measured from the required baseline setback line.

These stepbacks shall be required on one side of the structure if the structure is equal to or less than 100 feet in length, and on two opposite sides if the structure exceeds 100 feet in length (up to the maximum length allowed).

ii. ***Cornice lines*** provide continuity of perceived scale, by creating shadow lines and strong edges that help to "scale down" the massing of a building. A discernible, continuous cornice line shall be applied to the facades of buildings that abut single family residential use at the following façade plane heights:

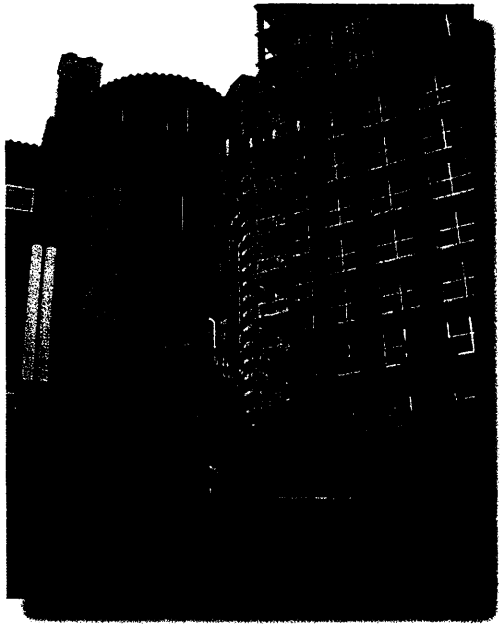
1. 35 foot height (or equivalent of 2-3 story)

2. 100 foot height

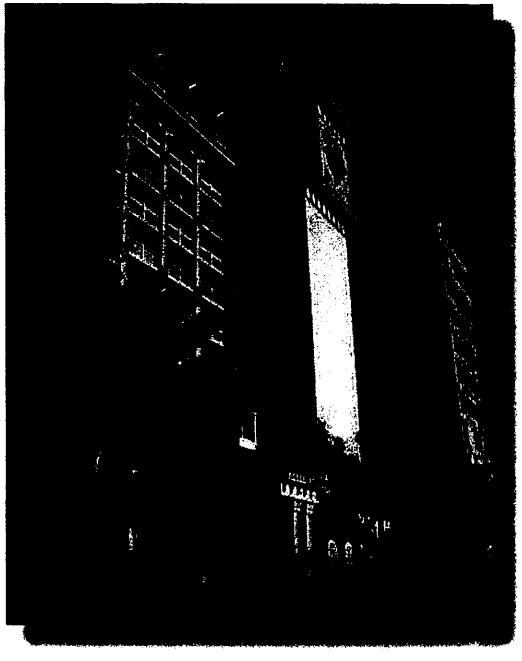
3. Top of the building or maximum height of 150 feet

iii. Additional ***architectural elements*** shall be used to articulate building facades in a manner compatible with the surrounding development and the structure's own architectural style. Use architectural features such as fenestration, recessions and projections, roof shapes, architectural detailing, and materials and colors, to create a variety of scale relationships; suggest the appearance or feeling of a residential scale; and evoke the structures on adjoining property.

iv. Internal **drives and parking areas** located adjacent to single family residential districts shall be located no less than 25 feet from the property line and shall be screened so that no



Cornice lines can provide continuity of perceived scale between buildings of dissimilar heights.



Architectural detail and articulation of the building facade should be used to create scale relationships with surrounding developoment.

headlights, light fixtures, or cars are visible from the adjacent single family residential use. Screening shall be effective at ground level and shall extend in height to the highest level of the adjacent residences. Any such internal drives and parking areas shall not be used for commercial vehicle traffic or parking, including taxis, buses, trucks, or any type of service or delivery vehicles. Commercial loading areas shall not be located adjacent to single family residential districts.

v. All ***mechanical equipment, storage, and refuse collection areas*** shall be screened from view by surrounding uses. The screening may be accomplished by providing a fence, wall, or vegetation.