

**ARTICLE IV.
ADMINISTRATION OF THE ZONING ORDINANCE**

Sec. 30-60. General provisions.

All licenses, Development or building permits or other permits issued by any department, agency or official of the Village for the erection, ~~alteration~~Alteration, demolition or Use of any Building or Structure or part thereof, or for the Use of any land or water, shall comply with these ~~Zoning and Land Development~~ Regulations as follows:

Comment [FHC118]: Added Development permit. Collapsed 2-5. They all say the same thing

~~(1) Use which involves~~ (1) Approvals in violation of chapter. Unless otherwise required by law, no license, approval or permit shall be issued by any department, agency or official of the Village for the Use of any ~~Premises~~land or Structure or the operation of any business, enterprise, occupation, trade, profession or activity which would involve or constitute a violation of these ~~Zoning and Land Development~~ Regulations.

~~(2) New construction~~ (2) Changes, Additions, Rehabilitations and/or Use of Land. The construction of any new Building or Structure, including any change, addition or rehabilitation, and/or the initiation of any Use of presently unused property, and additions or rehabilitations to existing Buildings or Structures, and a change of Use of any Building, Structure or property, shall conform with ~~all of the applicable provisions of these Zoning and Land Development~~these Regulations.

Sec. 30-61. Enforcement.

The Village Manager shall assign the responsibility of enforcement and implementation of the provisions of these ~~Zoning and Land Development~~ Regulations to the appropriate departments, officials and employees of the Village. The Village Council has the ultimate responsibility for ensuring that these Regulations are enforced.

Comment [FHC119]: Added Council responsibility

Sec. 30-62. Reserved.

Sec. 30-63. Variance procedures.

(a) Variance criteria.—A Subject to the exceptions stated in subsection (b) of this Section 30-63, a Variance shall ~~may~~ be granted upon a finding that the desired Variance and the petition meets in support thereof meet the following criteria:

Comment [FHC120]: General observation: these apply to all Variances. Specific types of Variances have their own procedures, below. Clarity may be served better if we collapse the different procedures for each into this Section

~~(1) Maintains the basic intent and purpose of the zoning, Subdivision and other land Use~~

Comment [FHC121]: This says "shall" in current code. Variances shouldn't be "shall".

(1) The Variance will result in conditions that maintain and are consistent in all material respects with the intents and purposes of these Regulations, which is to protect and that the general welfare of the public, particularly as it affects the, stability and appearance of the community will be protected and maintained; and

Comment [FHC122]: Changes standard to focus on resulting conditions if granted

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

Comment [FHC123]: Changes standard to include general consistency with Regs and Comp Plan

(b) No Use, Sign and Density Variances. In no instance shall a Variance be granted ~~which~~that permits a Use that is not listed as a Permitted Use in the district in which the property is located ~~or, or that changes the Permitted Uses in a District, or that~~ permits an increase in Density that exceeds the maximum permitted Density allowed in the zoning district in which the property is located, or that permits a Sign that does not conform to these Regulations.

Comment [FHC124]: Adds prohibitions - no Sign variances. Also, no change in Permitted Use, consistent with (e), below.
Question: what about Height variances? ZORC discussion, with exception for solar panels

(c) **Types of Variances.** There are three types of Variances ~~which~~that may be granted under these Regulations. These ~~include~~are supervisory Variances, administrative Variances, and regulatory Variances.

(d) **Resolution.** The resolution ~~which~~that memorializes the approval of any type of Variance shall be recorded in the public records of Miami-Dade County at the applicant's expense. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning~~ Department prior to the issuance of any building permits. No building permit shall be issued until proof of recordation has been submitted to the ~~Building, Zoning, and Planning~~ Department.

(e) **Village Attorney opinion for Variance applications** ~~which are considered by the Village Council.~~ The Village Attorney shall provide the Village Council with an opinion as to whether the application is properly submitted and that it does not constitute a change of zoning, or a Use Variance, or Density Variance or Sign Variance.

~~(f) Building, Zoning and Planning~~ (f) **Director recommendation for Variance applications** ~~which are considered by the Village Council.~~ The Director ~~of the Building, Zoning and Planning Department~~ shall provide the Village Council with a recommendation for each application that is considered by the Council.

(g) **Time limit.** The approval of any type of Variance shall automatically become null and void unless the appropriate Development order (as defined in F.S. § ~~163.3164, 163.3164~~), building permit, ~~Local Business Tax Receipt~~Occupational License, certificate of occupancy or certificate of completion has been issued within 12 months of the date the resolution was executed by the Village Mayor. Requests for an extension of time for a maximum additional 12 months ~~shall~~may be considered by the Village Council. Notice requirements for such requests are the same as those that were used for the original application.

(h) **Application forms.** The ~~Building, Zoning, and Planning~~ Department shall provide the applicant with the Variance application form.

(i) **Order or notice of violation.** When the ~~Building, Zoning, and Planning~~ Director determines that ~~an~~ a Variance application is complete, prosecution of a violation shall be stayed until the Village Council approves or denies an application ~~which that~~ would remedy the violation if approved. If the ~~Building, Zoning and Planning~~ Director determines that a stay would imperil the life or property or otherwise create substantial risk or injury or would amount to a public nuisance, a stay shall not be issued.

(j) **Appeals.** An appeal of a decision made by an official of the Village shall be to the Village Council. Following a public hearing, a majority vote of the Council members in attendance at the meeting is required to reverse or amend a decision of said official. This shall not be applied to conflict with the Village Charter requirement of action by four affirmative votes. Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules of appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared ~~In~~ Writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the ~~Building, Zoning, and Planning~~ Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

(k) **Consideration of petitions after denial or withdrawal.** When ~~an~~ a Variance application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial without prejudice. Any subsequent application that provides Setbacks, ~~Density~~, or Parking spaces of an additional ten percent or more of the counts that were provided in the original application, shall be determined to be a new application and not subject to provisions of this paragraph.

(l) **Notification.** Whenever notification to property owners is required, the applicant making the request shall submit the following to the ~~Building, Zoning, and Planning~~ Department:

- (1) A list of the names and addresses of all property owners within the notification distance that was required by this ~~article~~ Article IV and a letter certifying as to the accuracy and completeness of the list by a Licensed Professional Engineer, Licensed Architect, Licensed Landscaped Architect, Licensed Real Estate Broker, Licensed Real Estate Appraiser, an attorney who is a member of the Florida Bar, a Licensed Land Surveyor, or a Land Planner who is a member of the American Institute of Certified Planners (AICP).

Comment [FHC125]: Removed "Density" since Density variance is prohibited. Also, reworded slightly "...an additional 10% or more of the counts"

Comment [FHC126]: 300 feet? If so, say so.

- (2) Two duplicate sets of self adhesive mailing labels containing the names and addressees of property owners indicated on the certified list.

Sec. 30-64. Supervisory Variances.

The supervisory Variance procedure shall be used for a Variance from ~~the provisions of the Code of Key Biscayne~~ these Regulations, limited to improvements existing at the time of application as opposed to planned construction and involving the following matters exclusively: Setbacks, spacing of Buildings, Floor Area Ratios, Lot Coverage, Pervious Area, and Parking. The supervisory Variance procedures may only be used for applications ~~which~~ that receive the approval of the ~~Building, Zoning, and Planning~~ Director and are subject to the following:

Comment [FHC127]: limited to the case of minor construction errors – to give a pass. Suggest state this more clearly, so distinction between this and Administrative is more clear. The idea of preserving limited practical flexibility seems right. Suggest clarify that this also covers fence agreements between neighbors

~~(1) The Building, Zoning and Planning~~ (1) The Director shall have the authority to waive up to two feet or ten percent, whichever is greater, of the required Setbacks, Lot Coverage, Pervious Area, or Parking for projects ~~which~~ that have been completed or are under construction (see paragraphs (3) and (4) below). Applicants are restricted to current property owners.

- (2) The applicant shall provide a Written statement from the Abutting Property owner consenting to the waiver. There shall be no other notice requirement.
- (3) For existing construction that has received a certificate of use or certificate of occupancy, the applicant shall provide an affidavit stating ~~they~~ the applicant did not construct that portion of the project ~~which~~ that encroaches into the required Setback.
- (4) For projects that are under construction and ~~an~~ where encroachment into the required Setback has occurred, the applicant shall provide a statement that the encroachment has resulted from an error during construction.

Comment [FHC128]: Consent from neighbors within 300 feet?

Sec. 30-65. Non-Use Administrative Variances.

~~(a) Administrative~~ (a) The administrative Variance procedure shall be used for a non-Use Variance from ~~the provisions of the Code of Key Biscayne~~ these Regulations, limited to improvements existing at the time of application as opposed to planned or pending construction and involving the following matters exclusively: Setbacks, spacing of Buildings, height, Floor Area Ratios, Lot Coverage, Pervious Area, and Parking. The administrative Variance procedures may only be used for applications ~~which~~ that receive the approval of the ~~Building, Zoning, and Planning~~ Director. The maximum amount of the waiver is 20 percent of the requirement.

Comment [FHC129]: We don't need to say "Non-Use". There are no Use variances. Discussion on this section was incomplete. Minor supervisory waivers for practical flexibility makes sense, but why this 20% waiver allowance, as distinct from regulatory variance provisions?

(b) An application for an administrative Variance shall be made by the fee owner of the property on a form prescribed by the ~~Building, Zoning and Planning~~

Comment [FHC130]: Eliminate height variance, or limit height variance to cases of solar panel installation or weathervanes? FAR waiver? Lot Coverage? How substantial are 20% waivers?

~~Department~~Director and shall be submitted to the ~~Building, Zoning and Planning Department~~Director, together with a processing fee ~~which~~that shall be set and may be amended from time to time by the Village Council. The application shall include a recent survey of the property, an accurately dimensioned Site Plan showing the existing Structures on the subject property, the general location and Use of existing Structures on the Adjacent Properties from which the non-use Variance is being requested and a letter of intent explaining the reason and justification for the non-use Variance. The application shall be accompanied by:

- (1) The Written consent of all the owners of all adjacent or abutting Lots to the subject property, including Lots immediately across the Street from the subject property; and
- (2) The Written consent of all utilities and/or Easement holders if the proposed work encroaches into any Easements.
- (3) No other form of public notice is required.

Comment [FHC131]: 300 foot radius?

Comment [FHC132]: This should apply across the board. See earlier comment re: consolidating procedures.

Administrative Variance applications shall not be processed unless and until all the information set forth in this subsection (b) is delivered to the Director ~~of the Building, Zoning and Planning Department~~.

(c) Upon receipt of the completed application for the administrative Variance, the Director ~~of the Building, Zoning and Planning Department~~, prior to making his or her decision, shall inspect or shall have a staff member of ~~his department~~the Department inspect the subject property and its surrounding properties to determine what impact, if any, the proposed request will have on the area. The applicant shall submit a petition from the residents and/or owners of the Adjacent Properties including the property or properties immediately across all adjacent Streets, attesting to their approval of the administrative Variance. The ~~Building, Zoning and Planning Department~~Director shall determine who is required to sign the petition.

Comment [FHC133]: Also covered in (1) above

(d) Upon receipt of all necessary information including a staff report, the Director ~~of the Building, Zoning and Planning Department~~ shall review the information and render his or her decision either approving, approving with modifications, or denying the request. A copy of said decision shall be published in a newspaper of general circulation in the Village ~~of Key Biscayne~~. A courtesy notice containing the decision of the Director ~~of the Building, Zoning and Planning Department~~ shall be mailed to ~~adjacent and Abutting~~Adjacent Property owners of record, their tenants or their agents, ~~that are~~duly noted on the application. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder. In granting any administrative Variance, the Director ~~of the Building, Zoning and Planning Department~~ may prescribe any appropriate conditions and safeguards he may feel necessary to protect and further the interest of the area and ~~Abutting~~Adjacent Properties. ~~The decision of~~If a Variance is granted, the Director ~~of the Building, Zoning and Planning Department's decision~~ shall be ~~recorded~~reflected on the Official Zoning ~~Maps of the Village of Key Biscayne~~Map.

(e) The applicant or any aggrieved property owner may appeal the decision of the Director ~~of the Building, Zoning and Planning Department~~ to the Village Council within 15 days from the date the decision is published. A building permit shall not be issued until the appeal period has expired. In the event the Director ~~of the Building, Zoning and Planning Department~~ should determine that the prohibition of issuing a building permit could cause imminent peril to life or property, the Director may permit the issuance of a building permit upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper under the circumstances. All appeals hereunder shall be in the form prescribed by the Village Council or Village Manager and shall include a processing fee which shall be set and amended from time to time by the Village Council.

(f) A request for judicial review of a decision of the Village Council shall be made pursuant to a petition for certiorari.

Sec. 30-66. Regulatory Variances.

The Village Council shall have jurisdiction regarding the disposition of ~~Regulatory~~regulatory Variances. The following procedures shall be used in the processing of applications for Regulatory Variances.

- (1) **Application forms.** The ~~Building, Zoning, and Planning~~ Department shall have the responsibility of assisting applicants in the filing of applications for Regulatory Variances.
- (2) **Public notice and hearing requirements.** The Village Clerk shall schedule a public hearing pursuant to the procedures set forth in ~~section~~Section 30-68. An application for a Regulatory Variance requires one public hearing before the Village Council.

All public hearings and meetings of the Council with regard to a Regulatory Variance are open to the general public. Interested parties shall have the right to appear at any meeting or public hearing, personally or by an attorney, and have the right to object or to express favor before the Council. Any interested Person may file their objection or approval In Writing prior to the time the Council makes a decision on the application.

- (3) **Vote.** Except as provided for in the Village Charter, a majority vote of the members of the Council in attendance is required to deny, approve or approve a request with conditions. Violations of the conditions shall be deemed to be a violation of this article.
- (4) **Modification of conditions.** Should the applicant request to modify any condition, said request must be approved by the Village Council. Public

notice shall be the same as that which was required for the original request.

- (5) **Resolution.** The Village Council shall memorialize its decision in the form of a resolution. The resolution shall be recorded in the public records of Miami-Dade County and be considered as a covenant running with the land. No building permit, certificate of occupancy, certificate of use, or ~~Local Business Tax Receipt~~ Occupational License shall be issued until the applicant provides evidence of the recordation. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning~~ Department prior to the issuance of any building permits.

(6) **Conditions.** The Village Council may stipulate conditions and requirements in granting any application for a Regulatory Variance, when it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

Comment [FHC134]: Added. Same thought as relates to text change and Conditional Use

(7) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules and appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared in writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

Comment [FHC135]: Unlike Admin. Variance section, this Section doesn't speak to appeal, jurisdiction. 30-70 doesn't cover this. This is lifted from 30-72 (j) – re Conditional Use.

Sec. 30-67. Summary of Variance Regulations.

TABLE INSET:

Regulation	Supervisory Variance	Administrative Variance	Regulatory Variance
Variance relating to:	Setbacks Floor Area Ratios, Lot Coverage, Pervious Area, Parking	Setbacks Floor Area Ratios, Lot Coverage, Pervious Area, Parking	All Variances (excluding Use, density and Signs)
% or footage that may be waived	2 ft. or < 10% of requirement	> 10% but < 20%	Any percentage
Requires Building, Zoning, and Planning Director approval prior to processing	Yes	Yes	No
Approval of Adjacent Property owner nearest to request	Yes	Yes	No
Approval of all Adjacent Property owners (petition)	No	Yes	No
Mailed notice to property owners within 300 ft. of property which is subject of the application	No	No	Yes
Notice in newspaper	No	Yes	Yes
Posting of property	No	No	Yes
Appeal to	Village Council	Village Council	Court

Sec. 30-68. Public hearing and notice requirements.

(a) When an application is filed which requires a public hearing before the Village Council, the Village Clerk shall schedule same and provide public notice as set forth below.

(b) Written recommendations of the Village Manager or his designee shall be developed and such recommendations shall become a part of the hearing file and record, and open for public inspection.

(c) Notice of the time and place of the public hearing describing the nature of the application and Street address of the property shall be published in a newspaper of general circulation in the Village not less than ten days prior to the public hearing.

(d) A ~~courtesy~~ notice containing substantially the same information set forth in the published notice ~~may~~shall be mailed to the property owners of record located within a radius of 300 feet of the property described in the application or such greater distance as the Village Manager may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceedings taken under this section.

(e) The property shall be posted no later than ten days prior to the hearing in a manner conspicuous to the public, by a Sign ~~or Signs~~ containing information concerning the application including but not limited to the applied for zoning action and the time and place of the public hearing.

Comment [FHC136]: Why is this called courtesy notice? Its required, no? Also, changed "may" to "shall" give notice. What about last clause - failure to give notice?

(f) All costs of advertising, mailing and posting shall be borne by the applicant.

(g) Number of required public hearings:

TABLE INSET:

Type of petition	Number of required public hearings
Regulatory Variance	1
Appeal of Administrative Decision	1
Text Amendment	2
Change of Zoning District	2
Conditional Use	1

Sec. 30-69. Ex-parte communications.

The following process shall apply to quasi-judicial actions pending before the Village Council:

- (1) **Communications between Village Council and public.** All oral and Written communications with the public involving quasi-judicial action pending before the Village Council must take place at the public hearing. Outside of the public hearing, the Council is prohibited from discussing the merits of any matter on which action may be taken by the Council.
- (2) **Communications between Council and staff.** Written and oral communications between Council members and staff shall be allowed.
- (3) **Written communications.** In the event that a Council member receives a Written ex-parte communication, the Council member shall immediately submit the Written communication to the staff so that it can be placed in the file and made a part of the record either before or during the public hearing prior to the Council voting on the application.
- (4) **Site visits.** A Council member may make a site visit regarding a quasi-judicial matter pending before the Council, provided that the existence of the site visit is made part of the record prior to the Council taking final action on the application.

Comment [FHC137]: ZORC – unfinished item.. Concerns about “influence” vs. concerns about communication

Comment [FHC138]: Add “Village” before Council

Sec. 30-70. Appeal of an administrative decision.

(a) Village Council. The Village Council shall hear, decide and rule upon the matters set forth herein.

Comment [FHC139]: What matters? Be specific. Regulatory Variances, District or Text Change, Conditional Use?

(b) ~~Appeal~~ Appeals. Any party in interest, aggrieved by an order, decision or interpretation rendered by the pertinent officials of the Village, in the enforcement of the terms and provisions of this chapter may file an appeal with the ~~Building, Zoning, and Planning~~ Director subject to the following:

Comment [FHC140]: Inconsistent with earlier text. Confusing

- (1) The appeal shall be In Writing, specifying the grounds thereof on forms as provided by the ~~Building, Zoning, and Planning Department~~ Director.
- (2) The appeal shall be filed within 30 days of the date the administrative decision is made.
- (c) Public notice shall be provided as set forth in section 30-68.

Comment [FHC141]: Note: deleted "courtesy" and changed may to shall . The cite to this section repeats below, where notice is required

Sec. 30-71. Procedures for a text change or zoning district change.

(a) **Text amendment procedures.** The text of these ~~Zoning and Land Development~~ Regulations may be amended in accordance with the following procedures:

- (1) A petition for change of text or zoning district may be submitted to the ~~Building, Zoning and Planning~~ Director by any of the following:
 - a. Village Council;
 - b. Village Manager;
 - c. Village Attorney; or
 - d. An owner of property in the Village.
- (2) All petitions shall be on forms provided by the ~~Building, Zoning, and Planning~~ Director.
- (3) A petition filed by a property owner that changes the boundaries of a zoning district or creates a new zoning district shall include documentation that a majority of the owners of the property in said district approve of the petition.
- (4) A petition that results in the designation of a new zoning district shall include a minimum of one acre of land. A petition that expands the boundary of an existing zoning district has no minimum area.
- (5) Public notice shall be provided as set forth in section 30-68.

(b) **Review criteria.** In order to approve a text amendment, or change of zoning district the Village Council must find that the petition is consistent with all of the

following criteria. The applicant is required to provide a report at the time the petition is filed which includes documentation that the petition is consistent with each of the below criteria:

- (1) The proposed amendment is consistent with the Comprehensive Plan;
- (2) The proposed change will result in Buildings that are consistent in scale and otherwise compatible with ~~those within 300 feet of the site~~ area;
- (3) The resulting boundaries of a zoning district are logically drawn;
- (4) The proposed change will enhance property values in the Village;
- (5) The proposed change will enhance the quality of life in the Village; and
- (6) There are substantial and compelling reasons why the proposed change is in the best interests of the Village.

Comment [FHC142]: Also best interest of those in the vicinity within the affected district

(c) **Conditions.** The Village Council may stipulate conditions and requirements in granting any application for a text or district change, when it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

Comment [FHC143]: Added. Same thought as relates to Regulatory Variance, as added, and to Conditional Use.

(d) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules and appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared in writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

Comment [FHC144]: Again, added section on appeals, like at Regulatory Variance and text/district change sections

Sec. 30-72. Conditional Use procedures.

(a) **Background.** Certain Uses are listed as Conditional Uses and are permitted in zoning districts subject to the approval of the Village Council. These Uses are considered basically suitable for the districts in which listed, but the character and nature of the Uses are such that they may necessitate controls and safeguards on the manner of establishment and operation, which, by being determined by the Council at public hearing, would better serve the interests of the community and the owners of the property in question.

(b) **Notice.** Public notice requirements shall be as set forth in section 30-68.

(c) **Criteria.** In order to approve a petition for a Conditional Use, the Village Council must find that the application is consistent with all of the below review criteria:

(1) The Use is consistent with the Comprehensive Plan.

(2) ~~That the configuration and design of the site will facilitate~~ That there will be adequate provision for safe traffic movement of, both vehicular and pedestrian traffic, both internal to the Use and ~~upon~~in the adjacent ~~roadways~~area that will serve the Use.

Comment [FHC145]: Wordsmithing throughout. Question some of these deletions.

~~(3) Utilities, roadway capacity, drainage, and other necessary public facilities, including police, fire, emergency services, shall exist at the Village's adopted level of service, or will be available prior to issuance of any certificate of occupancy;~~

~~(4) The proposed use shall be consistent with the existing natural environment and community character of the immediate neighborhood of the proposed use;~~

~~(5) Where the proposed conditional use is a package store, the Village Council shall consider the following additional criteria:~~

~~a. The adverse effects that the proposed package store will have upon neighboring properties, with particular attention to the effects of noise, traffic patterns, and glare from exterior lighting or headlights on nearby residential properties;~~

~~b. The amount and degree of law enforcement activities which could reasonably be anticipated to be generated by the proposed package store, both outside and inside, with particular emphasis upon noise, vehicular use by patrons, and vandalism;~~

~~c. Whether the proposed package store makes adequate provision for the elimination of the potential for adverse impact upon adjacent residential areas from hazardous or illegal overflow parking;~~

~~d. The proximity of the proposed package store to schools, parks and places of worship.~~

(3) That there are adequate Setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust or other potential nuisances.

(4) That the application of the Use at the subject location is consistent with the purpose of the underlying zoning district.

~~(d) In considering any application for conditional use approval, reasonable restrictions may be imposed by the Village Council in granting an~~ (d) Conditions. ~~The Village Council may stipulate conditions and requirements in granting any~~ application for a Conditional Use, when ~~such condition~~it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

(e) **Resolution.** The resolution which memorializes the approval of a Conditional Use shall be recorded in the public records of Miami-Dade County at the applicant's expense. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning~~ Department prior to the issuance of any building permits.

~~(f) Building, Zoning and Planning Director recommendation for applications which are considered by the Village Council. The Director of the Building, Zoning and Planning Department~~ (f) Director Recommendations. ~~The Director~~ shall provide the

Village Council with a recommendation for each Conditional Use application ~~that is~~ considered by the Council.

(g) **Time limit.** The approval of any type of Conditional Use shall automatically become null and void unless the appropriate Development order as defined in F.S. § 163.3164, building permit, ~~Local Business Tax Receipt~~Occupational License, certificate of occupancy or certificate of completion has been issued within 12 months of the date the resolution granting the Conditional Use was executed by the Village Mayor. Requests for an extension of time for a maximum additional 12 months shall be considered by the Village Council. Notice requirements for such requests are the same as those that were used for the original application.

(h) **Application forms.** The ~~Building, Zoning, and Planning Department~~Director shall provide the applicant with the application form.

(i) **Pending notice of violation.** When the ~~Building, Zoning, and Planning~~ Director determines that an application is complete, prosecution of any pending violation shall be stayed until the Village Council approves or denies an application which would remedy the violation. If the Building, Zoning and Planning Director determines that a stay would imperil the life or property or otherwise create substantial risk or injury or would amount to a public nuisance, a stay shall not be issued.

(j) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules and appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared ~~In Writing~~in writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the ~~Building, Zoning, and Planning~~ Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

(k) **Consideration of petitions after denial or withdrawal.** When an application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial without prejudice.

Sec. 30-73. **Administrative building moratoria.**

(a) Whenever it shall be made to appear to the Village Manager or Village Council that it is in the public interest to make a comprehensive determination as to whether existing ~~Village zoning districts applying to a portion of the area of Village of Key Biscayne~~or regulations for zoning districts within the Village are appropriate, and it is further made to appear ~~to him~~ that the said existing zoning districts or any regulations pertaining to them may be detrimental to the ~~said area~~ in which they apply should they

Comment [FHC146]: Throughout, minor editing such as Village Clerk instead of Clerk of the Village Council

Comment [FHC147]: Added references to whether regs are appropriate in addition to whether districts are appropriate. Example of MF residential in HR

continue to remain applicable and building permits be issued predicated thereon, the Village Manager shall immediately issue his administrative order delineating the area in question and prohibiting the issuance of building permits therein.

(b) Any administrative order issued pursuant to subsection (a) shall be complied with by all Village ~~of Key-Biscayne~~ personnel and shall be effective until reversed, modified or superseded by order of the Village Council.

(c) Immediately upon issuance of any administrative order pursuant to subsection (a), the Village Manager shall notify the ~~Clerk of the Village Council~~ Clerk, whose duty it shall be to place the matter before the Village Council for consideration and review following a public hearing as soon as is reasonably practicable.

(d) The ~~aforsaid~~ Village Clerk shall give reasonable notice by publication in a newspaper of general circulation in Village of ~~Key-Biscayne~~ of the public hearing that he has scheduled before the Village Council.

(e) At the public hearing the Village Council shall inquire into the propriety of a building moratorium and may reverse, modify or supersede any moratorium order previously issued. The Council's determination shall be predicated upon the reasonable necessity for a detailed comprehensive analysis of the area in question and the probability of detriment to the character of the area by the continued application of the existing zoning districts or regulations applicable to them.

(f) Should the Village Council determine that a building moratorium is reasonably necessary, it shall order the same and direct that no building permits be issued within the affected area. The Council's order shall fix a time within which the Village Manager shall report back to the Council with his recommendation relating to appropriate zoning districts for the affected area. The said time limitation shall be a reasonable one, predicated upon the time needed for a comprehensive analysis of the area. The initial ~~emission~~ moratorium shall be for a period not to exceed 120 days. The ~~Commission~~ Village Council, on its own motion or otherwise, may continue any moratorium for a longer period of time if reasonably necessary. This provision is supplemental to subsection (g) hereof.

(g) Should the Village Manager be unable to report back to the Council within the time prescribed by its moratorium order, upon timely request by the Village Manager and after public hearing on the need therefor, the Council may reasonably extend the time limitation.

(h) Upon the submission of the Village Manager's report and recommendations to the Clerk of the Council, the Clerk shall call a public hearing thereon before the Council at the earliest practicable time, after reasonable notice by publication in a newspaper of general circulation in the Village ~~of Key-Biscayne~~. After said public hearing the Council shall make its determination as to whether the zoning districts shall remain the same or shall be changed. Should the Council determine that the

Comment [FHC148]: Again, added regs applicable in districts in addition to districts

zoning districts shall remain the same, it shall immediately issue its order terminating the building moratorium. Should the Council determine that the applicable zoning districts or any regulations applicable within them should be changed, or new districts or regulations created therefor, it shall issue its order continuing the building moratorium and shall immediately take the actions required ~~elsewhere within the Village of Key Biscayne Code for~~ to implement such changes. ~~Provided;~~ provided, however, that where zoning district boundary changes are involved the Village Council shall hear the matters directly without intervening administrative review.

(i) Upon the completion of all zoning district changes relating to the affected area, the Council shall issue its order terminating the building moratorium.

(j) If any planning study performed by the Department, the Village Council, or a specially hired or appointed Village agency, indicates the necessity for zoning changes, the provisions of sections 30-73 through 30-76 of this Code, may be utilized to restrict the issuance of building permits until such changes have been finally considered by the Village Council. These provisions of sections 30-73 through 30-76 of this Code which anticipate a future planning study are rendered inapplicable to this subsection.

(k) An administrative building moratorium shall be imposed upon the occurrence of the following events:

- (1) As soon as the Village Manager learns that a grand jury has indicted or that an information has been formally returned against a Village Council member charging said Council member with bribery, accepting unauthorized compensation, or other act of fraud in a zoning case relating to a particular parcel or parcels of real property, then the Village Manager shall immediately issue an administrative order identifying the real property in question and prohibiting the issuance of building permits for said property. Such order of moratorium shall remain in effect until the completion of the criminal judicial process and the determination of guilty or not guilty as to the Village Council member involved being reviewed by the highest judicial tribunal to consider the case. Should the Council member be found not guilty, then the administrative order shall be deemed dissolved. Should the Village Council member be found guilty, then a motion to reconsider the zoning on the real property in question may properly be made by any Village Council member.
- (2) If an order of moratorium is imposed on a parcel ~~or parcels of real~~ property pursuant to this subsection, and the owner ~~or owners~~ of such property ~~request~~ requests the Village Council to reconsider the zoning on that property, then a motion to reconsider the said zoning may properly be made by any Village Council member. If the motion to reconsider is approved by the Village Council and the reconsideration of the zoning on the said property occurs, then the building moratorium shall end with the conclusion of the reconsideration process delineated below in subsection

- (3) Upon passage of a motion as provided in subsection (2) above, the Village Clerk ~~of the Council~~ shall immediately notify the Director. The Village Council shall conduct its reconsideration only after notice of the time and place of the meeting has been first published as provided in section 30-68 herein. The sole issue to be considered by the Village Council shall be whether the present zoning on the subject property is appropriate. In determining this issue, the Village Council shall be guided by the standards and guides specified in this chapter. The Village Council, or where appropriate, the Community Zoning Appeals Council after considering the items delineated herein and the criteria specified in this chapter, shall by resolution either reaffirm the existing zoning or rezone the subject property.

Comment [FHC149]: What is Community Zoning Appeals Council?

Sec. 30-74. Other building moratoria.

(a) Should any Person make ~~Written~~written application to the Village Manager for the issuance of an administrative order provided by subsection 30-73(a); ~~Village of Key Biscayne Code of these Regulations~~, and the Village Manager refuses to issue such order, or fails to take action thereon within 30 days, such Person may make ~~Written~~written application to the Village Council for the issuance of a building moratorium by ~~that~~the Village Council. Such application to the Village Council shall be filed with the Village Clerk ~~of the Village Council~~, whose duty it shall be to place the matter before the Village Council as soon as is reasonably practicable for the Council's determination as to whether a public hearing shall be called thereon. The Village Manager shall be notified by the Village Clerk of the date that the matter is to be considered by the Council. The word "Person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, and governmental entity, including the Village Council.

(b) Should the Council determine that a public hearing should be held as to whether a building moratorium is appropriate, it shall call the same for the earliest practicable date and give reasonable notice thereof by publication in a newspaper of general circulation in the ~~Village of Key Biscayne~~. Pending the public hearing the Council may issue an order prohibiting the issuance of building permits in the affected area.

(c) The procedure to be followed for this section, after the completion of the steps provided in subsections (a) and (b) above, is that set forth in subsections 30-73(e) through (i); ~~Village of Key Biscayne Code of these Regulations~~.

Sec. 30-75. Exceptions to the moratoria.

Notwithstanding the issuance of any moratorium order, the Village Manager may authorize the issuance of building permits for ~~nondeleterious~~non-deleterious items

including, but not limited to, fences, repairs and like matters, where he determines that such permit will not affect the outcome of ~~the~~ planning study or zoning in progress, and is not otherwise inconsistent with the basis for the moratorium; provided, however, that with regard to any particular moratorium the Village Council may by ordinance increase or decrease allowable exemptions and may by ordinance provide either a supplemental or exclusive procedure for acting upon requests for exemptions. Such procedure may vest jurisdiction and responsibility for acting upon requests for exemptions in the Village Manager or any Village administrative or quasi-judicial body or Council.

Comment [FHC150]: Added zoning in progress to planning study, and added requirement that the permit is not otherwise inconsistent with the basis for the moratorium

Sec. 30-76. Variances, Conditional Uses and zoning changes during a moratorium.

During the existence of any building moratorium, no applications for Variances, Conditional Uses, zoning district or Use changes, minimum square footage requirement changes, unusual and new Uses, modifications or elimination of conditions, restrictions or limitations within the affected area shall be acted upon by the Village Council or any Village agency, except as provided in subsection 30-73(h), or section 30-75, or unless otherwise specifically provided by the Village Council by ordinance with regard to a specific moratorium.

Comment [FHC151]: Added reference to Council stand-still

Sec. 30-77. Administrative zoning moratoria.

(a) Whenever it shall be made to appear to the Village Manager or Village Council that it is in the public interest to make a comprehensive determination as to whether the existing ~~Village master plan~~ Comprehensive Plan as it applies to a portion of the area of ~~the Village of Key-Biscayne~~ is outdated and of little or no use in formulating correct zoning patterns in relation thereto, or as to whether existing zoning districts are compatible with existing or proposed growth patterns and land Uses, the Village Manager shall immediately issue his administrative order delineating the area in question and prohibiting the consideration by any Village department, Council or agency of any zoning amendment, modification, Variance, Conditional Use or other zoning change, in said area. However, applications for Conditional Uses not involving zoning changes but incorporating requests for Site Plan approval only may be considered and appropriate action taken thereon.

(b) Any administrative order issued pursuant to subsection (a) shall be complied with by all Village ~~of Key-Biscayne~~ departments, ~~Councils~~ the Village Council and all agencies and shall be effective until reversed, modified or superseded by order of the Village Council after public hearing.

Comment [FHC152]: Added public hearing. Strange that action is binding on Council unless overturned by Council

(c) Immediately upon issuance of any administrative order pursuant to subsection (a), the Village Manager shall notify the ~~Clerk of the Village Council~~ Clerk whose duty it shall then be to place the matter before the Village Council for consideration and review following a public hearing as soon as is reasonably practicable.

The ~~aforsaid-clerk~~Village Clerk shall give reasonable notice by publication in a newspaper of general circulation in ~~the~~ Village ~~of Key Biscayne~~ of the public hearing which he has scheduled before the Village Council.

(d) At the public hearing the Village Council shall inquire into the propriety of the zoning moratorium and may reverse, modify or supersede the zoning moratorium order previously issued. The Council's determination shall be predicated upon the need for a detailed and comprehensive analysis of the area in question which would enable the Council to correct any deficiencies in the ~~master-plan~~Comprehensive Plan or to provide any changes necessary or desirable in the ~~master-plan~~Comprehensive Plan.

(e) Should the Village Council determine that a zoning moratorium pending the preparation of a detailed and comprehensive analysis of the area in question is necessary or desirable, it shall order the continuance of the Village Manager's zoning moratorium order. The Council's order shall fix a time within which the Village Manager shall report back to the Council with his recommendations relating to modifying or correcting the ~~Village-master-plan~~Comprehensive Plan as to the affected area. The said time limitation shall be a reasonable one, predicated upon the time needed for a comprehensive analysis of the area by the Village Manager and all planning agencies of the Village.

(f) Upon the submission of the Village Manager's report and recommendations to the Village Clerk ~~of the Council~~, the Clerk shall call a public hearing thereon before the Council at the earliest practicable time, after reasonable notice by publication in a newspaper of general circulation in the Village ~~of Key Biscayne~~. After said public hearing, the Council shall either amend the ~~master-plan~~Comprehensive Plan and terminate the zoning moratorium order or, if it finds no amendment in order or necessary, terminate the zoning moratorium; provided, however, the Council may continue the moratorium or any portion thereof for an additional period of time if the Council finds such continuance to be reasonably necessary.

(g) Should the Village Manager be unable to report back to the Council within the time prescribed by its moratorium order, upon timely request, by the Village Manager and after public hearing on the need therefor, the Council may reasonably extend the time limitations for the report and the moratorium if the Council finds such extension is reasonably necessary.

Comment [FHC153]: Minor wordsmithing. Comp Plan instead of master plan. Village Clerk. "Written" not a defined term

Sec. 30-78. Other zoning moratoria.

(a) Should any Person make ~~Written~~written application to the Village Manager for the issuance of an administrative order as provided by subsection 30-77(a), and the Village Manager refuses to issue such order, or fails to take action thereon within 30 days, such Person may make direct application ~~In-Writing~~in writing to the Village Council for the issuance of a zoning moratorium order. Such application to the Council shall be filed with the Village Clerk ~~of the Village Council~~, whose duty it shall be to

place the matter before the Village Council as soon as is reasonably practicable for the Council's determination as to whether a public hearing should be called thereon. The word "Person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, or governmental entity, including the Village Council.

(b) Should the Council determine that a public hearing should be held on whether a zoning moratorium is appropriate, it shall call the same for the earliest practicable date and give reasonable notice thereof by publication in a newspaper of general circulation in the Village ~~of Key Biscayne~~. Pending the public hearing the Council may issue an order prohibiting the consideration by any Village department, Council or agency of any zoning amendment, modification, Variance, Conditional Use or other zoning change in said area.

(c) The procedure to be followed for this section, after the completion of the steps provided in subsections (a) and (b) above, is that set forth in subsections 30-77(e) and (f).

Sec. 30-79. Zoning in progress procedures.

(a) During the period of time that a petition for zoning district change or text amendment is under consideration pursuant to the applicable ordinances, no permit or license of any kind shall be issued if such permit or license would result in the nonconforming or unlawful Use of the subject property should the petitioned change be finally enacted by the Village Council.

(b) The period of time of such freeze on permits and licenses shall begin on the date of notification for the initial public hearing before the local planning agency and shall continue for a maximum period of six months; provided, however, that such six-month period may be extended for up to an additional six months by resolution of the Village Council where the scope and magnitude of the petition requires additional time for study and deliberation.

Sec. 30-80. Site Plan review procedures.

(a) **Purpose.** Site Plan review is designed to achieve the following objectives:

- (1) To insure that infrastructure (water, sewer, and roads) is in place at the time the project is completed, as mandated by Florida's Growth Management law;
- (2) To encourage logic, imagination, architectural compatibility and variety in the design process;
- (3) To insure that projects are compatible, both aesthetically and functionally,

Comment [FHC154]: We're trying to inject architectural criteria without specifying design

with the surrounding area;

- (4) To promote excellence in urban design, landscape design and architecture; and
- (5) To encourage Buildings that are consistent with the high quality environment associated with the Village.
- (6) To ensure that projects comply with these Regulations.

Comment [FHC155]: Added. A basic premise, better stated than not.

(b) **Applicability.** Site Plan review shall be required for each Development activity that ~~meets the following criteria: The proposed Development~~ is not located in a single Family, Two-Family, GU - Governmental or PROS - Public Recreation and Open Space zoning district; and that features:

- (1) Any new construction on a vacant Lot (this applies to Lots that had Buildings that have been demolished); or
- (2) Any addition to an existing Structure that increases the Structure's square footage by 50 percent or more.

(c) **Jurisdiction.** The Village Council shall have jurisdiction regarding the disposition of Site Plan review applications.

(d) **Vote.** The Village Council vote on proposed Site Plans shall follow a public hearing where interested Persons can provide the Council with testimony and evidence.

(e) **Time limit.** The approval of a Site Plan shall automatically become null and void unless the appropriate Development order, as defined in F.S. § 163.3164, has been issued within 12 months of the date the resolution was approved by the Village Council. A request for an extension of time, for a maximum of an additional 12 months, shall be considered by the Village Council. Notice requirements for such requests are the same as those that were used for the original application.

(f) **Application forms.** The ~~Building, Zoning, and Planning~~ Department shall provide the applicant with all necessary application forms. A complete application shall include the following:

- (1) Existing site characteristics map. A certified property survey extending to the center line of all adjacent Streets and alleys illustrating:
 - a. Existing natural features, including but not limited to lakes, trees and other vegetation and soils and topography unless deemed

unnecessary by the ~~Village Building, Zoning, and Planning~~ Director.

- b. Existing Buildings and other Structures, including Use, height, dimensions and Setbacks.
- c. Existing utility lines and Easements.

d. Lot Lines.

(2) Site Development plan.

- a. A scale drawing clearly illustrating proposed Buildings and other Structures, and any existing Buildings and Structures which are to be retained, including Use, height, dimensions and Setbacks.
- b. Proposed off-street Parking spaces, driveways and sidewalks, including location, construction material, dimensions and Setbacks. This shall demonstrate compliance with Handicapped Accessibility Requirements and Chapter 52.11 of the South Florida Building Code.
- c. Proposed fences and Walls, including location, construction material, dimensions, Setbacks and height.
- d. Proposed utility lines and Easements.
- e. Alignment of Miami-Dade County trafficways on property (if applicable).
- f. Distance of existing Buildings on Adjacent Properties from property line.
- g. Location of all existing and proposed fire hydrants and Siamese connections.

(3) Landscape plan.

- a. A scale drawing clearly illustrating proposed trees, shrubs, grass and other vegetation, including location, height, size and type of plant by both common and botanical classifications.
- b. Proposed berms, watercourses and other topographic features.
- c. Method of irrigation.

d. Identification of Specimen Trees.

e. Site grading.

(4) Architectural plan.

- a. A scale drawing clearly illustrating the building foot-prints, proposed floor plans and elevations, including height, dimensions and color.
- b. Proposed location and elevations of Signs, including height, dimensions, Setbacks, construction material and color.
- c. Floor plans at a scale of one-eighth inch = one foot, zero inches or larger for all floors within any proposed ~~Structured~~ Parking structured parking facility illustrating columns and all other obstructions to the movement of automobiles together with fully dimensioned driveway and Parking space layouts.

d. A description of features leading to FAR bonuses as described in Section 30-100 (b).

Comment [FHC156]: This is consistent with ZORC's new 30-100 (b)

(5) Tabular summary.

- a. Total gross project acreage and net buildable land area, taking into account Lot Coverage and Required Yards.
- b. Total number of proposed ~~residential~~ Units, including characteristics by number of bedrooms and bathrooms and total gross square footage.
- c. Proposed ~~residential densities~~ Densities, including both net and gross acre calculations on both a ~~Unit and~~ Dwelling Unit and Hotel Room equivalent basis.
- d. Proposed ~~nonresidential~~ Floor Area by type of Use and total gross square footage.
- e. Percentage distribution of total gross project site, including areas proposed for landscaped open space, pervious and impervious surfaces and Building coverage.
- f. Number, size and ratio of off-street Parking spaces.

Comment [FHC157]: Deleted "residential". Unit picks up Dwelling Unit and Hotel Rooms

Comment [FHC158]: Deleted "nonresidential". This already requires distinction by type of Use, and we want Floor Area for residential too to determine FAR

(6) Drainage plan. Unless the Village Engineer determines that major

drainage improvements are not feasible due to existing improvements on the property, Site Plan submittals shall contain a separate paving and drainage sheet(s) containing the following:

- a. Locations and size of all Buildings, roads, Parking Lots, driveways, green areas, and other significant pervious and impervious areas.
- b. Existing elevations at the center of proposed Structures as well as the proposed finished floor elevations.
- c. Sufficient elevations and calculations to show retention of storm water on the site in accordance with the South Florida Building Code (S.F.B.C.), Section 4611.1.
- d. Exterior site elevations at the following locations:
 1. Street crown at mid points of sides adjacent to Streets and at property lines extended (or at intervals of 100 feet for sites with greater than 200 feet frontage).
 2. Where the adjacent edge of pavement intersects the property lines extended.
 3. Existing and proposed elevations at the intersections and midpoints of all property lines and existing elevations ten feet outward from the midpoints of all ~~nonfrontage~~non-frontage lines.
- e. Type and usage of Structures immediately adjacent to the site (~~residence, warehouse~~office, and the like).
- f. Details of the proposed drainage system, including drainfield cross sections and lengths, catch basin types and sizes, designated retention/detention area cross sections, and the like.
- g. Description of methods to be implemented during construction to mitigate adverse quantity or quality impacts off-site.
- h. In addition, the following may be required depending on the size and/or location of the project:
 1. Percolation test results if percolation of exfiltration systems are proposed.
 2. A map of the area showing where runoff presently goes and

size, location, topography and land Use of off-site areas which drain through, onto, and from the project.

- (7) Pavement marking and traffic signage plan.
- (8) Proof of Concurrency. All projects requiring Site Plan review, or Development of regional impact review are required to provide proof of Concurrency, pursuant to the Land Development Regulations, prior to the issuance of such Site Plan approval, or Development of regional impact Development order.
- (9) Optional information. The following may be required, if deemed necessary by the ~~Building, Zoning, and Planning~~ Director:
 - a. A map reflecting the general character and relationship of surrounding properties.
 - b. Block elevation sketches of the proposed Development.
 - c. Intended progressive stages or phasing of Development.
 - d. At the time of Site Plan approval of any Development which includes Structured Parking, the ~~Building, Zoning, and Planning~~ Director may require designation of specifically delineated dimensions between columns and/or other Structures. The ~~Building, Zoning, and Planning~~ Director may further require that following construction of footings and establishment of batter-boards for column construction at grade level, that the Developer provide to the ~~Building, Zoning, and Planning~~ Director a sealed survey establishing compliance with the previously designated critical dimensions.
 - e. Demonstration that the proposed Development will not adversely affect any endangered or threatened plant or animal species, and will to the greatest extent possible, protect natural areas, native species, potable water well-fields, and dune systems, and will provide effective erosion control, and will protect against hazardous waste.
 - f. Site Plans shall to the greatest extent possible provide maximum clustering of Buildings and impervious areas.
 - g. Site Plans shall to the greatest extent possible provide bicycle and pedestrian paths to join residential Development with employment areas and commercial areas and shall combine landscaping to the greatest extent possible with that of adjoining properties.

Comment [FHC159]: Think about this. There is merit in Building Separation too. See HR bonuses

(g) **Review criteria.** In order to approve a project, the Village Council must find that it is consistent with each of the below review criteria. The Council may require conditions that are necessary to minimize any adverse impacts on Adjacent Properties.

- (1) **Natural environment.** All proposed Development shall be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum extent possible, be preserved in their natural state; and additional landscape features shall be provided to enhance architectural features, to relate structural design to the site, ~~and~~ to conceal unattractive Uses, and to improve the tree canopy in the Village. In all instances the Village's tree protection, landscaping and all other applicable Regulations shall be fully complied with as minimum standards.
- (2) **Open space.** Adequate landscaped open space shall be provided which meets the particular needs and demands of the proposed Development and all specific zoning district requirements. Legal methods assuring the continued preservation and maintenance of required open space shall be submitted to and approved by the Director and Village Attorney. The type and distribution of all open space shall be determined by the character, intensity and anticipated residential or User composition of the proposed Development.
 - a. Passive open spaces (those areas not planned for intensive activity) shall be arranged as to enhance internal spatial relationships between proposed Structures, to provide buffers between the project and adjacent ~~less-intensive~~ Uses, to facilitate pedestrian movements within the Development, and to improve the overall visual quality of the site and neighboring area.
 - b. Active open spaces (those areas containing activities such as playgrounds, tennis courts, swimming pools and other active recreational facilities) shall be located so as to permit easy Access to all residents or Users within a Development. Private recreational facilities and activities within specific projects shall, wherever possible, complement, rather than duplicate, nearby public recreational activities.
- (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 and reasonably

accommodating pedestrian and bicycle traffic. Said systems shall be separated or buffered insofar as practicable from pedestrian circulation systems. Pavement widths and Access points to peripheral Streets shall be provided which adequately serve the proposed Development and which are compatible and functional with circulation systems outside the Development.

- 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 by 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.

(4) ***Community services and utilities.*** All proposed Developments shall be designed and located in such a manner as to insure the adequate provision, Use and compatibility of necessary community services and utilities.

- a. An adequate sanitary sewer collection system including all necessary extensions and connections, shall be provided in accordance with Village standards for location and design. Where necessitated by the size of the Development and/or by the unavailability of Village treatment facilities, sanitary sewage treatment and disposal systems must be provided in accordance with Village and State standards and Regulations.
- b. An efficient solid waste collection system, including the provisions of an adequate number of properly screened local receptacles in locations which afford maximum Use and collection convenience, shall be provided in accordance with all applicable Village standards.
- c. A well designed internal system for fire protection, including the

provisions of an adequate number of properly located fire hydrants and an efficient Access arrangement for emergency fire vehicles, shall be provided to insure the safety of all Persons within the project.

(5) **Building and other Structures.** All Buildings and Structures proposed to be located within a Development shall be oriented and designed in such a manner as to enhance, rather than detract from, the overall quality of the site and its immediate environment. The following guidelines shall be followed in the review and evaluation of all Buildings and Structures:

- a. Proposed Buildings and Structures shall be related harmoniously to the terrain, other Buildings and the surrounding neighborhood, and shall not create through their location, style, color or texture incompatible physical or visual relationships.
- b. All Buildings and Structures shall be designed and oriented in a manner insuring maximum privacy of Residential Uses and related activities both on the site being developed and property adjacent thereto.
- c. All permanent outdoor identification features which are intended to call attention to proposed projects and/or Structures shall be designed and located in such a manner as to be an integral part of the total project and/or structural design and shall not exceed a size and scale necessary for the recognition from vehicles moving along adjacent Streets at prescribed legal speeds.

Comment [FHC160]: Speak here to sun/shadow, views and air circulation?

(6) **Level of service standards.** For the purpose of the issuance of Development orders and permits, the Village has adopted level of service standards for public facilities and services which include roads, sanitary sewer, solid waste, drainage, potable water, schools, and parks and recreation. All applicants are required to prove Concurrency pursuant to ~~the Land Development~~ these Regulations.

Comment [FHC161]: Question: addition of "schools"

(7) **Other requirements.** Requirements and recommendations as provided in the Village tree and landscape Regulations shall be observed as will the requirements of all applicable standards and Regulations.

(h) **Resolution.** The resolution that memorializes the approval of a Site Plan shall be recorded in the public records of Miami-Dade County at the applicant's expense. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning~~ Department prior to the issuance of any building Development permits.

Comment [FHC162]: Development instead of building permits. Defined term and broader.

~~(i) Building, Zoning and Planning (i) Director recommendation for applications which are considered by the Village Council.~~ The Director ~~of the Building, Zoning and~~

~~Planning Department~~ shall provide the Village Council with a recommendation for each Site Plan application that is considered by the Council. The recommendation shall provide a finding regarding compliance with the criteria listed in subparagraph (m) below.

(j) **Order or notice of violation.** When the ~~Building, Zoning, and Planning~~ Director determines that an application is complete, prosecution of a violation shall be stayed until the Village Council approves or denies an application which would remedy the violation. If the ~~Building, Zoning and Planning~~ Director determines that a stay would imperil public safety or property or otherwise create substantial risk of injury or would amount to a public nuisance, a stay shall not be issued.

(k) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction.

(l) **Consideration of petitions after denial or withdrawal.** When an application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial to be without prejudice. Any subsequent application that provides Setbacks, Density, or Parking spaces that vary ten percent or more from the counts that were provided in the original application, shall be determined to be a new application and not subject to provisions of this paragraph.

(m) **Notification.** Notification shall be pursuant to section 30-68 "Public Hearing and Notice Requirements". Whenever notification to property owners is required, the applicant making the request shall submit the following to the ~~Building, Zoning, and Planning~~ Department:

- (1) A list of the names and addresses of all property owners within the notification distance that is required and a letter certifying as to the accuracy and completeness of the list by a Licensed Professional Engineer, Licensed Architect, Licensed Landscaped Architect, Licensed Real Estate Broker, Licensed Real Estate Appraiser, an attorney who is a member of the Florida Bar, a Licensed Land Surveyor, or a Land Planner who is a member of the American Institute of Certified Planners (AICP); and
- (2) Two duplicate sets of self adhesive mailing labels containing the names and addressees of property owners indicated on the certified list.

Sec. 30-81. Delegation.

When a provision of these Regulations requires the Village Manager, the Director, a head of a department, or some other Village officer or employee to do some act or perform

Comment [FHC163]: Moved from 30-10 per recommendation

some duty, it shall be construed to authorize the Village Manager, the Director, head of a department or other Village officer or employee to designate, delegate and authorize subordinates to perform the required act or duty, unless the terms of the provision specify otherwise.