



# VILLAGE OF KEY BISCAIYNE

Office of the Village Manager

## MEMORANDUM

*Village Council*

Robert L. Vernon, *Mayor*  
Enrique Garcia, *Vice Mayor*  
Michael W. Davey  
Robert Gusman  
Michael E. Kelly  
Jorge E. Mendia  
Thomas Thornton

**DT:** April 19, 2010

**TO:** Honorable Mayor and Members of the Village Council

**FR:** Genaro "Chip" Iglesias, Village Manager

**RE:** HR Hotel Resort Zoning District

*Village Manager*

Genaro "Chip" Iglesias

### RECOMMENDATION

It is recommended that the Council review the attached ordinance and determine if public hearings should be scheduled before the Local Planning Agency and Village Council.

### BACKGROUND

The HR Hotel Resort Zoning District includes properties at 301 and 350 Ocean Drive. At the April 13, 2010 Council meeting, the Administration was directed to remove any language from the ZORC's recommended HR Hotel Resort regulations that required a referendum. The attached ordinance meets that objective.

Our Zoning and Land Development Regulations utilize a variety of means of regulating development. These include permitted uses, density, height, floor area ratio, lot coverage, setback, and parking. In order to design a project, the architect has to balance each of these regulations and make trade-offs on which ones can be maximized while others cannot. For example, a project can maximize the height and floor area limits, but it cannot meet the lot coverage and parking regulations. As such, one must view the regulations in their totality and not focus on any specific regulation.

Attached to this memorandum is a table that compares the existing and ZORC proposed HR Hotel Resort Regulations, a table that presents zoning data for existing projects, and an illustration that presents zoning data for all of the oceanfront properties.

**ORDINANCE NO. 2010 -**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-103 “HOTEL RESORT DISTRICT;” PROVIDING FOR AMENDMENTS TO THE DEVELOPMENT REGULATIONS; PROVIDING FOR PROVISIONS RELATING TO THE DETERMINATION OF YARDS; PROVIDING FOR SUPPLEMENTARY REGULATIONS; PROVIDING FOR AMENDMENTS TO SECTION 30-184 “AMOUNT OF REQUIRED OFF-STREET PARKING” RELATING TO THE REQUIRED OFF-STREET PARKING FOR APARTMENT BUILDINGS, HOTELS, AND MOTELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village Council requested that the Zoning Ordinance Review Committee review and analyze the existing Hotel Resort District regulations; and

**WHEREAS**, the Zoning Ordinance Review Committee held several meetings to discuss the existing Hotel Resort District regulations and developed several revisions to the District regulations; and

**WHEREAS**, the Zoning Ordinance Review Committee has recommended that the proposed modifications to the Village’s land development regulations be approved; and

**WHEREAS**, after review of the proposed regulations at a workshop, the Village Council directed the Village Attorney and Staff to remove any proposed regulations that would require a referendum pursuant to the Village Charter; and

**WHEREAS**, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance and has recommended approval; and

**WHEREAS**, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS<sup>1</sup>:**

**Section 1.** The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Amendment to Section 30-103 of the Village Code.** Section 30-103 “Hotel Resort District” of the Village Code of Ordinances is hereby amended to read as follows:

**Sec. 30-103. Hotel Resort District.**

(a) *Purpose and Uses.*

TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to promote the Development of ocean resort Hotels and multiple Family residences.	Hotel Apartment Building	None	Any Use that is customarily associated with the Main Permitted Uses (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (See sec. 30-113)

(b) *Development Regulations.*

TABLE INSET:

Density	Maximum Height	Lot Coverage	Minimum Lot Area
Hotel 30 Units per acre No Development shall exceed 350 Hotel Units Apartment Building 16 Units per acre If a Development contains Hotel and Apartment Units, then Lot area, which is	<del>150 ft.</del> <u>See, Floor Area Ratio and Height Zone Sketch below</u>	.40	The site shall be subdivided as of the date of this ordinance.

<sup>1</sup> Coding: underlined words are additions to existing text, struck through words are deletions from existing text, shaded text reflects changes made from First Reading.

counted towards one Use, cannot be counted towards another Use.			
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TABLE INSET:

	Setback	Floor Area Ratio
Front:	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.	<del>.40, however oceanfront and bayfront Buildings that provide a 7.5 ft. dedicated Easement on each side of the property from the Street to the beach shall use the following:—</del>
Side:	<p>25 ft. minimum (however no portion of Building may extend beyond a "building envelope" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each, *see <u>Building Envelope sSketch</u> below).</p> <p><del>Side Setbacks shall be measured from the dedicated Easement as required in the Floor Area Ratio calculation.</del></p>	<p><del>1 Story .40 4 Story 1.00 7 Story 1.60 2 Story .60 5 Story 1.20 8 Story 1.80 3 Story .80 6 Story 1.40 9 Story+ 2.00</del></p> <p><del>The dedicated Easement shall be counted in the Floor Area Ratio calculation. The Easement shall be improved with landscaping and a hard paved surface. The improvements shall require approval by the Building, Zoning, and Planning Director prior to the issuance of a building permit and must be installed prior to the issuance of a certificate of occupancy.</del></p> <p><u>The Floor Area Ratio shall be as provided on the "Floor Area Ratio and Height Zone Sketch." Floor Area that is not used in the Floor Area Ratio calculation in Zones 1, 2, or 5 within the "Floor Area Ratio and Height Zone Sketch" shall only be applied to Zones 3 or 4.</u></p> <p><u>The maximum Floor Area Ratio shall be 1.3775.</u></p> <p><u>Parking Garages located below the Base Flood Elevation shall not be included in the Floor Area Ratio calculation. When the Parking Garage is located above the Base Flood Elevation, it shall be included in the Floor Area Ratio calculation.</u></p> <p><u>If a development contains Hotel and Apartment Units, then the lot area which is counted towards one Use cannot be counted towards another use.</u></p>
Rear:	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.	

(c). Determination of Yards. The determination of yards shall be as shown in the “Yard Determination Sketch” as provided below.

(d). Supplementary Regulations

1. Hotel

a) Unit Size- Average Hotel unit size shall be based on the site plan review criteria as set forth in Section 30-80(g) and by documentation submitted to justify said determination.

b) Cooking facilities – The only Cooking Facilities allowed in Hotel Buildings shall be limited to the following: (i.) One microwave oven with a maximum size of 2.0 cubic ft.; (ii.) One refrigerator with a maximum size of 5 cubic ft.; and (iii.) Toasters, coffeemakers, and an ice maker.

c) Common area kitchen in Hotel Buildings- The common area kitchen in Hotel Buildings shall be limited to one room per floor with access directly from a hallway or lobby. No kitchen shall have access to a Hotel Unit. The use of this kitchen is solely limited to the warming and refrigeration of foodstuffs that are prepared in the Hotel or brought from an off site location to the Hotel. Kitchen equipment, cooking facilities, silverware, supplies, and appliances that are directly related to this purpose are allowed.

d) Any Unit with a door to a hallway or lobby is determined to be a Unit.

2. Service Areas and Loading Docks. All service areas shall be adequately screened or buffered from adjacent properties. In addition, loading docks shall be internal to the building.

**Section 3. Amendment to Section 30-184 of the Village Code.** Section 30-184

“Amount of required off-street Parking” of the Village Code of Ordinances is hereby amended to read as follows:

**Sec. 30-184. Amount of required off-street Parking.**

(a) The required off-street Parking spaces shall be provided and maintained on the basis of the minimum requirements listed in this article.

Use	Required Number of Spaces	Special Conditions Additional Required Spaces
(1) Apartment Building	1.75 per Unit. <u>However, if the vehicles in the Parking Garage are located in a Structure that is below Base Flood Elevation and the Parking Garage is operated as a valet service, then the parking spaces may be shown on the site plan in any arrangement. The site plan application shall include a valet parking plan that presents the arrangement of vehicles and how the service is to be operated and managed.</u>	Developments with more than 10 Units, then 1 additional per 5 Units, marked as guest Parking
***	***	***
(6) Hotel or Motel	4 .75 per Unit. <u>However, if the vehicles in the Parking Garage are located in a Structure that is below Base Flood Elevation and the Parking Garage is operated as a valet service, then the parking spaces may be shown on the site plan in any arrangement. The site plan application shall include a valet parking plan that presents the arrangement of vehicles and how the service is to be operated and managed.</u>	Accessory Uses 65% of requirement if calculated as a Main Permitted Use
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**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this \_\_\_\_ day of \_\_\_\_\_, 2010.

PASSED AND ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2010.

MAYOR ROBERT L. VERNON

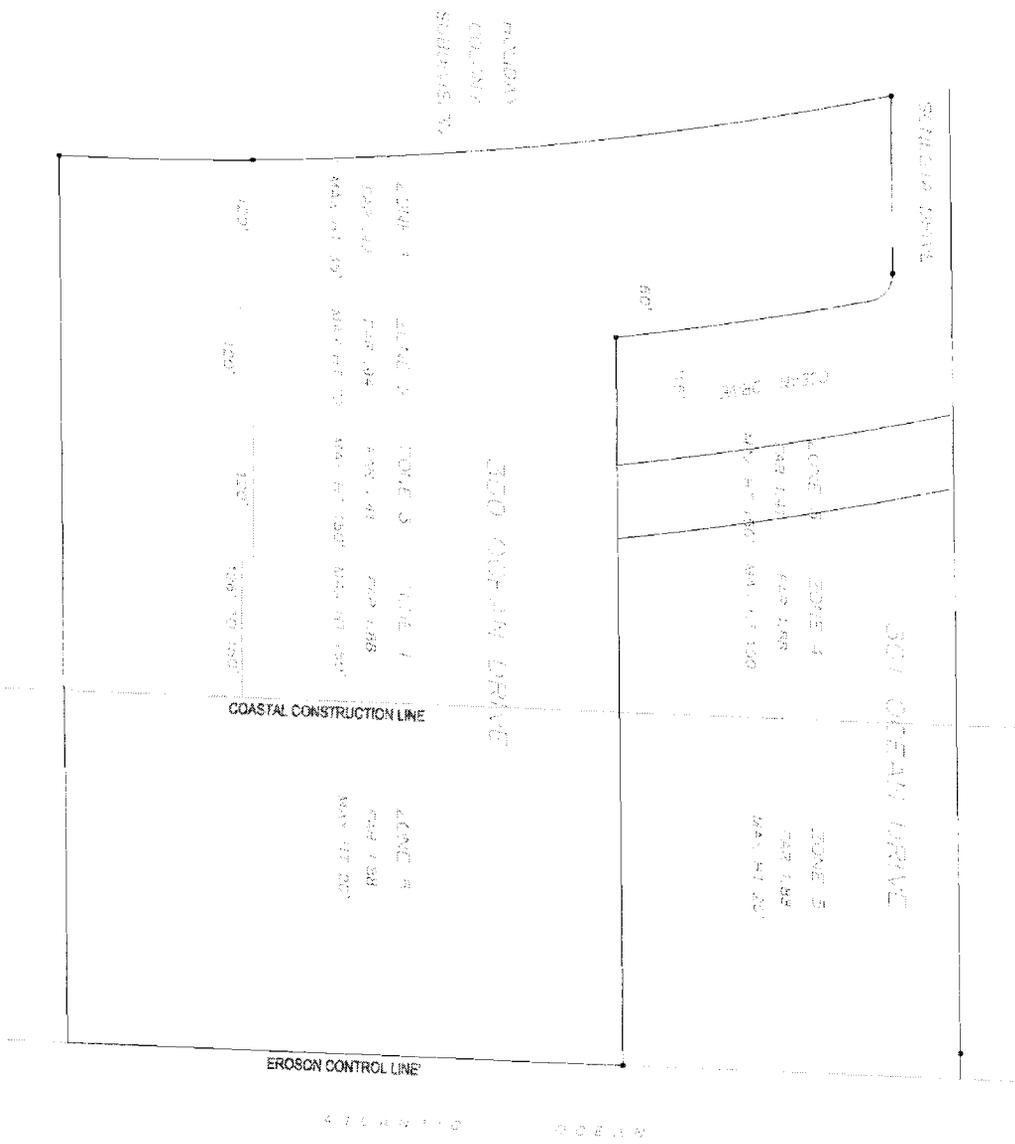
ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

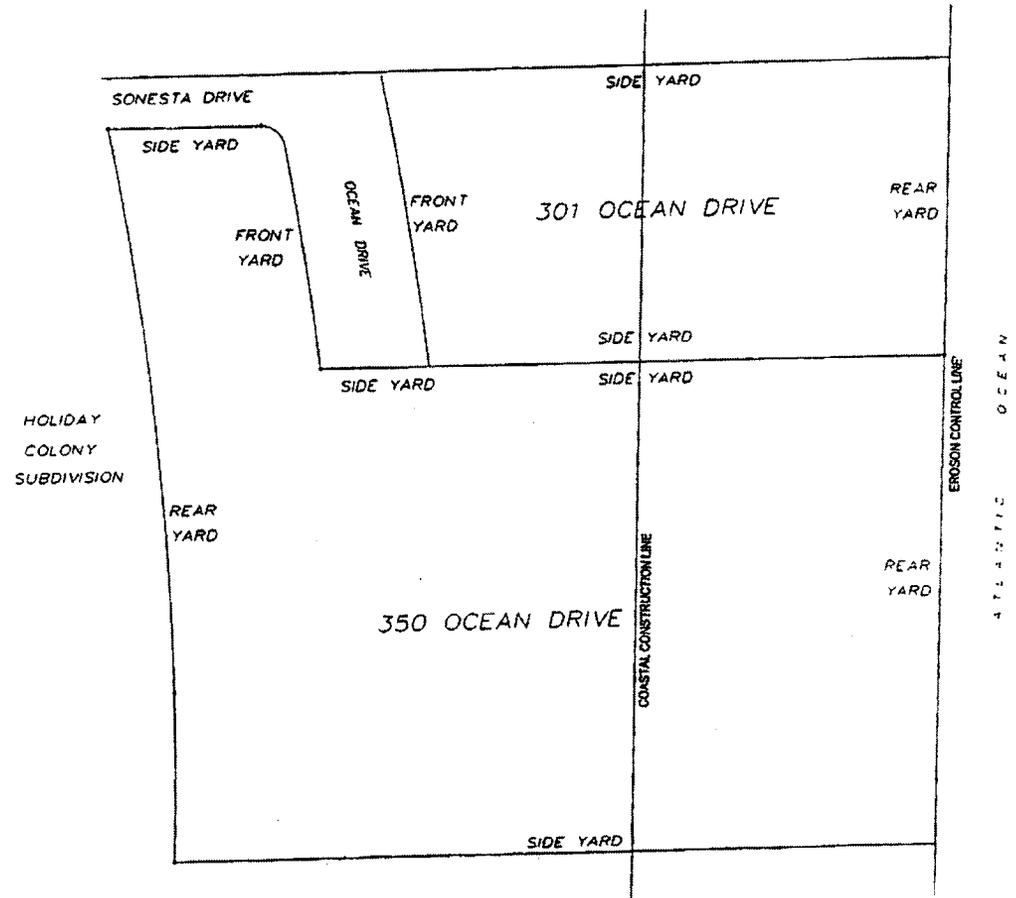
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE  
ATTORNEY

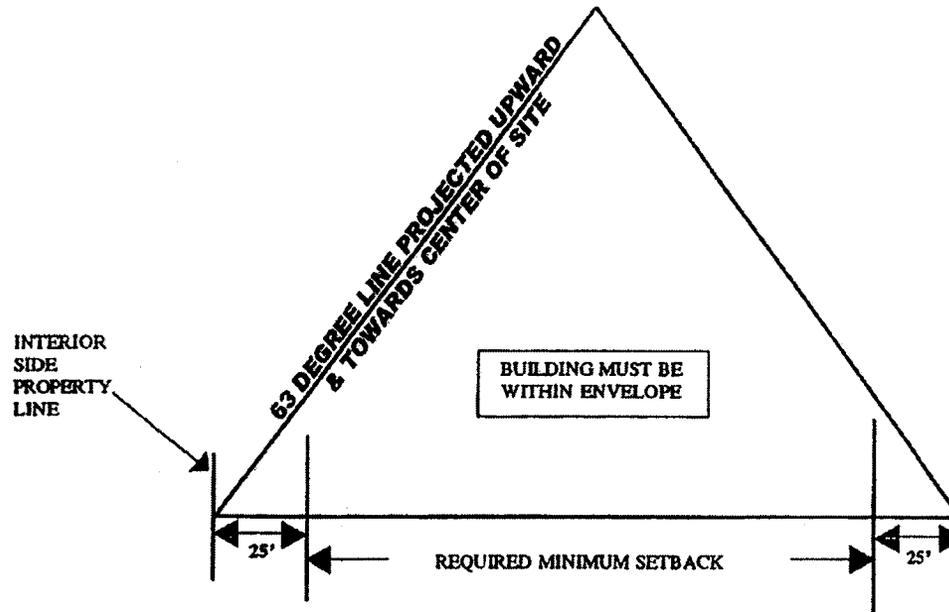
# FLOOD HAZARD AREA RATIO AND HEIGHT ZONE SKETCH



# YARD DETERMINATION SKETCH

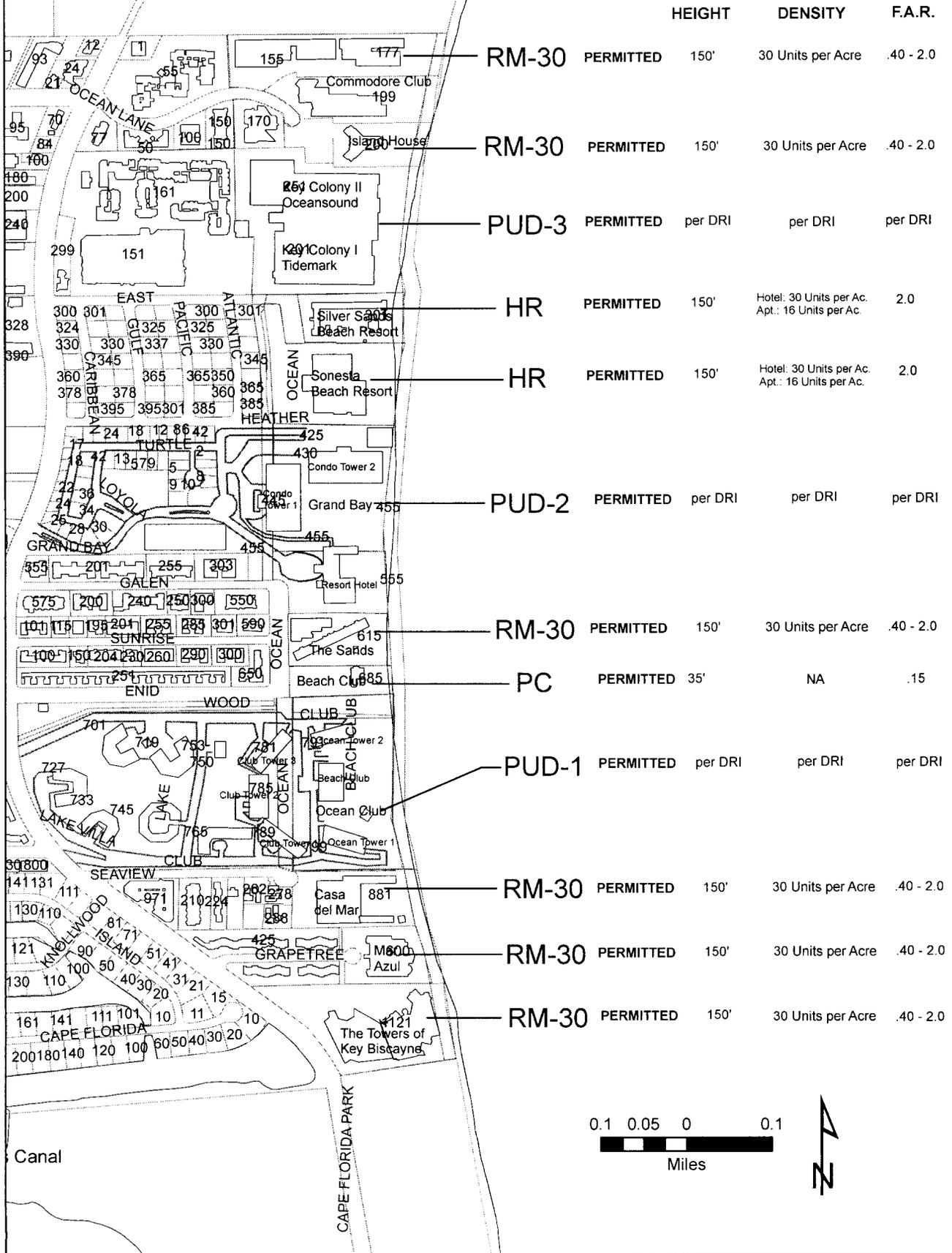


# BUILDING ENVELOPE SKETCH



# Village of Key Biscayne Oceanfront Zoning Stats

WGF, 04/15/10



**COMPARISON OF EXISTING DEVELOPMENTS**

**PERMITTED DENSITY, ACTUAL DENSITY, NUMBER OF UNITS AND SITE AREA**

<b>NAME</b>	<b>MASTER PLAN AND/OR ZONING DISTRICT MAXIMUM DENSITY PER ACRE</b>	<b>ACTUAL DENSITY UNITS/ACRE</b>	<b># OF UNITS</b>	<b>SITE AREA (ACRES)</b>
Silver Sands	Hotel 30 units per acre Apts. 16 units per acre	14.74	56	3.955
Sonesta	Hotel 30 units per acre Apts. 16 units per acre	28.46	294	10.33
Key Colony	30	28.53	1180	41.36
Grand Bay	Hotel 30 units per acre Apts. 16 units per acre	15.37 entire project 19.76 apt/hotel only	685 636	44.56
Ocean Club	Hotel 30 units per acre Apts. 16 units per acre	12.8	832	64.95
The Towers	30	50.3	538	10.6
The Gardens	16	16.4	59	3.6
Grapetree Townhomes	10	12.91	71	5.5
Typical Fernwood Rd. Duplex	2 units per lot	11.6	2	0.17 acre 7500 sq. ft. per lot

**COMPARISON OF REGULATIONS**

<b>REGULATION</b>	<b>EXISTING REGULATION</b>	<b>ZORC ORDINANCE</b>	<b>ANALYSIS 350 OCEAN DRIVE</b>	<b>ANALYSIS 301 OCEAN DRIVE</b>
Permitted Uses	Hotel and Apartment Buildings	Hotel and Apartment Buildings	No change. Same permitted uses.	No change. Same permitted uses.
Density	Apartment Building: 16 units/acre Hotel: 30 units/acre	Apartment Building: 16 units/acre Hotel: 30 units/acre	No change. Consistent with density limits in Master Plan.	No change. Consistent with density limits in Master Plan.
Height	150 ft.	As set forth in the Floor Area Ratio and Height Sketch. Site divided into 5 zones with Zone 1 nearest Holiday Colony and Zone 5 adjacent to the beach. Zone 1: 35 ft. Zone 3: 150 ft. Zone 5: 20 ft. Zone 2: 72 ft. Zone 4: 20 ft.	Buildings built within 120 ft. of Holiday colony will have the same height as those in Holiday Colony. 120 ft. is depth of lots in Holiday Colony.  Regulations force height of buildings eastward.  There is no change in the maximum height of 150 ft.	This site only contains Zone 4 with a height limit of 150 ft. and Zone 5 which is east of the Construction Control Line (CCL) with a height limit of 20 ft.  Regulations force height of buildings eastward.  There is no change in the maximum height of 150 ft.  Due to the location of the CCL a building can only be built in Zone 4.

REGULATION	EXISTING REGULATION	ZORC ORDINANCE	ANALYSIS: 350 OCEAN DRIVE	ANALYSIS: 301 OCEAN DRIVE
Floor Area Ratio (FAR)	2.0	<p>As set forth in the Floor Area Ratio and Height Sketch. Site divided into 5 zones with Zone 1 nearest Holiday Colony and Zone 5 adjacent to the beach. The following are the zones and maximum FAR in each zone.</p> <p>Zone 1: .47      Zone 3: 1.41      Zone 5: 1.88  Zone 2: .94      Zone 4: 1.88</p>	<p>Buildings built within 120 ft. of Holiday Colony will have the same FAR as those in Holiday Colony. Regulations force bulk and mass of buildings eastward.</p> <p>The site contains 449,931 sq. ft. The maximum FAR of 1.3775 equals 619,780 sq. ft. of floor area while the current regulations permit a maximum FAR of 2.0 or 899,862 sq. ft. of floor area. This means 280,082 sq. ft. of floor area has been removed assuming the a project complies with all of the other zoning regulations and built to the maximum FAR.</p> <p>Typical common space in high end apartment projects is 25% of the total floor which would leave 464,835. Assuming a project contains the maximum number of apartment units of 165, then the average size of a unit will be 2,817 sq. ft. The Sonesta approved site plan has an average apartment size of 3,788 sq. ft.</p> <p>Hotel experts advised ZORC that the average size of a hotel unit, including common space, is 1000 sq. ft. That would permit 620 hotel units; however, the maximum density under the zoning ordinance is 310 units and the maximum under the Master Plan is 350 units.</p>	<p>This site only contains Zone 4 with an FAR of 1.88 and Zone 5 with an FAR of 1.88</p> <p>The site contains 172,312 sq. ft. The maximum FAR of 1.3775 equals 237,360 sq. ft. of floor area while the current regulations permit a maximum FAR of 2.0 or 344,624 sq. ft. of floor area. This means 107,264 sq. ft. of floor area has been removed assuming a project complies with all of the zoning regulations and maximum FAR</p> <p>Typical common space in high end apartment projects is 25% of the total floor which would leave 178,020. Assuming a project contains the maximum number of apartment units of 63, then the average size of a unit will be 2,826 sq. ft.</p> <p>Hotel experts advised ZORC that the average size of a hotel unit, including common space, is 1000 sq. ft. That would permit 237 hotel units; however, the maximum density under the zoning ordinance is 119 units.</p> <p>The ability to achieve a design that maximizes the floor area in a hotel or apartment project is extremely difficult due to the CCL which bisects this property.</p>

REGULATION	EXISTING REGULATION	ZORC ORDINANCE	ANALYSIS 350 OCEAN DRIVE	ANALYSIS 301 OCEAN DRIVE
Lot Coverage	.40	.40	No change.	No change.
Setbacks	Front: 25 ft. + 5 ft. per floor $\leq$ 50 ft. Side: 25 ft. but with a 63 degree triangle Rear: 25 ft. + 5 ft. per floor $\leq$ 50 ft.	Front: 25 ft. + 5 ft. per floor $\leq$ 50 ft. Side: 25 ft. but within a 63 degree triangle called Building Envelop Sketch Rear: 25 ft. + 5 ft. per floor $\leq$ 50 ft.	No change.  The setbacks exceed those in Holiday Colony which are: front 25 ft, interior side 7.5 ft, side facing a street 15 ft. and rear 25 ft.	No change.
Supplemental Hotel Regulations	Hotel unit size and common area kitchens per floor not addressed.  Cooking facilities limited to devices that cook, heat or defrost food but not limited to wet-bar sink, a microwave, or toaster.	Unit size: determined by site plan analysis and documentation to justify unit size.  Cooking facilities: limited to one microwave oven at 2 cubic ft., one refrigerator at 5 cubic ft., toasters, coffee maker	Will insure floor area of hotel units will be used as a hotel and not as an apartment unit.  Provides size limitation for the microwave and refrigerator.	Will insure floor area of hotel units will be used as a hotel and not as an apartment unit.  Provides size limitation for the microwave and refrigerator.
Service Areas and Loading Docks	Location can be addressed through site plan review process.	In addition to Site Plan Review Process, the regulations require them to be screened or buffered from adjacent properties and to be internal to the building.	Provides additional protection from noise that results from loading and unloading.	Provides additional protection from noise that results from loading and unloading.

REGULATION	EXISTING REGULATION	ZORC ORDINANCE	ANALYSIS 350 OCEAN DRIVE	ANALYSIS 301 OCEAN DRIVE
Parking	<p>Apartment Building: 1.75 per unit  Hotel: 1.00 per unit  Valet Service: cars may be valet but tandem parking is not permitted.</p> <p>Parking Garage: not counted in FAR if the garage is located below Base Flood Elevation (BFE).</p>	<p>Apartment Building: 1.75 per unit  Hotel: 0.75 per unit  Valet Service: parking spaces can be parked in tandem.</p> <p>Parking Garage: not counted in FAR if below BFE. Counted in the FAR if located above BFE or in a free standing structure.</p>	<p>Operating a garage under a valet service permits cars to be parking in tandem thereby reducing the size of the garage. Because the cars can be parked in tandem, less floor area is required for parked cars. This is a significant savings and encourages a hotel.</p> <p>This regulation will result in the parking garage being located below BFE which is a significant improvement to the design and overall appearance of the project.</p> <p>Current regulations permit parking garages to be located above BFE or in a free-standing building which is not the optimum aesthetic solution.</p>	<p>Operating a garage under a valet service permits cars to be parking in tandem thereby reducing the size of the garage. Because the cars can be parked in tandem, less floor area is required for parked cars. This is a significant savings and encourages a hotel.</p> <p>This regulation will result in the parking garage being located below BFE which is a significant improvement to the design and overall appearance of the project.</p> <p>Current regulations permit parking garages to be located above BFE or in a free-standing building which is not the optimum aesthetic solution.</p>