VILLAGE OF KEY BISCAYNE

Office of the Village Manager

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

Village Manager
Genaro "Chip" Iglesias

DATE: November 22, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Interim Village Manager

RE: HR Hotel Resort: Zoning District Text Amendment

RECOMMENDATION

It is recommended that the Village Council approve the attached ordinance which amends the HR Hotel Resort Zoning District regulations. The recommendation is based on the Building, Zoning, and Planning Director's determination that the ordinance is consistent with the Village's Master Plan and the review criteria that are set forth in the Zoning and Land Development Regulations.

BACKGROUND

All zoning and land development regulations are required to be consistent with the Village's Master Plan. The Building, Zoning, and Planning Director has reviewed the Master Plan and finds that the proposed HR Hotel Resort Zoning District is consistent with it. In addition, the Zoning and Land Development Regulations contain criteria to evaluate text amendments to the Zoning and Land Development Regulations. The Building, Zoning, and Planning Director has compared the text amendment with the criteria. The Director found that the request is consistent with the review criteria and has recommended approval of the ordinance.

VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

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

Director
Jud Kurlancheek, AICP

Chief Building Official
Eugenio M. Santiago, P.E.

DT: November 22, 2011

TO: John C. Gilbert, Interim Village Manager

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

RE: Zoning Text Amendment to the HR Hotel Resort Zoning Ordinance

APPLICATION SUMMARY

Applicant	The Village of Key Biscayne
Request	Zoning Text Amendment to the HR Hotel Resort Zoning Ordinance
Master Plan Land Use	Medium Density Multiple Family and Ocean Resort Hotel
Zoning District	HR Hotel Resort
File Number	AZO 11-01
Recommendation	Approval

EXPLANATION AND ANALYSIS

Summary of the Changes

Regulation	Existing	Proposed
District Purpose	Promote development of ocean resort hotels and multiple family residences	Retains oceanfront hotels and removes multiple family residences
Permitted Uses	Multiple Family residential development Ocean Resort Hotel Development Any combination of the above	Hotel This use is consistent with the Master Plan

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Density (units per acre)	Hotel density of 30 units per acre with a maximum of 350 units on any one site. Multiple Family density of 30 units per acre	Retains hotel density of 30 units per acre and removes the 350 hotel unit cap and the multiple family density
Maximum Height	150 ft. anywhere on the site	Retains the 150 ft. height limit however a building within 300 ft. of a single family district shall have a maximum height is 35 ft. Establishes a maximum height of a building east of the Coastal Construction Line at 25 ft.
Minimum Lot Area	The site shall be subdivided as of the date of this ordinance	Replaced with the existing lot size or the existing combination of lots as of the adoption of this regulation
Yard Determinations for Setback Purposes	The location of the front, side, interior side and rear are determined by the BZP interpretation of how these terms are defined	The front, side, interior side, and rear are labeled on an illustration which is part of the ordinance
Floor Area Ratio (FAR)	.40 to 2.0 depending on the number of stories. Requires a dedicated easement and it is counted in the FAR calculation	1.72. Removes the requirement of a dedicated easement as this is part of the Site Plan Review Process. If an easement is required, then the land area will be counted as part of the FAR calculation.
Required Parking Spaces (This is a Villagewide regulation)	1 per hotel unit; 65% of the requirement for accessory uses as the main use. There are restrictions on how the spaces are designed. 1.75 per apartment unit +1 per 5 units marked guest	.75 per hotel unit; 65% of the requirement for accessory uses as the main use. There are restrictions on how the spaces are designed. If the parking garage is located below grade, then the parking spaces can be operated on a valet basis and designed in any layout Since the multiple family use is being removed, there is no parking requirement for that use.

Text Amendment Review Criteria: The Village's Zoning Ordinance requires that text amendments to the Zoning and Land Development Regulations be evaluated based on the following criteria:

Criteria 1 The proposed amendment is consistent with the Comprehensive Plan.

Analysis

The proposed amendment is consistent with the Medium Density Multiple Family and Oceanfront Resort land use category. In addition, the proposed amendments are consistent with the following goals, objectives, and policies within the Master Plan:

Future Land Use Element:

Goal 1 Achieve the Following Community Character: Key Biscayne should be a residential community. Development policies should protect residential character. Future residential development should be at the lowest densities consistent with protection of reasonable property rights. Hotels should be permitted in order to provide ocean access opportunities and respect an established land use pattern; however, they should be modest in size so as not to overpower the community's residential character. Other commercial development should be sized to meet the needs of residents and hotel guests. Office development should be limited to the minimum amount practical in light of existing development patterns.

Conservation and Coastal Management Element:

Objective 2.1 Water-Dependent and Water-Oriented Uses 9J-5.012 (3) (b) 3: *Preserve the existing and planned sites for water-dependent uses and water-oriented ocean resort hotel uses; assure that any related marina expansion or development meets appropriate location standards.*

Policy 2.1.1 9J-5.012 (3) (c) 8: By the date required by state statute or sooner, the Village shall enact and enforce as part of the land development code: 1) a zoning district based on the Multifamily Residential and Ocean Resort Hotel Future Land Use Plan category, and 2) a zoning district based on the Waterfront Recreation and Open Space land use category. Planned development or other flexible zoning regulations which effectuate vested property rights and/or fulfill the spirit of Multifamily Residential and Ocean Resort Hotel and/or the Waterfront Recreation and Open Space land use categories may serve in lieu of specific zoning districts. The regulations of this district shall be consistent with the density limits established by the Future Land Use Map of this plan.

As indicated below, the proposed Hotel Resort Zoning District is consistent with the Medium Density Multifamily and Ocean Resort Master Plan Land Use Category:

Regulation	Master Plan Land Use Category: Medium Density Multifamily and Ocean Resort Hotel	Zoning District: HR Hotel Resort
Purpose	Allow multiple family residential development and ocean hotel development.	Permits hotel buildings. This is one of permitted uses in the Master Plan land use district.
Permitted Uses	Multiple Family residential development. Ocean Resort Hotel Development. Any combination of the above.	Hotel. This use is consistent with the Master Plan.
Accessory Uses	The following are permitted in hotels if they are sized to serve the needs of hotel guests and island residents: Convenience retail uses, restaurants, bars and lounges. Ancillary recreation facilities such as swimming pools, cabanas, and tennis courts. Gaming facilities are not permitted.	Any use that is customarily associated with the Main Permitted Use subject to criteria set forth in Sec. 30 - 113. As the Master Plan establishes specific uses with conditions, only accessory uses that are consistent with the Master Plan are permitted. A list of prohibited uses in the Village is set forth in Sec. 30-113. Gaming facilities is not listed; however, it is prohibited under the Master Plan
Density	Hotel - 30 units per acre with no hotel having more than 350 units. Multiple Family - 16 units per acre.	Hotel - 30 units per acre The maximum number of hotel units is 350 and that cap is removed; however, since it is in the Master Plan this limitation governs. The maximum density is consistent with the Master Plan.

Height Limit	150 ft.	150 ft. is the maximum height; if the structure is within 300 ft. of a single family district then the maximum height for that structure is 35 ft. The maximum height limit is consistent with the Master Plan.

Recommendation Consistent.

Criteria 2 The proposed change will result in buildings that are consistent in scale and otherwise compatible with those within 300 ft. of the site

Analysis The proposed changes require that the maximum height of a building within 300 ft. of a single family district be limited to 35 ft. which is the maximum height of homes in single family districts. The current code permits the maximum height to be 150 ft. for a structure anywhere on the site regardless to its proximity to single family homes. As such, the proposed change will result in buildings that are consistent in scale.

The proposed changes reduce the Floor Area Ratio from 2.0 to 1.72. This results in a reduction of 14% in the total floor area that could be built in the HR Hotel Resort District. The reduced size will result in structures that are more compatible with the Holiday Colony Subdivision single family homes.

Recommendation Consistent

Criteria 3 The resulting boundaries of a zoning district are logically drawn.

Analysis The proposed changes do not affect the boundary line of the existing zoning district. The existing boundary lines are shaped like a square and do not meander or exclude other portions of other properties.

Recommendation Consistent

Criteria 4 The proposed change will enhance property values in the Village.

Analysis The proposed changes will result in ocean resort hotels with guests who will consume goods and services throughout the Village which will in turn enhance property values.

Recommendation Consistent

Criteria 5 The proposed change will enhance the quality of life in the Village.

Analysis The proposed change will result in ocean resort hotels. Without this change, it is possible that there could be a time in the future when there are no hotels in the Village. This would negatively affect commerce. This situation would require guests of residents who cannot stay in their homes to stay in hotels on the mainland which is a great inconvenience to our residents and their guests.

Furthermore, hotels invite the general public to frequent their facilities, restaurants, bars, and shops. These amenities add to the quality of life in the Village. Over the years, the Village has seen a reduction in hotels. At one point in Village history, there were 7 hotels containing approximately 988 hotel rooms. Today, there are two hotel buildings containing 546 hotel rooms (Ritz - 490 and Silver Sands - 56) and 50 at Key Colony Multiple Family building where management has an arrangement with The Pankey Institute for apartments to be uses as hotel rooms by their visitors who receive advanced training in the practice of dentistry.

Recommendation Consistent

Criteria 6 There are substantial and compelling reasons why the proposed change is in the best interest of the Village.

Analysis The following are three substantial and compelling reasons why the proposed changes are in the best interests of the Village (not in order of importance).

1. Guarantees that properties developed in the HR Hotel Resort District will be hotels. As discussed in the analysis for Criteria 5, hotels uses are vital to successful commercial centers and they provide amenities that can be used by residents.

2. Should properties in the HR District be developed as multiple family buildings, guests of residents who cannot stay with the resident must reside in hotels on the mainland. This will create a major inconvenience for residents and their guests

3. Establishes the maximum height of 35 ft. for a structure that is within 300 ft. of a single family district as opposed to 150 ft. which is permitted today. This will result in buildings that are of similar scale.

Recommendation Consistent

RECOMMENDATION

Staff recommends approval of the attached ordinance.

KEY BISCAYNE CHAMBER OF COMMERCE

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Shayna Varkas, President
Marilyn Borroto, Vice President
Glen Von Hartz, Secretary
Cassia Silva, Treasurer
Mary Tague, Past President
Kathye Susnjer, Exec. Dir

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Carol Craiglow, Studio South
Bill Durham, Mangrove Cycles
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Joan McCaughan, Coldwell Banker
Dr. John Martin, Cosmetic Surgery
James Owens, The Islander News
Marc Port, Key Pharmacy
Kim Reyes, Coldwell Banker
James Salas, E Realty
Elena Santanya, Santanya Jewelers
Saeed Shoroka, Pretty Boutique
Cassia Silva, Key Languages
Mary Tague, ToyTown

Trustees
Axa Advisors, Glen Von Hartz
BellSouth, Raymond Flores
Colonial Bank, Shayna Varkas
Fortune International, Robert Vernon
FPL, Eloy Villasuso
Key Colony Plaza, Ron Oprzadek
Mercy Hospital, John Matuska
Sony Ericsson Open, Tom Annear
Northern Trust Bank, Ani Nunez
Ritz-Carlton,Key Biscayne, Marco Selva
Sonesta Beach Resort, Alan Sonnabend
Stearns Weaver Miller, Alan Fine
SunTrust Bank, Margerite Nelson
The Islander News, Anne Owens
The Pankey Institute, Christian Sager

Read at Village Council Meeting

My name is Shayna Varkas and I am representing the Key Biscayne Chamber of Commerce at 88 West McIntyre Street, Key Biscayne, FL.

I am the current President of the Chamber of Commerce and in the Board of Director's Meeting of November 16, 2006, the following Resolution was unanimously approved.

"Provided the Sonesta redevelopment project complies with our present zoning codes, the Key Biscayne Chamber of Commerce supports the redevelopment of the Sonesta Hotel project as a business."

Please, let me reiterate that the Chamber does not get involved in zoning issues. We are however, in favor of having a second hotel on our island as soon as possible for multiple reasons, including the island's economic well-being.

Thank you for your consideration.

88 West McIntyre Street Suite 100 Key Biscayne, FL 33149 Ph: 305 361-5207 Fax: 305 361-9411 www.keybiscaynechamber.org

ORDINANCE NO. 2011 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-103 "HOTEL RESORT DISTRICT;" PROVIDING FOR AMENDMENTS TO SECTION 30-103(A) RELATING TO THE PURPOSE AND USES; PROVIDING FOR AMENDMENTS TO SECTION 30-103(B) RELATING TO THE DEVELOPMENT REGULATIONS; PROVIDING FOR AMENDMENTS TO SECTION 30-184 "AMOUNT OF REQUIRED OFF-STREET PARKING" RELATING TO THE REQUIRED OFF-STREET PARKING FOR 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 (the "ZORC") review and analyze the existing Hotel Resort District regulations within the Village; and

WHEREAS, the Village Council reviewed the ZORC recommendations at several public meetings and workshops; and

WHEREAS, after review of the ZORC recommendations as well as receiving public input and comments, the Village Council desires to amend the Hotel Resort District regulations as well as related off street parking regulations; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed the proposed amendments and recommends approval; and

WHEREAS, the Village Council finds that this Ordinance is consistent with the Comprehensive Plan; 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:

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 counted towards one Use, cannot be counted towards another Use~~.	150 ft., except: (1) within 300 feet of the Village Residential Zoning District the maximum height shall be 35 feet; and (2) east of the	.40	The minimum lot area shall be the existing Lot size (or where applicable the established combination of Lots) as of the adoption of this regulation. ~~site~~

	Coastal Construction Line the maximum height shall be 20 feet.		~~shall be subdivided as of the date of this ordinance.~~

TABLE INSET:

	Setback	Floor Area Ratio
Front:	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft. The location of the Front Yard shall be as shown on the Yard Determination Sketch.	1.72 ~~.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:~~ ~~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~~ ~~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.~~
Side:	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 sketch below). The location of the Side Yard shall be as shown on the Yard Determination Sketch. ~~Side Setbacks shall be measured from the dedicated Easement as required in the Floor Area Ratio calculation.~~	
Rear:	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft. The location of the Rear Yard shall be as shown on the Yard Determination Sketch.	

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
***	***	***
(6) Hotel or Motel	~~1~~ .75 per Unit. 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 an 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.	Accessory Uses 65% of requirement if calculated as a Main Permitted Use
***	***	***

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 _____, 2011.

PASSED AND ADOPTED on second reading this ____ day of ____, 2011.

_____

MAYOR FRANKLIN CAPLAN

ATTEST:

_____

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

VILLAGE ATTORNEY