VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Michael W. Davey, *Vice Mayor*
Theodore J. Holloway
Michael E. Kelly
Mayra P. Lindsay
Ed London
James S. Taintor

Village Manager
John C. Gilbert

DATE: March 4, 2013

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Discussion of Ordinance amending the Zoning and Land Development Regulations

RECOMMENDATION

The recommendations are explained in the attached Memorandum from the Building, Zoning and Planning (BZP) Director.

BACKGROUND

On October 22, 2013, the Village Council scheduled discussion of the attached Ordinance for November 12, 2013. The Council also suggested the BZP Director meet with local Architects to determine how the changes would impact the design of new single-family and duplex buildings. After the meeting with the Architects and based on their expertise, attached are several recommendations.

The BZP Director has concluded the attached Ordinance is consistent with the review as set forth in the Zoning and Land Development Regulations.

Reviewed by Mr. Chad Friedman from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.

ORDINANCE NO. 2014 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-100 "SINGLE-FAMILY AND TWO-FAMILY DISTRICTS" AND SECTION 30-184 "AMOUNT OF REQUIRED OFF-STREET PARKING" OF THE VILLAGE CODE OF ORDINANCES, IN ORDER TO AMEND DEVELOPMENT STANDARDS FOR SINGLE-FAMILY AND TWO-FAMILY HOMES; PROVIDING FOR EFFECTIVENESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") has adopted Zoning and Land Development Regulations in order to promote the health, safety, order, convenience, comfort, and general welfare of the public, and to promote and preserve the character and ecological quality of the Village as articulated in the Village's Comprehensive Plan; and

WHEREAS, the Village Council has considered various proposed amendments to the development requirements for single-family and two-family homes; and

WHEREAS, the Village Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends approval; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the residents of the Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

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

---

[1] Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text.

Section 2. **Section 30-100 of the Village Code Amended.** That Section 30-100 of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

Sec. 30-100. Single Family and Two-Family districts.

* * *

(d) *Maximum Lot elevation and drainage.*

(1) *Generally.* For the purpose of regulating Lot elevations there is hereby established three zones. The "Front Zone" being the area between the Building and any adjacent Street(s) but in no event being less than 15 feet from any Street(s). The "Rear Zone" being the area from the Building to the interior and rear property line(s) (or to the waterfront zone, if applicable) and to the back of the "Front Zone." The "Waterfront Zone" being the entire area within 25 feet from any body of water.

a. *"Front Zone."* When a Lot is filled for Development purposes the area delineated as the front zone may not be filled to an elevation greater than two feet above the average crown of road. However, the driveway grade shall not exceed ten percent above the crown of the road.

b. *"Rear Zone."* When a Lot is filled for Development purposes the area delineated as the "Rear Zone" may not be filled to an elevation greater than 2½ feet below the established B.F.E.

c. *"Waterfront Zone."* When a Lot is filled for Development purposes the area delineated as the "Waterfront Zone" may not be filled to an elevation greater than six inches above the bulkhead; however in no instance shall the height of a bulkhead or Lot be raised to a height that exceeds the maximum elevation as established in the "Rear Zone".

[d.]Reserved.

e. "Pools, pool Decks, Terraces." Pools, pool Decks and Terraces which are located in compliance with the required Setbacks for all Structures and are above the height restrictions established in subsection (2) are included in the Lot Coverage calculation. Pools, pool Decks and Terraces that are located in compliance with the required Setbacks and height restrictions are not included in the Lot Coverage calculation.

~~f. Pools, pool Decks and Terraces which do not exceed height limitations as provided in subsection (2) and the required Setbacks for all Structures are not included in the Lot Coverage calculation.~~

[2] Reserved.

(3) *Grading and Drainage.* Within any zone immediately adjacent to the property line, a drainage swale shall be provided to capture the first inch of runoff. The slope to the swale shall not exceed 14 percent. ~~If the grading necessary to provide this swale results in a grade above or below the adjacent property grades, a retaining structure shall be provided as determined by the Building Official.~~

(e) *Setback Regulations (minimum).*

Yard	VR Village Residential	VE Village Estate	IR Island Residential	PS Parkside Residential
Front	20 ft. *	25 ft.	25 ft.	20 ft. *
Rear	25 ft. ~~*~~	25 ft. **	25 ft.	25 ft. ~~*~~
Side, interior	One Story new construction or one story addition: 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width, with no Side Yard less than 7.5 feet. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.~~****~~ New construction: Two stories or more: The sum of	New construction: 7.5 minimum setback and sum of sideyards shall be 30% of lot with but no sideyard shall be required to exceed 30 ft. One story additions may follow the existing building wall setback. Second story additions shall have a 15 ft. setback.	New construction: 7.5 minimum setback and sum of sideyards shall not be less than 30% of the width of the Lot; but, no sideyard shall be required to exceed 30 ft. One story additions may follow the existing building wall setback. Second story additions shall have a 15 ft. setback.	One Story new construction or one story addition: 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width, with no Side Yard less than 7.5 feet. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.~~****~~ New construction: Two stories or more: The sum of

	the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet. New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.			the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet. New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.
Side facing a Street	15 ft.	Same as interior side setback	Same as interior Side setback	15 ft.

* Allowable 15-foot Front ~~and Rear~~ Yard Setback subject to the requirements of the table below. ~~The 15-foot rear Setback requires the installation of a dense landscape screen with a height of at least ten feet at time of planting.~~

Number of Stories	Height of Building Wall	Building Wall Length
1	15 ft. ***	40% of the width of the Lot
2 or more	22.5 ft.	34% of the width of the Lot
Garages	Shall provide a 20 ft. Setback if the entrance faces a Street; The elevation facing the Street shall appear as an integral residential part of the Structure including windows and finishes.	

** Within the Village Estate District the following properties shall provide a rear Setback of 50 feet: 200—290 Harbor Drive.

*** However, nothing herein shall prevent vaulted or clearstory Walls with a maximum height of 22.5 feet.

~~**** For a tri-level home, the portion of the floor area associated with the half level shall not count as part of the second story floor area.~~

(f) *Permitted encroachments in Required Yards.*

(1) *Balcony Regulations.*

a. Railings or Walls shall be at least 50 percent open.

b. When facing a street, the minimum projection (depth) shall be four feet and minimum length eight feet.

(2) *Boat storage.*

a. The term "boat" as used herein includes vessels and other watercraft, as defined in F.S. § 327.02(36).

b. Boats less than 26 feet in length, not more than 8 feet~~96 inches~~ in width and 13 feet six inches in height (bottom of hull to the highest point on the boat including Towers and T tops), may be stored in the VR, VE, IR, and PS zoning districts subject to all the following conditions:

1. No more than one boat may be stored on any one Lot unless stored in an enclosed garage; and

2. Boats and place of boat storage shall be kept in a clean, neat and presentable condition; and

3. No major repairs or overhaul Work on or for a boat shall be made or performed on the Lot; and

4. The boats shall not be used for living quarters, and shall be placed on and secured to a transporting Trailer, however, nothing herein shall authorize the Parking of a Trailer on any Lot without a boat. Personalized watercraft (jet ski, waverunner or similar watercraft) as defined in F.S. § 327.39 are required to be placed on a Trailer pursuant to this section (canoes as defined in F.S. § 327.02(3) are not required to be placed on a Trailer); and

5. Boats stored in a Yard that faces a Street shall comply with the following: The Trailer wheels shall be placed on a hard paved surface and the boat shall be perpendicular to the house.

(3) *Decks, pools, and screen enclosures.*

a. Decks shall provide a minimum five-foot Setback to any Lot line; Zero feet Rear Yard Setback for waterfront properties.

b. Decks and swimming pools shall not exceed a height greater than that allowed for the Maximum Lot Elevation. If located outside of the required yard area, the height shall not exceed finished floor elevation.

c. Pools. Swimming pools shall be subject to the following Setback limitations and shall not exceed a height greater than that allowed for the Maximum Lot Elevation (see subsection (27) for swimming pool equipment setbacks):

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	6.5 ft.	10 ft.	25 ft.	25 ft.	6.5 ft.
Rear	6.5 ft.	6.5 ft. *	6.5 ft.	4~~6.5~~ ft. ~~*~~	6.5 ft.
Side, interior	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.
Side, Street	~~6.5~~ 7.5 ft.	~~6.5~~ 7.5 ft.	15 ft.	15 ft.	~~6.5~~ 7.5 ft.

* Waterfront Lots shall provide a four-foot Setback.
The foregoing Setbacks shall be measured from the water's edge.

d. Screen enclosures. Where a screen enclosure is used to enclose a pool or other area of a residence, it shall be limited in height to 22.5 feet and subject to the following Setback limitations:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches
Rear	5 ft.	25 ft.	5 ft.	25 ft.	5 ft.
Side, interior	~~5~~ 7.5 ft.	~~5~~ 7.5 ft.	7.5 ft.	15 ft.	~~5~~ 7.5 ft.
Side, Street	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.

* * *

(5) *Driveway and Parking criteria.* The following provisions shall apply to all single Family and Two-Family Developments:

* * *

c. *Setbacks.* All driveways shall be set back at least five feet from any side property line. All circular driveways shall be set back at least two feet from any front and/or property side Street property line. On Corner Lots, driveways shall be set back 15 feet from the extended Right-of-Way Intersection.

d. *Width.* A maximum width of 24 feet is permitted for single Family and 36 feet for Two-Family Homes for a Lot with 75 feet or less of frontage at the property line. For all other Lots the width of a driveway or combination of driveways at the point of intersection with the Right-of-Way shall not exceed the lesser of 36 feet or 32 percent of the Lot's frontage, including side Street frontage on Corner Lots.

No Commercial Vehicle shall be parked or stored overnight except in a garage or Carport; ~~however one vehicle that is used for commercial purposes may be placed on the property~~. A Sign measuring no more than three square feet may be placed on either side of such vehicle.

* * *

(9) *Gazebos and accessory Structures.*

a. Maximum height: Ten feet Wall height above the Maximum Lot Elevation.
b. Location: Not permitted in the Front Yard.
c. Setbacks, Side Yard: Same as the Main Permitted Use. However, the required Rear Yard Setback is ten feet.
d. Size: 200 square feet.
e. Construction materials: Limited to concrete, block, stucco, wood, and brick or similar materials. Aluminum, sheet metal, fiberglass are prohibited.
f. Roof top Access: Prohibited.
g. Number: One.
h. Waterfront view corridor: No Structure shall be permitted within an isosceles triangle with each side measuring 25 feet at the intersection of the rear and side Lot lines.

(10) *Generator Regulations.*

a. Temporary or portable generators are not permitted on any multi-family, condominium or townhome property.
b. Generators are not permitted in any yard that faces a Street.
c. Maximum decibel level for any generator is 60 db measured at the property line as measured with a calibrated Sound Level Meter.
d. All generators shall be setback a minimum of ~~five~~ 7.5 feet from any property line and must be completely screened on all sides by the use of walls, fences, landscaping, or other material which extends a minimum of six inches above the top of the generator.

* * *

(11) *Heating, ventilation, and air conditioning equipment Setback Regulations.* The use and location of heating, ventilation, and air conditioning compressors and equipment (HVAC) are subject to the following Setback limitations:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Rear	10 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Side, interior	~~4~~ 7.5 ft.	4 7.5 ft.	4 7.5 ft.	10 ft.	4 7.5 ft.
Side, Street	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted

Additionally, HVAC compressors shall be installed on an acoustically soundproofed base or ledge with a structural visual screen around all open vertical sides of the unit(s). The screen shall extend at least one foot above the top of the compressor and shall be painted the color of the house or duplex.

* * *

(18) *Projections.* The following Structures are permitted to project into a Required Yard for a distance not to exceed 25 percent of said Yard with a maximum projection of six feet: Awnings, balconies, bay windows (maximum width of ten feet), canopies, chimneys, cornices, sills, walkways and other architectural features that the Building, Zoning, and Planning Director has determined are consistent with this subsection.

(19) *Railing Required.* Whenever the Florida Building Code requires a railing, it shall be at least 50 percent open.

(20) *Retaining Wall, required.* A retaining Wall shall be provided ~~where any portion of a Lot that has an elevation of two feet or more above the crown of the road and is adjacent to a non-elevated Building~~ on the sides and rear of all yards of new Single-Family and Two-Family homes. ~~(See Drainage section 30-100[(d)(3)].~~

* * *

(27) *Swimming pool pumps, heaters, and similar equipment.* ~~These uses~~ Swimming pool pumps, heaters, and similar equipment are permitted to encroach into Required Yards subject to the following Setbacks ~~for Side Required Yards measured from the swimming pool water's edge~~:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted **	Not permitted **	Not permitted **	Not permitted **	Not permitted **
Rear	5~~2~~ ft.	5~~2~~ ft. ~~[0 ft.] if waterfront~~	5~~2~~ ft.	5~~2~~ ft. ~~[0 ft.] if waterfront~~	5~~2~~ ft.
Side, interior *	~~2~~ 7.5 ft.	~~2~~ 7.5 ft.	~~2~~ 7.5ft.	~~2~~ 7.5ft.	~~2~~7.5 ft.
Side, Street *	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted

* If the equipment is located in a Side Yard, landscaping shall be planted which obscures views of said equipment. Additionally, where said equipment is located along any Street frontage it must be visually screened from the public Right-of-Way.

** If a pool is permitted pursuant to section 30-100(f)(3), the equipment shall be at least ~~two~~ 7.5 feet from ~~the~~ any side property line, but in no instance shall it be placed in a location that allows it to be seen from the Street.

* * *

(32) If in a Side Yard, trash and garbage enclosures must be located at least 7.5 feet from any side property line.

Section 3. Section 30-184 of the Village Code Amended. That Section 30-184 of the Code of Key Biscayne, Florida, 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	Developments with more than 10 Units, then 1 additional per 5 Units, marked as guest Parking.
(2) Cabana Clubs	0.5 per cabana	
(3) Churches and other places of worship	See special conditions	1 per 60 sq. ft. of Floor Area available for seating and per 4 fixed seats. Parking only required for main sanctuary or largest meeting room whichever is greater.
(4) Community Residential Facility	1 space per live in employee plus spaces listed in special conditions	1 space for every 5 residents or any fraction thereof
(5) Duplex	4 1 spaces per 2 bedrooms, with a minimum of 2 spaces per duplex unit.	~~If in a Development with >=5 Units, then 1 additional per 5 Units, marked guest Parking~~
		* * *
(21) Single Family Residence	~~2~~ 1 spaces per bedroom. Tandem spaces are permitted.	

* * *

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, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 3rd day of December, 2013.

PASSED AND ADOPTED on second reading this _____ day of _____, 2014.

MAYOR FRANKLIN H. CAPLAN

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Director
Jud Kurlancheek, AICP

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

DT: December 3, 2013

TO: John C. Gilbert, Village Manager

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

RE: Summary of the Ordinance amending the Zoning and Land Development Regulations

RECOMMENDATION

It is recommended that several Sections be approved and the remaining Sections be removed from the Ordinance. These recommendations are explained below.

BACKGROUND

On October 22, 2012, the Village Council schedule the attached ordinance for first reading on November 12, 2013. The Council also suggested that the Building, Zoning and Planning Director meet with local architects to determine how the changes impact the design of new single family and duplex buildings. After the meeting with the architects and based on MY expertise, I am recommending the following:

PAGE #	SECTION #	ORDINANCE SUMMARY	RECOMMENDATION
2	30-100(d)(1)(e and f)	Re-wording of the regulation dealing with pools, decks, and height restrictions not being part of the lot coverage calculation	Approve: the new wording clarifies the regulation. It does not impact the regulation.
2-3	30-100(d)(3)	Removes the requirement for a retaining wall when grading on the construction site is below neighboring property then a retaining wall is required.	Approve: a change on page 8 paragraph 20 requires a retaining wall for all new construction even if a swale results from the installed grading.

PAGE #	SEDCTION #	ORDINANCE SUMMARY	RECOMMENDATION
3-4	30-100(e)	Removes the 15 ft. rear yard setback for structures in the single duplex zoning districts which are in the center of the Village.	Partial approval: this proposal removes about 500 sq. ft. or 14% of the permitted air-conditioned space depending on the width of the building. It is recommended the first floor be permitted; however, the wall facing the rear property line cannot have windows and must have architectural elements and landscaping that are approved by the BZP Director.
5-6	30-100(e)(3)	Pool, decks, and screen enclosures – setback increased from 6.5 ft. to 7.5 ft.	Remove: increasing the setback has no impact on the adjacent properties and reduces the available area for these structures on lots that are only 75 ft. x 100 ft.
7-8	30-100(f)(11)	Heating, ventilation and A/C equipment setbacks – setback increased from 4 ft. 7.5 ft.	Remove: increasing the setback has no impact on the adjacent properties and reduces the available area for these structures on lots that are only 75 ft. x 100 ft. In order for this equipment to meet the setback, it will be necessary to indent the building thereby resulting in unusual floor plans and increasing the costs for columns and tie beams. It may force the equipment to be located in the rear or front yards which has a negative impact on the quality of the space. This equipment is already required to be screened which to some extent buffers the noise and views from adjacent properties.
8	30-100(f)20	Requires a retaining wall at the rear of the property and along the sides.	Approve with the condition that the top of the wall be at least 6 inches. above the grade at the lot line. Because CBS walls and foundations are so expensive, in most cases wood fences are constructed. Some architects include retaining walls, other don't. In all cases staff insures the grading plan includes a swale to collect runoff between the lot line and the building. A retaining wall

PAGE #	SECTION #	ORDINANCE SUMMARY	RECOMMENDATION
			will provide a better solution to keeping the water on the property.
8	30-100(f)(27)	Swimming pool pumps, heaters, and similar equipment – setback increased from 2 ft. to 5 ft.	Remove: increasing the setback has no impact on the adjacent properties and reduces the available area for these structures on lots that are only 75 ft. x 100 ft. In order for this equipment to meet the setback, it will be necessary to indent the building thereby resulting in unusual floor plans and increasing the costs for columns and tie beams. It may force the equipment to be located in the rear or front yards which has a negative impact on the quality of the space.
9	30-100(f)(32)	If trash and garbage enclosures are constructed, they have to have 7.5 ft. sideyard setback.	Approve:in most cases garbage enclosures are not constructed. In most cases, garbage cans are placed behind the front yard fence in the sideyard setback.
9	30-184 (a)(5)	Changes the parking requirement for a duplex from 4 spaces to 1 space per bedroom with a minimum of 2 spaces per duplex unit.	Approve: This increases the parking requirement from 4 spaces to 6 spaces for interior lots and as much as 8 spaces per unit for corner lots. There is no room on the property to meet this requirement.
10	30-184(a)(21)	Changes the parking requirement for a single family home from 2 spaces to 1 space per bedroom. Permits tandem parking of cars.	Remove: Most homes have a two car garage and a driveway that allows two more cars for a total of 4. Some homes also include circular driveway that permits 2-3 cars to park. Some homes have a separate paved area in the sideyard for a golf cart. Carports are required to have a 10 ft. setback except on Mashta Island where 15 ft. is required. Homes with carports will be required to have a circular driveway. This proposal may also result in more garages and fewer carports or more of the front yard will be paved. Since a carport is open on 3 sides and a garage is enclosed, the structure will appear to be larger.

PAGE #	SECTION #	ORDINANCE SUMMARY	RECOMMENDATION
			Nearly all of the homes in the center of the island are 4 or 5 bedrooms. The waterfront and canal front homes are larger because the lots are bigger. Bayfront homes, Smuggler's Cove and Hurricane Harbor homes tend to have more bedrooms that
			would require more of the front yard to be paved. Should the Council wish to proceed with this change, the regulation should permit parking on that portion of the driveway that is on the public right of way if a sidewalk is not present. There should also be a maximum number of required parking spaces.

VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Director
Jud Kurlancheek, AICP

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

DT: December 3, 2013

TO: John C. Gilbert, Village Manager

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

RE: Comparison of the Ordinance amending the Zoning and Land Development Regulations with the Review Criteria

Summary of the Ordinance

The major components of the Ordinance are as follows:

1. Removes the permitted 15 ft. rear yard setback for a portion of single family home and duplex properties in the center of the Village. The rear yard setback will be 25 ft. This remove 500 sq. ft. from the home or about 14% of the permitted air-conditioned space.

2. Pool, decks, and screen enclosures – setback increased from 6.5 ft. to 7.5 ft.

3. Heating, ventilation and A/C equipment setbacks – setback increased from 4 ft. 7.5 ft.

4. Requires a retaining wall at the rear of the property and along the sides.

5. Swimming pool pumps, heaters, and similar equipment – setback increased from 2 ft. to 5 ft.

6. If garbage enclosures are constructed, they have to have 7.5 ft. sideyard setback.

7. Changes the parking requirement for a duplex from 4 spaces (2 spaces per unit) to 1 space per bedroom with a minimum of 2 spaces per duplex unit.

8. Changes the parking requirement for a single family home from 2 spaces to 1 space per bedroom. Permits tandem parking of cars.

Amendment to the Zoning and Land Development Review Criteria: In order to consider an ordinance which amends the Village's Zoning and Land Development Regulations, the Village Council must find that said ordinance is consistent with the

review criteria. Below is our analysis of the ordinance with the review criteria that are set forth in Section 30-71 of the Zoning and Land Development Regulations:

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

Analysis: The Comprehensive Plan was adopted in 1994 and provides goals and objectives that are very broad. It does not address specific regulations that are included in the proposed ordinance.

Finding: Neutral

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

Analysis: With the exception of the 25 ft. rear yard setback for properties in the center of the Village, the proposed change will not impact adjacent structures. The changes affect accessory structures and parking requirements. The removal of the 15 ft. rear yard setback will result in structures that are more compatible with the adjacent single story homes that were built nearly 60 years ago.

Finding: Neutral as to accessory structures. Consistent with regard to the required 25 ft. setback.

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

Analysis: The proposed changes do not impact zoning district boundaries. As such, this review criterion is not applicable.

Finding: Neutral

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

Analysis: The proposed changes affect the location of accessory structures associated with the construction of new homes. In most cases, the adjacent structures are homes that were constructed over 60 years ago. The values of those older properties are based on the value of the lot and not the improvements. The placement of accessory structures will not impact the value of adjacent properties. The most likely location of these structures will be in the rear yard. This may have a negative impact on the value of new homes.

Finding: Consistent

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

Analysis: The increased setbacks for the accessory structures will have no impact on the transmission of noise. Air conditioning equipment is required to be screened which provides a visual buffer. In most the vast majority of lots, there are sufficient parking spaces. The construction of the retaining wall will insure water is retained on the property

Finding: Neutral with the exception of the retaining wall which is consistent.

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

Analysis: The 25 ft. setback change in the rear yard removes about 500 sq. ft. from a new home. This significantly affects the value of all properties in the center of the Village. Should the regulation only affect the removal of the second floor, then to a large extent this concern is positively addressed. The setback and parking changes will have no impact on adjacent structures.

Finding: Neutral

RECOMMENDATION

Specific staff recommendations are contained in the attached memorandum.