

MINUTES

SPECIAL COUNCIL MEETING
(CONTINUATION OF SPECIAL MEETING OF AUGUST 18, 2011)
KEY BISCAWAYNE, FLORIDA

TUESDAY, AUGUST 22, 2011

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order at 6:00 p.m. Present were Councilmembers Michael W. Davey, Robert Gusman, Mayra P. Lindsay, James S. Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Councilmember Enrique Garcia was absent. Also present were Village Manager Genaro “Chip” Iglesias and Village Attorneys Stephen J. Helfman and Chad Friedman.

2. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.

Village Attorney Helfman explained the procedure for the public in regards of the hearing process.

3. **BUILDING, ZONING AND PLANNING:** All witnesses giving testimony in the public hearing were sworn in by the Village Attorney.

Hearing Number SP 19, RV 32, V 1: The applicant, Consultatio Key Biscayne, LLC, 350 Ocean Drive, is requesting the following: 1.) Approval of a site plan for 154 multifamily units; 2.) Approval of the following variances: a. North side setback- approval of a variance to permit a

North

side setback of 79 degrees where 63 degrees is required for floors 7 through 15; b. South side setback- approval of a variance to permit a South side setback of 79 degrees where 63 degrees is required for floors 7 through 15; c. Maximum floor area for rooftop structures- approval of a variance to permit rooftop structures to have a floor area of 38% where 10% is required; and 3.) Approval of a vacation of 57.5 feet of the Ocean Drive right-of-way.

Building, Zoning and Planning Director Jud Kurlancheek addressed the Council recommending approval of the project subject to the following conditions: 1.) Pursuant to the Village of Key Biscayne Master Plan and the Village Code, this approval is subject to the condition that the necessary parks and recreation facilities of 2.5 acres per 1,000 permanent population are in place and available either: 1) prior to the issuance of the first certificate of occupancy for the principle building on the Property; or 2) construction of the facilities may begin up to one year after the issuance of the first certificate of occupancy for the principle building on the Property if the facilities are subject to a binding executed contract for the construction of the facilities to be completed within one year of the time the certificate of occupancy is issued. For purposes of this Resolution, the term “principle building” shall mean the 15 story residential tower in the Site Plan; 2.) A detailed landscape plan, substantially in accordance with the Site Plan, for all landscaping for the Property shall be submitted to and approved by the Village Building, Zoning, and Planning Director prior to the issuance of the building permit for the principle building. In order to meet the recreational needs of younger residents, a “tot lot” shall be included in the landscape plan. The landscaping shall thereafter be installed and approved by the Director prior to the issuance of the first certificate of occupancy for the principle building on the Property; 3.) A detailed plan for all pedestrian walkways (with finishes) shall be submitted to and approved by the Village Building, Zoning, and Planning Director prior to the issuance of the building permit for the principle building on the Property. All walkways shall be constructed prior to the issuance of the first certificate of occupancy for the principle building on the Property; 4.) The Applicant shall provide written documentation from the appropriate regulatory agencies that domestic water and fire protection needs (flows) have been satisfied. This documentation shall be approved by the Village prior to the issuance of the first building permit for any building on the Property; 5.) The Applicant shall grant the Village, as shown on the Site Plan, an improved 25 ft. wide publicly dedicated beach access easement, in a form acceptable to the Village Attorney, on the north side of the Property from Ocean Drive to the public beach prior to the issuance of the first certificate of occupancy for the principle building on the Property. Improvements in said easement shall be constructed and maintained by the Applicant pursuant to plans approved by the Village Building, Zoning, and Planning Director. All of the improvements shall be constructed and approved by the Director prior to the issuance of the first certificate of occupancy for the principle building on the Property; 6.) The Applicant shall grant to the Village, as shown on the Site Plan, an improved 25 ft. wide publicly dedicated beach access easement, in a form acceptable to the Village Attorney, on the south side of the Property from the East Heather Property line to the public beach prior to the issuance of the first certificate of occupancy for the principle building on the Property. Improvements in said easement and in the 7.5 ft. easement

adjacent to the south lot line shall be constructed and maintained by the Applicant pursuant to plans approved by the Village Building, Zoning, and Planning Director. All of the improvements shall be constructed and approved by the Director prior to the issuance of the first certificate of occupancy for the principle building on the Property; 7.) Prior to the issuance of the building permit for the principle building on the Property, the Applicant shall construct a six foot high finished CBS wall or finished prefabricated concrete wall generally along the west Property line; 8.) The Applicant shall reconstruct the improvements, including sidewalk, paving, drainage, and landscaping on Sonesta Drive and Ocean Drive from the Property's main entrance to Crandon Boulevard. The design of such improvements shall be submitted to and approved by the Village Building, Zoning, and Planning Director no later than the issuance of the building permit for the principle building on the Property. The Applicant shall construct the improvements and obtain approval by the Village prior to the issuance of the first certificate of occupancy for the principle building on the Property;

9.) During the period of construction, Sonesta Drive shall be primarily used for construction vehicles, deliveries, guests, and employees as the means of accessing the Property. The Village Manager may authorize the use of East Heather Drive on those occasions when Sonesta Drive cannot reasonably be used; 10.) During the period of construction, a six (6) ft. high construction fence with dust screening shall be erected along each Property boundary prior to the issuance of the first building permit and shall remain in place until the first certificate of occupancy is issued for the principle building on the Property or other perimeter fences or walls are erected. Said fence may be temporarily moved or removed to allow for construction of improvements or landscaping to be placed along the Property lines as required by the approved plans or these conditions; 11.) Non-material modifications of the Site Plan, which do not increase the density or intensity of development, and are substantially in accordance with the Site Plan, may be administratively approved by the Building, Zoning, and Planning Director. All other changes shall be approved by the Village Council after a public hearing; 12.) As provided in Section 30-73(e) of the Village Code, the approval of the Site Plan shall automatically become null and void unless the appropriate development order has been issued within 12 months of the date that this Resolution was approved by the Village Council; 13.) Whenever the term "approved by" or "substantially in accordance with" is used in this Resolution said determination shall be made by the Building, Zoning, and Planning Director in his/her reasonable discretion; 14.) The use of the temporary sales center, as shown on Page A7.3 within the Site Plan, shall be permitted to continue until such time as the first dwelling/residence is completed on the Property (at which time all sales activity shall be conducted therein) but in no event later than 24 months from the effective date of this Resolution by which time said sales center shall be removed from the Property; 15.) In the event there is damage or destruction caused by a windstorm/hurricane event to any of the improvements or portions thereof constructed on the Property, the improvements may be repaired/rebuilt in accordance with the Site Plan; 16.) All residents, employees (including household employees) as well as all contract vendors and contract service providers to the Property shall be required to utilize the Ocean Drive driveway as the exclusive point of ingress and egress for the Property.

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The Mayor opened the public hearing. John Shubin from Shubin & Bass on behalf of Consultatio Key Biscayne, LLC; Eduardo Costantini, Chairman of Consultatio, LLC; Bernardo Fort-Brescia with Arquitectonica; Cecilia Ward with JC Consulting, Inc; Joe Corradino with Corradino Group; Marcos Corti-Maderna with Consultatio LLC; Manuel Cambo, 621 Harbor Drive; Raul Llorente 345 Cypress Drive; José Loredó with Carlton Fields on behalf of Red Dragon, Sands LTD, doing business as Silver Sands Beach Resort (in opposition) and Amy Huber with Shubin & Bass addressed the Council.

There was extensive discussion from Council regarding this hearing.

The Attorney addressed the Council explaining that the Council can act on approving the site plan and variances at the time the following resolutions are read.

4. **RESOLUTIONS:** The Village Attorney read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A SITE PLAN CONSISTING OF AN 154 UNIT RESIDENTIAL DEVELOPMENT WITH ACCESSORY FACILITIES FOR PROPERTY LOCATED AT 350 OCEAN DRIVE, AS FURTHER LEGALLY DESCRIBED IN EXHIBIT "A;" PROVIDING FOR FINDINGS; PROVIDING FOR ACCEPTANCE OF A VOLUNTARY COVENANT; PROVIDING FOR RECORDING; PROVIDING FOR THE AFFECT ON RESOLUTION 2007-16; AND PROVIDING AN EFFECTIVE DATE.

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Councilmember Gusman.

It was the consensus of Council to add to the conditions of the site plan approval the following: All residents, employees (including household employees) as well as all contract vendors and contract service providers to the Property shall be required to utilize the Ocean Drive driveway as the exclusive point of ingress and egress for the Property.

The resolution, as amended, was approved by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Village Attorney read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA APPROVING AN APPLICATION FOR A VARIANCE FROM THE SIDE SETBACK AND ROOFTOP STRUCTURE FLOOR AREA

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**REQUIREMENTS FOR THE PROPERTY LOCATED AT 350 OCEAN DRIVE;
PROVIDING FOR CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Taintor made a motion to approve the resolution. The motion was seconded by Councilmember Gusman and approved by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Village Attorney read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY
BISCAYNE, FLORIDA APPROVING AN ABANDONMENT AND VACATION OF 57.5
FEET OF THE OCEAN DRIVE RIGHT-OF-WAY; PROVIDING FOR CONDITIONS;
AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Councilmember Gusman.

Director Kurlancheek and Ramon Castella with C3TS addressed the Council regarding this resolution.

The resolution was approved by a 5-1 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, and Mayor Caplan voting Yes. Vice Mayor Kelly voting No.

5. ADJOURNMENT: The meeting was adjourned at 8:50 p.m

Respectfully submitted:

*Conchita H. Alvarez, MMC
Village Clerk*

Approved this 10th day of January, 2012:

*Franklin H. Caplan
Mayor*

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL

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WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.