

ORDINANCE NO. 2024-20

AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE OF ORDINANCES, BY AMENDING SECTION 30-73, "SITE PLAN REVIEW PROCEDURES," TO PERMIT CONVERSION OF HOTEL UNITS TO RESIDENTIAL UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Key Biscayne (the "Village") has adopted regulations regulating signage within the Village under Article VIII of Chapter 30 of the Village Code of Ordinances (the "Code"); and

WHEREAS, the Village Council finds it periodically necessary to amend its Code of Ordinances in order to update regulations and procedures to implement planning goals and objectives; and

WHEREAS, the Village Council desires to amend Sections 30-73, "Site Plan review procedures" to permit conversion of hotel units to residential units in the Hotel Resort District; 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 this Ordinance is in the best interest of the Village's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AS FOLLOWS:¹

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amending Sections 30-73 of the Village Code. That Sections 30-42, "Development Incentives for Stormwater Management," of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

CHAPTER 30 – ZONING AND LAND DEVELOPMENT REGULATIONS

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ARTICLE IV. - ADMINISTRATION OF THE ZONING ORDINANCE

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double strikethrough~~ and double underline.

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Sec. 30-73. - 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, with the surrounding area;
 - (4) To promote excellence in urban design, landscape design, and architecture;
 - (5) To encourage Buildings that are consistent with the high quality environment associated with the Village; and
 - (6) To ensure that projects comply with these regulations.
- (b) Applicability. Site Plan review shall be required for each Development activity that 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. The Village Council shall hold a Site Plan review workshop in accordance with subsection (n) at least 28 days prior to the Village Council vote on a proposed Site Plan.
- (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:
 - (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. 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 facility illustrating columns and all other obstructions to the movement of automobiles together with fully dimensioned driveway and Parking space layouts.
- (5) Tabular summary
- a. Total gross project acreage and net buildable land area.
 - b. Total number of proposed Units, including characteristics by number of bedrooms and bathrooms and total gross square footage.
 - c. Proposed Densities, including both net and gross acre calculations on both a Unit and Dwelling Unit and Hotel Room equivalent basis.
 - d. Proposed 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.
- (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 Florida Building Code (F.B.C.), Plumbing Chapter 11.
 - 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 non-frontage lines.
 - e. Type and usage of Structures immediately adjacent to the site (residence, 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.

- (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, 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 Building, Zoning and Planning 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 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 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.
- (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, schools, solid waste, drainage, potable water, and parks and recreation. All applicants are required to prove Concurrency pursuant to the Land Development Regulations.
- (7) Density standards. No Site Plan shall be approved which would permit any Development which would result in an increase in residential Density in excess of the Density previously approved for the subject property by a valid Development Order. For purposes of this section, existing development approved and constructed with hotel Density may be

approved as apartment Density provided that the apartment Density does not exceed the previously approved hotel Density.

- (8) 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 permits.
- (i) Building, Zoning and Planning 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.
- (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 effective.
- (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 addresses of property owners indicated on the certified list.
- (n) Site Plan Review Workshop. It is the intent of the Site Plan review workshop process to provide an open forum for the Village Council to comment on proposed site plans that require a public hearing within the Village. The workshop shall not be considered part of the quasi-judicial hearing. Each application shall be evaluated based upon the record presented at the Village Council hearing(s) on the application. Developments shall be presented by the applicants sequentially, one at a time, for the Village Council's review and comment. In addition, the

applicant shall be available to answer any questions that members of the Village Council may have about the proposed development. The applicant shall bring all of the application requirements provided under subsection (f) and any other visual materials that the applicant finds as expressive of the project to the workshop. No quorum requirement of the Village Council shall apply to the workshop.

Section 3. Severability. That 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 4. Codification. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. Conflicts. That 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 become effective immediately upon final adoption on second reading.

PASSED on first reading on the 27th day of August, 2024.

PASSED AND ADOPTED on second reading on the 22nd day of October, 2024.

JOE I. RASCO
MAYOR

ATTEST:

JOCELYN B. KOCH
VILLAGE CLERK



APPROVED AS TO FORM AND LEGALITY:

WEISS SEROTA HELFMAN COLE & BIERMANN, P.L.
VILLAGE ATTORNEY