



VILLAGE OF KEY BISCAINE

Village Council

Joe I. Rasco, Mayor
Allison McCormick, Vice Mayor
Franklin H. Caplan
Edward London
Brett G. Moss
Oscar Sardinias
Fernando A. Vazquez

LOCAL PLANNING AGENCY MEETING TUESDAY, DECEMBER 12, 2023 6:15 PM

1. CALL TO ORDER/ROLL CALL OF MEMBERS

2. APPROVAL OF MINUTES:

- 2.A. OCTOBER 10, 2023 MINUTES
(LOCAL PLANNING AGENCY MEETING)

TAB 1

3. PUBLIC COMMENTS:

If you would like to speak during public comments, please fill out a blue request form available at the Council Chamber entrance and submit it to the Village Clerk prior to the start of the meeting. When your name is called, please come forward to the podium and state your name and address. (If applicable, please state if you are a hired consultant or Village employee and/or engaged in lobbying activities and/or representing an organization.) Unless otherwise provided by Council, members of the public will have three (3) minutes to speak.

4. ORDINANCE:

- 4.A. AN ORDINANCE OF THE VILLAGE OF KEY BISCAINE, FLORIDA, AMENDING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE OF ORDINANCES BY CREATING SECTION 30-114, "PUBLIC STORMWATER UTILITY USES," TO ALLOW PUBLIC STORMWATER UTILITY USES AS A PERMITTED USE IN ZONING DISTRICTS WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND

5. ADJOURNMENT

I. ANY PERSON WISHING TO ADDRESS THE VILLAGE COUNCIL ON AN ITEM ON THIS AGENDA IS ASKED TO REGISTER WITH THE VILLAGE CLERK PRIOR TO THAT ITEM BEING HEARD. PRIOR TO MAKING A STATEMENT, PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD. II. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS PROCEEDING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE VILLAGE CLERK, 88 WEST MCINTYRE STREET, KEY BISCAYNE, FLORIDA 33149, TELEPHONE NUMBER (305) 365-5506, NOT LATER THAN TWO BUSINESS DAYS PRIOR TO SUCH PROCEEDINGS. III. IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL 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 (F.S.286.0105). IV. IN ACCORDANCE WITH VILLAGE CODE SECTION 2-161, ADOPTING SECTION 2-11.1(s) OF THE MIAMI-DADE COUNTY CODE, ANY PERSON ENGAGING IN LOBBYING ACTIVITIES, AS DEFINED THEREIN, MUST REGISTER AT THE VILLAGE CLERK'S OFFICE BEFORE ADDRESSING THE COUNCIL ON THE ABOVE MATTERS OR ENGAGING IN LOBBYING ACTIVITIES.

THE ABOVE MEETINGS ARE HELD IN THE COUNCIL CHAMBER, 560 CRANDON BOULEVARD AND ARE SUBJECT TO CHANGE. ZONING MEETINGS AND SPECIAL COUNCIL MEETINGS WILL BE SCHEDULED ON AN AS NEEDED BASIS. PLEASE VISIT www.keybiscayne.fl.gov TO VIEW THE MEETING SCHEDULE.

MINUTES

LOCAL PLANNING AGENCY
KEY BISCAIYNE, FLORIDA

TUESDAY, OCTOBER 10, 2023

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Chairman at 6:19 p.m. Present were Councilmembers Allison McCormick, Brett G. Moss, Oscar Sardiñas, Fernando A. Vazquez, Vice Mayor Franklin H. Caplan, and Chairman Joe I. Rasco. Councilmember Edward London was absent. Also present were Village Manager Steven C. Williamson, Village Clerk Jocelyn B. Koch, and Village Attorney Chad Friedman.

2. **APPROVAL OF MINUTES:** Vice Mayor Caplan made a motion to approve the minutes of the May 9, 2023 Local Planning Agency Meeting. The motion was seconded by Councilmember Sardiñas and approved by a 6-0 voice vote. The vote was as follows: Councilmembers McCormick, Moss, Sardiñas, Vazquez, Vice Mayor Caplan, and Chairman Rasco voting Yes.

3. **ORDINANCES:** A public hearing and recommendation of the Village Council sitting as the Local Planning Agency on the following proposed ordinances.

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 30-4 "ZONING AND PLANNING APPLICATION FEES," RELATING TO COST RECOVERY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Caplan made a motion to recommend the adoption of the proposed ordinance to the Council as it is consistent with the Master Plan. The motion was seconded by Councilmember Sardiñas.

The Attorney addressed the Council regarding meeting procedures.

The motion to recommend the proposed ordinance to the Village Council as it is consistent with the Master Plan was approved by a 5-0 roll call vote. The vote was as follows: Councilmembers McCormick, Moss, Sardiñas, Vice Mayor Caplan, and Chairman Rasco voting Yes. Councilmember Vazquez was not online at the time the vote was taken.

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," RELATING TO VOTING PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Caplan made a motion to recommend the adoption of the proposed ordinance to the Council as it is consistent with the Master Plan. The motion was seconded by Councilmember McCormick.

The motion to recommend the proposed ordinance to the Village Council as it is consistent with the Master Plan was approved by a 6-0 roll call vote. The vote was as follows: Councilmembers McCormick, Moss, Sardiñas, Vazquez, Vice Mayor Caplan, and Chairman Rasco voting Yes.

4. **ADJOURNMENT:** The meeting was adjourned at 6:22 p.m.

Respectfully submitted:

Jocelyn B. Koch
Village Clerk

Approved this _____ day of _____ 2023:

Joe I. Rasco
Mayor

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

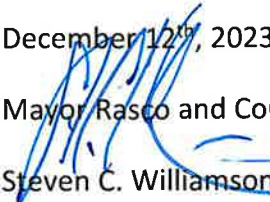


VILLAGE OF KEY BISCAINE

MEMORANDUM

Village Council
Joe I. Rasco, Mayor
Allison McCormick, Vice Mayor
Franklin H. Caplan
Edward London
Brett G. Moss
Oscar Sardiñas
Fernando A. Vazquez

Village Manager
Steven C. Williamson

DATE: December 12th, 2023
TO: Mayor Rasco and Councilmembers
THRU: 
Steven C. Williamson, Village Manager
FROM: Jeremy Calleros Gauger, Director – Building,
Zoning, & Planning Department
RE: Zoning and Land Development Code Amendment Adding
Section 30-114 Related to Public Stormwater Utility Uses
as Permitted Uses in Zoning Districts Within the Village

RECOMMENDATION

Staff recommends approval of the creation of Section 30-114, which will designate uses by Public Stormwater Utilities to be permitted in all zoning districts.

BACKGROUND

The Resilient Infrastructure and Adaptation Program, (RIAP) includes future work regarding storm surge protection, storm-water systems, undergrounding electrical and telecommunication utilities, drainage, and road improvements. Most RIAP construction and structures will be in the Public Right-of-Way. However, some below-ground and above-ground structures will need to be located on publicly owned or privately owned properties subject to zoning regulations.

Current zoning regulations in Chapter 30, Article V do not reference public utility uses. Historically, public utility uses typically pass through private properties via easements, but do not include structures other than telephone poles. Considering that RIAP will require pumping stations, drainage structures, generators, electrical panels, and other structures which may be restricted by current regulations, staff recommends amending the code to allow them.

The proposed text change will add a Section 30-114 to allow uses and structures consistent with Utility Uses as Permitted Uses in Zoning Districts Within the Village.

REVIEW CRITERIA

The Village's procedures for a text change provides for the amendment of the Zoning and Land Development Regulations provided that such amendments are consistent with the following criteria per Sec. 30-71(b) of the Village Ordinances:

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



VILLAGE OF KEY BISCAINE

Analysis

Goal 2, Objective 2.5 states: *"Ensure the availability of suitable land for drainage and sanitary sewer system facilities..."* The changes proposed are consistent with the intent and purpose of the goals, objectives, and policies stated on the Village of Key Biscayne's Master Plan (Comprehensive Plan).

This is consistent with the Future Land Use Element of the Comprehensive Plan Objective which includes public utility facilities as allowed uses in all Future Land Use categories except Office and Parks Recreation, and Open Space.

Part II Appendix B of the Master Plan includes an implementation plan for information purposes. The appendix recommends modifying "zoning provision for lift station and similar utility facilities" by 1995.

Finding

Consistent

Criteria 2

The proposed change will result in Buildings that are consistent in scale and otherwise compatible with those within 300 feet of the site.

Analysis

The proposed changes will not affect the consistency in scale between buildings. These changes are meant to allow uses and structures consistent with Public Utility as an allowable use in all zoning districts.

Finding

Consistent

Criteria 3

The resulting boundaries of a zoning district are logically drawn.

Analysis

The proposed changes do not alter the zoning districts.

Finding

Not applicable

Criteria 4

The proposed changes will enhance property values in the Village.

Analysis

Proposed changes will be compatible with Village standards and with the proposed work under RIAP, which will enhance property values.

Finding

Consistent



VILLAGE OF KEY BISCAYNE

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

Analysis The proposed changes will allow resiliency projects to take place without the limitations placed by the limited language within the zoning code. By undergoing necessary infrastructure projects, the quality of life is expected to improve.

Finding Consistent

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

Analysis Considering that RIAP will require pumping stations, drainage structures, generators, electrical panels, and other structures which may be prohibited by current regulations, it is in the best interests of the Village to approve the proposed ordinance.

Finding Consistent

CONCLUSION

Based on the Findings and relevant background information, staff recommends that the Council approve the zoning text amendment.

ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30, “ZONING AND LAND DEVELOPMENT REGULATIONS,” OF THE VILLAGE CODE OF ORDINANCES BY CREATING SECTION 30-114, “PUBLIC STORMWATER UTILITY USES,” TO ALLOW PUBLIC STORMWATER UTILITY USES AS A PERMITTED USE IN ZONING DISTRICTS WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; 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 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, 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 BISCAYNE, 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 Section 30-114, “Public Utility Stormwater Uses,” of the Village Code.** That the Code of Key Biscayne, Florida, is hereby amended by adding a section to be numbered Section 30-114, “Public Utility Stormwater Uses,” which section reads as follows:

CHAPTER 30 – ZONING AND LAND DEVELOPMENT REGULATIONS

ARTICLE V. – SCHEDULE OF DISTRICT, USE, AND SETBACK REGULATIONS

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.

Section 30-114 – Public Utility Stormwater Uses. Public stormwater utility uses shall be a permitted use in every zoning district, except that such use shall not be permitted where prohibited under the Comprehensive Plan.

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 _____ day of _____, 2023.

PASSED AND ADOPTED on second reading on the _____ day of _____, 2023.

JOE I. RASCO
MAYOR

ATTEST:

JOCELYN B. KOCH
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

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