BAL HARBOUR
FLORIDA'S PARADISE

Village Council

Workshop Meeting Agenda
Regarding Site Plan and B Zoning Use Ordinances
October 10, 2012
at 7:00 p.m.

Bal Harbour Village Hall
655 – 96th Street
Bal Harbour, Florida 33154

Mayor Jean Rosenfield
Assistant Mayor Joni D. Blachar
Councilwoman Patricia Cohen
Councilman Martin Packer
Councilman Jaime M. Sanz

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Village Manager Alfred J. Treppeda
Village Clerk Ellisa L. Horvath, MMC
Village Attorneys Weiss Serota Helfman
Pastoriza Cole & Boniske

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1. Call to Order/Roll Call

2. Pledge of Allegiance

3. The Purpose of the Workshop is to Discuss the Following Proposed Ordinances:

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING DIVISION 11, ARTICLE III, CHAPTER 21 OF THE VILLAGE CODE TO CREATE A NEW SECTION 21-322 "SITE PLAN REVIEW;" PROVIDING FOR SITE PLAN REVIEW, INCLUDING APPLICABILITY OF REQUIREMENT, APPLICATION AND REVIEW PROCEDURE, COST RECOVERY, AND DEVELOPMENT AGREEMENT; AMENDING SECTION 21-320 OF THE VILLAGE CODE TO CLARIFY THE APPLICABILITY OF COUNCIL REVIEW OF A TRAFFIC STUDY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING SECTION 21-316 OF THE VILLAGE CODE TO AMEND THE LIST OF USES AND SET FORTH PERMITTED AND CONDITIONAL USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

4. Special Consultant Presentation

5. Presentations from Interested Parties

6. Public Comment

7. Questions from the Council

8. Adjourn.

One or more members of any Village Committee/Board may attend this meeting of the Council and may discuss matters which may later come before their respective Boards/Committees.

Any person who acts as a lobbyist, pursuant to Village Code Section 2-301 (Lobbyists), must register with the Village Clerk, prior to engaging in lobbying activities before Village staff, boards, committees, and/or the Village Council. A copy of the Ordinance is available in the Village Clerk's Office at Village Hall.

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 Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

All Village Council meeting attendees, including Village staff and consultants, are subject to security screening utilizing a metal detector and/or wand, prior to entering the Council Chamber, Conference Room, or other meeting area located within Village Hall. This is for the safety of everyone. Thanks for your cooperation.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING DIVISION 11, ARTICLE III, CHAPTER 21 OF THE VILLAGE CODE TO CREATE A NEW SECTION 21-322 "SITE PLAN REVIEW;" PROVIDING FOR SITE PLAN REVIEW, INCLUDING APPLICABILITY OF REQUIREMENT, APPLICATION AND REVIEW PROCEDURE, COST RECOVERY, AND DEVELOPMENT AGREEMENT; AMENDING SECTION 21-320 OF THE VILLAGE CODE TO CLARIFY THE APPLICABILITY OF COUNCIL REVIEW OF A TRAFFIC STUDY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Division 11, Article III of the Village Zoning Ordinance (Chapter 21 of the Village Code) sets forth regulations governing use and development of properties zoned B Business District ("B Business Regulations"); and

WHEREAS, the B Business District provides for the only free standing nonresidential development in the Village; and

WHEREAS, the B Business Regulations do not currently provide for any review process to consider all use compatibility, infrastructure and architectural impacts of development or changes of use within the B Business District; and

WHEREAS, due to their location on high-traffic roads, proximity to residential neighborhoods, and visibility to residents and tourists, the Village has a particular interest in ensuring that properties zoned B Business are developed in an appropriate and compatible manner; 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 deems it advisable and necessary to provide for a site plan review process for certain types of development and changes of use within all properties zoned B Business in order to ensure such appropriate development; and

WHEREAS, the Village has identified a need to make existing procedures in the Code consistent with the new site plan process described below; and

WHEREAS, the Village Council hereby finds and determines that this Ordinance is in the best interest of the public health, safety, and welfare, and is consistent with the applicable provisions of the Village's adopted Comprehensive Plan;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

Section 2. **Village Code Amended.** That Division 11, Article III, Chapter 21, is amended to create Section 21-322 "Site Plan Review" to read as follows:

Sec. 21-322. Site Plan Review.

a) *Site Plan Review and Applicability.* Site plan review and approval as hereinafter provided shall be required prior to issuance of a building permit for any new development, modification, or redevelopment that would result in one or more of the following: (1) a horizontal shift of the exterior-facing boundaries of the existing building footprint (or lot coverage) of any Structure; (2) an increase in the height of any existing Structure; (3) alterations to existing traffic circulation or access patterns between the site and any right-of-way; or (4) a change in use of a Structure, or any part thereof, to a Conditional Use as listed in Section 21-316. Site plan application and/or review shall not be required for a change in use to a permitted use, or for interior remodeling or renovation. Municipal Buildings shall not be subject to the site plan review requirements provided herein. To the extent required, a~~A~~ site plan application ~~submitted for review~~ shall be presumed to be ~~considered~~ a major ~~minor~~ site plan unless the applicant demonstrates to the satisfaction of the Village Manager and the Building Official that the proposed development and/or Conditional Use ~~if in the opinion of the Building Official it~~ will not significantly alter existing impacts to adjacent premises or significantly increase the burden on existing infrastructure, in which case it shall be reviewed as a minor site plan~~, and it proposes 2,000 square feet of development or less (including a change to a Conditional Use limited to 2,000 square feet or less). A site plan proposing greater than 2,000 square feet of development (including a change to a Conditional Use affecting greater than 2,000 square feet) shall be considered a major site plan~~. In evaluating such impacts, the Village Manager and the Building Official may consider as appropriate for the circumstances of the application: (1) the extent to which the development would create or alleviate environmental problems such as air or water pollution or noise; (2) the amount of pedestrian or vehicular traffic likely to be generated; (3) the number of persons, including

employees, likely to be present; (4) the size of the development; (5) the likelihood that additional or subsidiary development will be generated; and (6) the extent to which the development would create an additional demand for, or additional use of, energy, water, sewer capacity, and road infrastructure.

b) *Application.* The application shall be in a form prescribed by the Building Official, and shall be accompanied by a current survey, detailed site plan, a description of the intended use, a conceptual building plan and elevations, preliminary engineering plans, proposed preliminary design guidelines, exterior lighting plan, and a landscaping plan, as applicable, and in no event shall require disclosure of the name of the prospective tenant. The application shall be reviewed by the Village Manager and the Building Official to determine whether the application involves a minor or major site plan, and whether any additional supporting documentation is required for review such as a traffic survey and analysis meeting the requirements of Section 21-320. A minor site plan application shall be accompanied by a non-refundable fee of $1,000.00. A major site plan application shall be accompanied by a nonrefundable application fee of $3,500.00. The Village shall maintain a record of all costs of review of a major site plan application including, but not limited to, fees of Village staff and consultants and out of pocket costs. Prior to scheduling a major site plan application for a public hearing, the applicant shall pay the Village for all actual costs over $3,500.00. The application fee does not include the costs of advertising and public notice; all such advertising and public notice costs shall be borne by the applicant.

c) *Review of Minor Site Plan.* A minor site plan shall be evaluated by the Building Official for compliance with the criteria described in sub-paragraph (f) of this section. If the Building Official determines that more information is warranted, additional materials that

are reasonably related to the application may be requested from the applicant. At least seven (7) days prior to the Building Official rendering a final decision, posted notice regarding the application shall be provided on the property. In issuing the final decision, the Building Official may attach conditions including, but not limited to, screening or buffering, landscaping, limitations on manner, scope, and extent of operation(s), changes in proposed construction, location or design of Buildings, and relocation of proposed open space or alteration of use of such space. Failure to obtain a master building permit within 12 months from the approval of a minor site plan shall render the site plan approval void. If the applicant, or any other substantially affected party, disagrees with the final decision of the Building Official, the decision may be appealed by filing a written request with the Clerk accompanied by a $500.00 appeal fee within 15 days of the issuance of the final decision. In the event of such appeal, the Village Council shall review the minor site plan application on a regularly scheduled agenda pursuant to Section 21-33 of this Code. At their discretion, the Council may assess any portion of the costs associated with the appeal against the losing party to the appeal, or may order the appeal fee refunded to the appellant.

d) *Review of Major Site Plan Application by the Architectural Review Board.* The Architectural Review Board shall review a major site plan application and provide comments to the Building Official and Village Planner. The Board's review shall consider all site planning and design issues and may recommend to the Building Official and Village Planner specific conditions to address potential incompatibility, or other impacts to surrounding properties. The initial review by the Board is mandatory for each major site plan application proposed. All subsequent reviews by the Board, should they be requested, are at the option of the applicant. If the Board does not recommend

approval of the site plan and the applicant elects not to pursue further review by the Board, the Board's position on the site plan and any comments discussed at the meeting shall be considered by the Building Official and Village Planner, and noted on the staff report to the Village Council.

e) *Staff Review.* The Building Official, with input from the Village Planner, shall review the application when complete and shall prepare a staff report to the Village Council which shall include a recommendation to the Village Council for approval, approval with conditions, or denial of the site plan.

f) *Village Council determination.* The Village Council shall consider the site plan at a public hearing that is noticed in the manner set forth in Section 21-52. The Village Council may approve, approve with conditions, defer or deny the site plan. In rendering its decision, the Village Council shall consider the Building Official's recommendation and shall make findings that the proposed site plan and intended use:

   a. Are designed and scaled to be compatible with and avoid depreciation of adjacent properties and to minimize adverse impacts to adjacent development and the surrounding neighborhood by virtue of the proposal's nature, location, design, Building mass, intensity of use, or mitigation measures; and

   b. Will not create excessive noise, traffic, illumination or other noxious impacts; and

   c. Provide for safe, efficient, convenient and harmonious groupings of Structures, uses and facilities and for appropriate relationship of space inside and outside of Buildings to intended uses and to structural and architectural features within the site; and

   d. Uphold the basic intent and purpose of zoning and other land use regulations, observing the spirit of the regulations and assuring public safety and welfare,

without tending to create a fire or other equally or more dangerous hazard or provoke the excessive overcrowding or concentration of people or population.

In connection with the approval of the site plan, the Village Council may impose reasonable limitations on the permissible uses, and conditions for development and operation to ensure the compatibility of the uses with adjacent development(s) and the surrounding neighborhood and the mitigation of any adverse impacts from the proposed development. Such mitigation may include, without limitation, screening or buffering, landscaping, limitations on manner, scope, and extent of operation(s), changes in proposed construction, location or design of Buildings, relocation of proposed open space or alteration of use of such space, changes in traffic circulation or signalization, and any other matter reasonably calculated to address potential impacts to adjacent development and the surrounding neighborhood. Failure to obtain a building permit within 18 months of the Village Council's approval of the site plan shall render the site plan void, unless after good cause shown, an extension to this timeframe has been granted by the Village Council. The site plan extension shall be advertised and noticed in the same manner as a major site plan application. The Village Council shall consider the Building Official's recommendation on the site plan extension and render its decision after a public hearing.

g) *Development Agreement.* As a condition of a major site plan application, a Development Agreement, or amendment to an existing Development Agreement, may be required in order to mitigate the impacts that the proposed development will have on the Village. The Development Agreement shall provide for one or more of the following as appropriate for the circumstances of the application ~~may provide for~~: (1) the applicant's dedication of property and/or construction of facilities to mitigate its impacts upon the

Village; (2) any deed restrictions, covenants, and bonded commitments that are necessary and acceptable to the Village to ensure timely completion of the development according to the approved site plan; (3) any new or continuing operational obligations and maintenance of areas, functions and facilities which are not proposed to be provided, operated or maintained at public expense; and (4) any other matter determined by the Village to be appropriate to mitigate impacts of development. Unless otherwise specifically agreed to in the Development Agreement and otherwise approved by variance in the manner provided for in this Chapter 21, construction of all Structures shall comply with all provisions within the Village Code of Ordinances. If approved, the Development Agreement shall be recorded at the applicant's expense in the Miami-Dade County public records.

Section 3. **Village Code Amended.** That Section 21-320 is amended to read as follows:

Sec. 21-320. - Traffic level; approval of traffic analysis.

(a) All applications for review of a major site plan ~~a building permit for the construction, expansion or alteration of any Building, Parking Structure or any other Structure~~ in the B Business District shall be accompanied by a traffic survey and analysis prepared by a qualified traffic engineer showing that any additional vehicular movements generated by reason of the construction, expansion or alteration can be accommodated by the adjacent Streets at the peak traffic hour on the Streets without causing the Level of Service on the Streets to deteriorate to a Level of Service D or worse. Vehicular access to and from the Business District shall be limited to Collins Avenue and to 96th Street.

(b) No major site plan approval ~~building permit for construction, expansion or alteration of a Building or Structure in the Business District~~ shall be issued unless or until a traffic survey and analysis meeting the requirements of subsection (a) of this section has been filed with the Building Official and considered ~~approved~~ by the Village Council as part of the ~~after~~ public hearing.

* * *

Section 4. **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 5. **Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. **Conflict.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 7. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this _____day of _____, 2012.

PASSED AND ADOPTED on second reading this _____day of _____, 2012.

_____
Mayor Jean Rosenfield

Attest:

_____
Ellisa Horvath, MMC, Village Clerk

Approved As to Form And Legal Sufficiency:

_____
Village Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske

Reviewed and Approved by Village Attorney Tony Recio

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING SECTION 21-316 OF THE VILLAGE CODE TO AMEND THE LIST OF USES AND SET FORTH PERMITTED AND CONDITIONAL USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Division 11, Article III of the Village Zoning Ordinance (Chapter 21 of the Village Code) sets forth regulations governing the use of properties zoned B Business District which are intended to regulate non-residential uses in the Village; and

WHEREAS, Section 21-316 of the Village Code allows a number of uses as of right that because of their tendency to lead to noise, overcrowding or other potentially adverse impacts, such as traffic and parking patterns that differ from traditional retail uses, should be carefully evaluated to ensure that routine and special event impacts are appropriately mitigated; and

WHEREAS, the Village Council deems it advisable and necessary to address these particular uses by providing for a conditional use approval process by which these uses can be thoughtfully considered prior to their being permitted; 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 hereby finds and determines that this Ordinance is in the best interest of the public health, safety, and welfare, and is consistent with the applicable provisions of the Village's adopted Comprehensive Plan;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

Section 2. **Village Code Amended.** That Section 21-316 is amended to read as follows:

Sec. 21-316. - Permitted uses.

No Building or land shall be used in the B Business District and no Building shall be erected, constructed, reconstructed or structurally altered which is designed, arranged, or intended to be used for any purpose, unless otherwise provided for in this chapter, except for one or more of the following permitted or conditional uses:

Permitted Uses:

(1) An Accessory or subordinate Building, attached or detached from the main Building, in which there shall be no business or commercial activities conducted, shall be permitted for uses which are incidental and necessary to the main business.

(2) Appliance, electronic, music, radio, computer and communication hardware and software and/or telephone and television stores, up to 2,000 square feet.

(3) Art galleries.

(4) Auction houses.

(5) Banks and other financial institutions.

(6) Barbershops~~, up to 2,000 square feet~~.

(7) Beauty salons~~, up to 2,000 square feet~~.

(8) ~~Child care or juvenile entertainment facilities (but not video arcades).~~

(9) ~~Churches.~~

(10) ~~Cocktail lounges, only upon approval and permit by the Village Council.~~

(11) Confectionery, bakeries and ice cream stores.

(12) Dry cleaning and pressing agency (no laundry or dry cleaning permitted on the premises).

~~(13) Drugstores, up to 2,000 square feet.~~

~~(14) Florists, up to 2,000 square feet.~~

~~(15) Grocery stores, up to 4,000 square feet.~~

~~(16) Health clubs and spas, up to 4,000 square feet.~~

~~(17) Houseware stores.~~

(18) Interior decorating, costuming, draperies.

~~(19) Meat markets (except the handling of live poultry).~~

(20) Merchants, including dry goods, department and variety stores, wearing apparel, furriers, furniture and home furnishings, hardware, stationery items, sporting goods, luggage, antiques, china, jewelry, books, toys, videos, soaps, perfumes, ~~computer hardware and software,~~ leather goods and gifts.

(21) Municipal Buildings.

(22) Offices, including brokerage houses.

(23) Optical businesses~~, up to 2,000 square feet~~.

(24) ~~Package stores, only upon approval and permit by the Village Council.~~

(25) Parking/storage of motor cars.

(26) Photograph studios~~, up to 2,000 square feet~~.

(27) Post offices.

(28) ~~Private clubs.~~

(29) Professional offices.

(30) Restaurants.

(31) Sales and show rooms.

(32) Skin salons and spas, not including stand-alone tattoo parlors~~, up to 2,000 square feet~~.

(33) Tailor and alteration shops (dry cleaning agency only, pressing but no cleaning)~~, up to 2,000 square feet~~.

(34) ~~Theaters and motion picture houses.~~

(35) Travel agencies~~, up to 2,000 square feet~~.

(36) Watch sale and repair shops~~, up to 2,000 square feet~~.

(37) ~~Other similar uses as may be permitted by the Village Council, after a public hearing, provided that such uses are compatible with and do not adversely affect the character of the "B" Business District.~~

Conditional Uses permitted after site plan review pursuant to Section 21-322:

(1) Appliance, electronic, music, radio, computer and communication hardware and software and/or telephone and television stores greater than 2,000 square feet.

(2) Banquet hall with or without on-site catering

~~(3) Beauty salons greater than 2,000 square feet.~~

(4) Child care or juvenile entertainment facilities (but not video arcades).

(5) Places of Worship.

(6) Cocktail lounges.

(7) Drugstores ~~greater than 2,000 square feet~~.

(8) Florists ~~greater than 2,000 square feet~~.

(9) Grocery stores ~~greater than 4,000 square feet~~.

(10) Health clubs ~~and spas greater than 4,000 square feet~~.

(11) Liquor package stores.

~~(12) Optical Business greater than 2,000 square feet.~~

~~(13) Photograph studios greater than 2,000 square feet.~~

(14) Private clubs.

~~(15) Skin salons greater than 2,000 square feet.~~

~~(16) Tailor and alteration shops (dry cleaning agency only, pressing but no cleaning) greater than 2,000 square feet.~~

(17) Theaters and motion picture houses.

~~(18) Travel agencies greater than 2,000 square feet.~~

~~(19) Watch sale and repair shops greater than 2,000 square feet.~~

(20) Other uses with similar impacts as may be permitted by the Village Council, after a public hearing, provided that such uses are compatible with and do not adversely affect the character of the "B" Business District.

At least fifteen (15) days before any major event that is expected to attract in excess of 500 people at any one time or will involve live music or use of a public address system, such as grand openings, product roll-outs, etc., the owner of any property in the B Business District shall seek the approval of the Village Manager, which shall review and authorize such event subject to a satisfactory security and traffic plan. In authorizing such an event, the Village Manager may attach reasonable conditions to ensure the safety of the public inside and outside the property, provide for adequate traffic circulation, and address any other potential impacts of the major event. Costs of providing Village personnel, including but not limited to Police or Fire/Emergency response staff, required by the approved security and traffic plan shall be borne by the property owner and shall be paid in advance of the major event.

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. **Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. **Conflict.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance 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 AND ADOPTED on first reading this _____day of _____, 2012.

PASSED AND ADOPTED on second reading this _____day of _____, 2012.

_____
Mayor Jean Rosenfield

Attest:

_____
Ellisa Horvath, MMC, Village Clerk

Approved As to Form And Legal Sufficiency:

_____
Village Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske

Reviewed and Approved by Village Attorney Tony Recio