

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman David J. Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council

Regular Meeting Agenda

February 20, 2024

At 6:30 PM

Sea View Hotel - Crystal Ballroom -9909 Collins Avenue • Bal Harbour • Florida 33154

This meeting will be conducted in person. The meeting will also be broadcast via a Zoom Webinar for viewing only. To Register for the Webinar click here-> https://us06web.zoom.us/webinar/register/WN_RctvWHBDRKWFvDjNq_vA Members of the public are also encouraged to participate by email (meetings@balharbourfl.gov) or by telephone at 305-865-6449.

*BHV Who We Are, Vision, Mission, Values / The Bal Harbour Experience
[The Bal Harbour Experience.pdf](#)*

CALL TO ORDER/ PLEDGE OF ALLEGIANCE

REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS

PRESENTATIONS AND AWARDS

- PA1** Steve Scott - Commemoration
- PA2** Black History Month - Proclamation
- PA3** Beach Management & Erosion Update - Cummins Cederberg
[Memorandum - Coastal Management Update Slide Deck Transmittal ADA.pdf](#)
[Presentation - Coastal Management Program Update ADA.pdf](#)

CONSENT AGENDA

C6 - COUNCIL MINUTES

January 16, 2024, Regular Council Meeting Minutes
February 2, 2024, Special Council Meeting Minutes
[VillageCouncil-RegularCouncilMeetingMinutes_Jan16_2024.pdf](#)
[VillageCouncil-SpecialCouncilMeetingMinutes_Feb2_2024.pdf](#)

C7 - RESOLUTIONS

- C7A** Approve Unity of Title - 192 Bal Bay & 196 Bal Bay
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE, SUBMITTED BY MICHAEL KOSNITZKY AS TRUSTEE OF 196 BAL BAY LAND TRUST DATED JUNE 17, 2021, FOR THE PROPERTIES LOCATED AT 192 BAL BAY DRIVE AND 196 BAL BAY DRIVE, BAL HARBOUR FLORIDA, 33154, IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Unity of Title 192 Bal Bay & 196 Bal Bay ADA.pdf](#)
[Memorandum - Unity of Title 192 Bal Bay & 196 Bal Bay ADA.pdf](#)
[Resolution - Unity of Title 192 Bal Bay & 196 Bal Bay ADA.pdf](#)
[Attachment - Unity of Title 192 Bal Bay and 196 Bal Bay ADA.pdf](#)
[Attachment - Property Appraiser 192 Bal Bay ADA.pdf](#)
[Attachment - Property Appraiser 196 Bal Bay ADA.pdf](#)
[Attachment - Letter to Village ADA.pdf](#)

- C7B** Approve Unity of Title - 209 Bal Bay & 160 Biscay Drive
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY JEROME AND DEBBIE FALIC IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 209 BAL BAY DRIVE AND 160 BISCAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Unity of Title 209 Bal Bay & 160 Biscay Drive ADA.pdf](#)
[Memorandum - Unity of Title 209 Bal Bay & 160 Biscay Drive ADA.pdf](#)
[Resolution - Unity of Title 209 Bal Bay & 160 Biscay Drive ADA.pdf](#)
[Attachment - Unity of Title 209 Bal Bay and 160 Biscay Drive ADA.pdf](#)
[Attachment - 160 Biscay Drive Property Appraiser ADA.pdf](#)
[Attachment - 209 Bal Bay Property Appraiser ADA.pdf](#)

- C7C** Approve Jogging Path Restoration Proposal
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE AGREEMENT BETWEEN THE VILLAGE AND CONCRETE PRO INC., FOR THE RESTORATION OF THE JOGGING PATH, AS DETAILED WITHIN PROPOSAL NO. 23.1145.R2.BAL, IN THE AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND ONE HUNDRED NINETY THREE DOLLARS (\$55,193); INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FIVE THOUSAND EIGHTEEN DOLLARS (\$5,018), ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Jogging Path Restoration ADA.pdf](#)
[Memorandum - Jogging Path Restoration ADA.pdf](#)
[Resolution - Jogging Path Restoration ADA.pdf](#)
[Attachment - Concrete Pro Inc. Proposal 23.1145.R2.BAL ADA.pdf](#)
[Attachment - Agreement with Concrete Pro for Jogging Path Restoration ADA.pdf](#)

R5 - ORDINANCES

R5A Ordinance - Advertising on Website instead of Newspaper of General Circulation (Second Reading)

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING SECTION 2-384 "NOTICE BY PUBLICATION AND NOTICE BY MAIL; SECTION 6-61 "ESTABLISHMENT; DURATION; TERMINATION"; SECTION 18-116 "PUBLICATION OF RESOLUTION"; SECTION 18-117 "ASSESSMENT ROLL"; SECTION 21-52 "SAME-PUBLIC HEARING; NOTICE OF VILLAGE COUNCIL AND LOCAL PLANNING AGENCY HEARINGS" OF THE VILLAGE'S CODE TO REMOVE THE REQUIREMENT OF NEWSPAPER OF GENERAL CIRCULATION AND AUTHORIZE PUBLICATION IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Newspaper of General Circulation ADA.pdf](#)

[Memorandum - Newspaper of General Circulation ADA.pdf](#)

[Ordinance - Newspaper of General Circulation ADA.pdf](#)

R5B Ordinance - Live Local Regulations

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

[Item Summary - Live Local Regulations ADA.pdf](#)

[Memorandum - Live Local Regulations ADA.pdf](#)

[Ordinance - Live Local Regulations ADA.pdf](#)

R5C Ordinance - Amend OF Oceanfront District Zoning

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 10 "OF OCEAN FRONT DISTRICT" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

[Item Summary - OF Oceanfront District Zoning ADA.pdf](#)

[Memorandum - OF Oceanfront District Zoning ADA.pdf](#)

[Ordinance - OF Oceanfront District Zoning ADA.pdf](#)

R5D Ordinance - Amend Zoning Administration In General

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL,"

ARTICLE II "ADMINISTRATION," AND ARTICLE V "OFF-STREET PARKING FACILITIES" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

[Item Summary - Amend Zoning Administration In General ADA.pdf](#)

[Memorandum - Amend Zoning Administration In General ADA.pdf](#)

[Ordinance - Amend Zoning Administration In General ADA.pdf](#)

- R5E** Ordinance - Amend Noise Regulations
AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Amend Noise Regulations ADA.pdf](#)

[Memorandum - Amend Noise Regulations ADA.pdf](#)

[Ordinance - Amend Noise Regulations ADA.pdf](#)

R7 - RESOLUTIONS

R9 - NEW BUSINESS AND COUNCIL DISCUSSION

- R9A** Discussion Item - Update On Negotiations Regarding The Oceana Development Agreement - Village Manager Jorge M. Gonzalez

[Update On Negotiations Regarding The Oceana Development Agreement - Village Manager Jorge M. Gonzalez ADA.pdf](#)

[Attachment- Enea - Oceana Concept Presentation ADA.pdf](#)

- R9B** Discussion Item - Electric Bikes - Councilman Buzzy Sklar

[Electric Bikes - Councilman Buzzy Sklar ADA.pdf](#)

- R9C** Discussion Item - Filming on the Jetty - Councilman Buzzy Sklar

[Filming On The Jetty - Councilman Buzzy Sklar ADA.pdf](#)

R9D - PUBLIC COMMENT

R10 - VILLAGE MANAGER REPORT

R11 - VILLAGE CLERK REPORT

- R11A** Lobbyist Report

[R11A1_Lobbyist Registration Report as of February13_2024.pdf](#)

R12 - VILLAGE ATTORNEY REPORT

- R12A** Attorney Report

[Monthly Attorney Report January ADA.pdf](#)

END OF REGULAR AGENDA

ADJOURNMENT

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.

The New Business and Council Discussion Section includes a section for Public Comment. On public comment matters, any person is entitled to be heard by this Council on any matter; however, no action shall be taken by the Council on a matter of public comment, unless the item is specifically listed on the agenda, or is added to the agenda by Council action.

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.

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).

All persons who need assistance or special accommodations to participate in virtual meetings please contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

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.

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: February 20, 2024

SUBJECT: **COASTAL MANAGEMENT PROGRAM UPDATE**

Attached is a copy of the Coastal Management Program Update slide deck to be utilized by the presenting representatives of our Village Environmental Engineering firm, Cummins Cederberg, at the Village Council meeting on February 20, 2024.

Village of Bal Harbour Coastal Management Program Update

Tuesday, February 20, 2024



BAL HARBOUR COASTAL MANAGEMENT PROGRAM OF ACTIVITIES

QUARTER	MONTH	ACTIVITY
1 ST	January	<ul style="list-style-type: none"> Quarterly Client Update
	February	<ul style="list-style-type: none"> FSA Shorebird Survey (First Friday)
	March	<ul style="list-style-type: none"> FWC Turtle Nesting Maps Website Notice Re: Turtle Nesting Season Beach Inspection / Drone Survey
2 ND	April	<ul style="list-style-type: none"> Quarterly Client Update
	May	<ul style="list-style-type: none"> Hurricane Season Preview County Coastal Section Coordination Call
	June	<ul style="list-style-type: none"> Beach Inspection / Drone Survey w / Control Points
3 RD	July	<ul style="list-style-type: none"> Quarterly Client Update
	August	<ul style="list-style-type: none"> FDEP Annual Inlet Report Review County Coastal Section Coordination Call
	September	<ul style="list-style-type: none"> Beach Inspection / Drone Survey
4 TH	October	<ul style="list-style-type: none"> Quarterly Client Update Tide Gage Deployment-King Tide Data Collection
	November	<ul style="list-style-type: none"> County Coastal Section Coordination Call
	December	<ul style="list-style-type: none"> Tide Gage Retrieval - King Tide Memo Hurricane Season Summary Beach Inspection / Drone Survey

Beach Inspections

- Quarterly site visits to observe general beach conditions
 - Dune edge condition
 - Accretion/erosion
 - Beach width
 - Escarpments
 - Trash Build-Up
 - Tides
 - Sargassum
 - Dune Vegetation
 - Post-Storm Conditions
- Quarterly Field Observation Report with representative photos, observations, concerns/recommendations



Large bin placed directly on dune vegetation (May 2023)



Sargassum & sand buildup (July 2023)



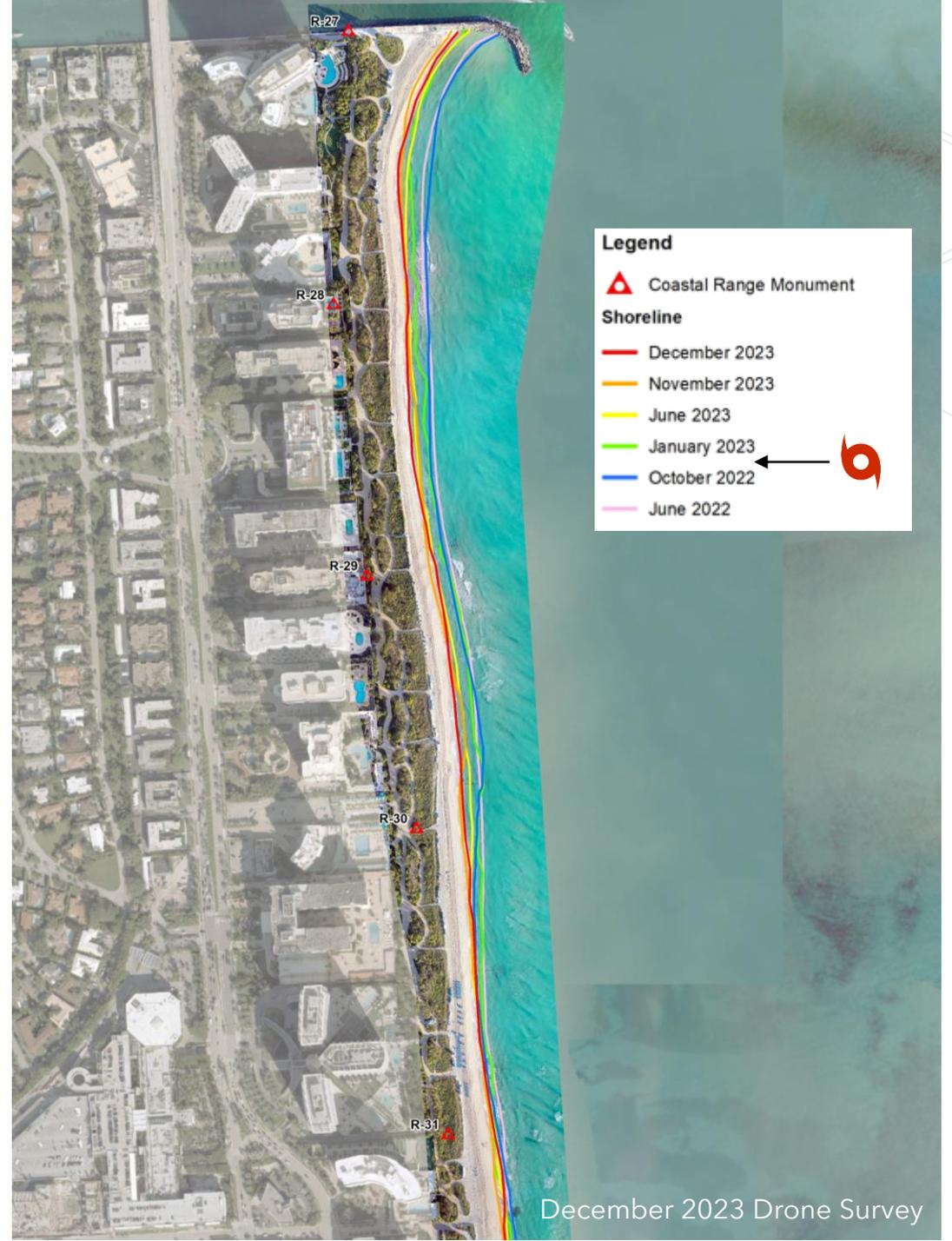
Vegetation loss & buried post-and-rope fence (October 2023)



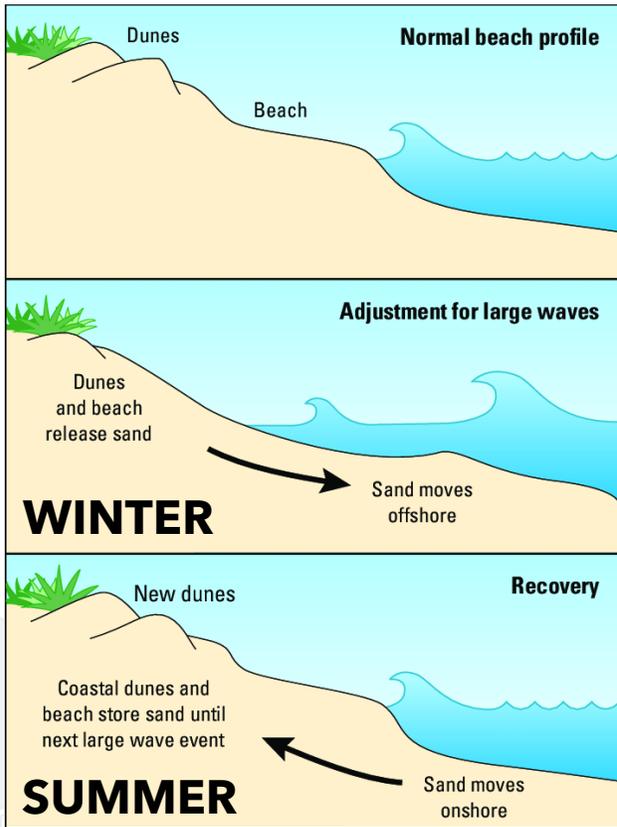
Post-Storm beach & dune escarpment (December 2023)

Drone Surveys

- Aerial photography collected quarterly for entire beach/dune system
 - Image tagged with coordinates for high spatial accuracy
 - Can be used to extract accurate distance and volume measurements
- Comparison of orthoimagery to monitor short- and long-term shoreline changes
 - Profiles are post-2022 nourishment
 - Large decrease in beach width south of jetty following Hurricanes Ian & Nicole (2022)
 - Gradual decrease in beach width along entire shoreline throughout 2023

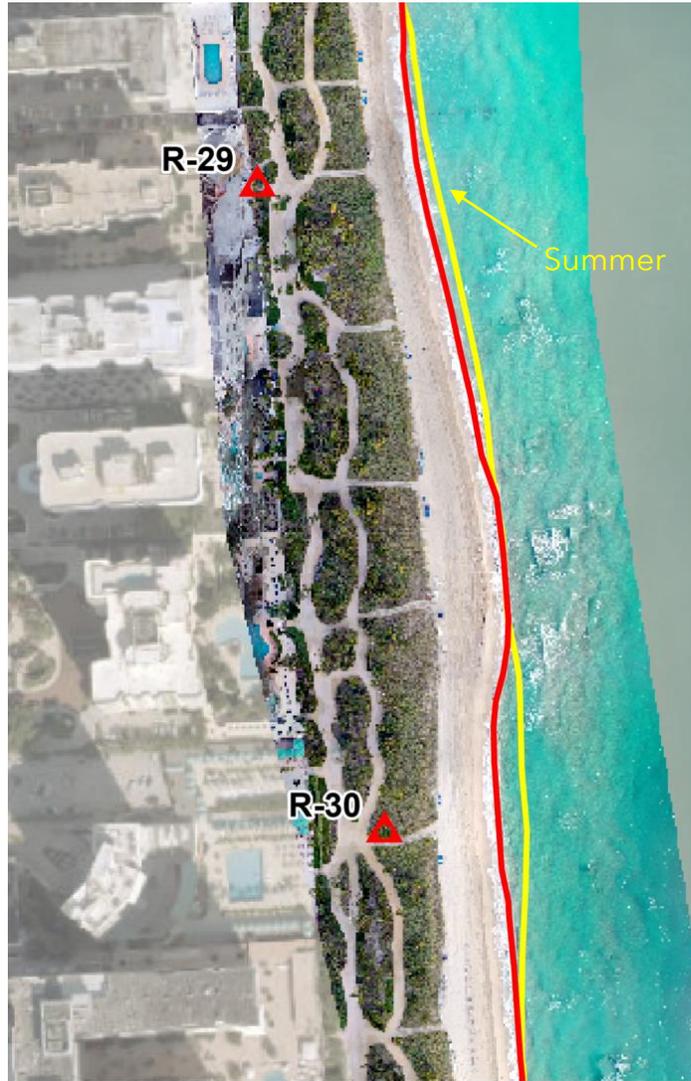


2023 Seasonal Changes vs Annual Change



Legend

- Coastal Range Monument
- Shoreline**
- November 2023
- June 2023



Immediate post-nourishment (2022)

Legend

- Coastal Range Monument
- Shoreline**
- December 2023
- November 2023
- June 2023
- January 2023
- October 2022
- June 2022

Notes:
 1. Drone Imagery Date (Source): 12/19/2023 (Cummins Cederberg, Inc.)
 2. Background Imagery Date (Source): 1/24/2022 (State of Florida)



Winter Shorebird Surveys

- Participate in annual survey sponsored by Florida Shorebird Alliance (FSA) & FWC
 - Better understand the winter distribution of shorebirds & seabirds in FL
- Conducted on first Friday of February
- Three species generally observed
 - No banded birds
 - No FSA winter focal species (American Oystercatcher, Piping Plover, Red Knot, Snowy Plover, Wilson's Plover, and Black Skimmer)
- Survey routes & data entered into FSA statewide online database



Brown Pelican



Laughing Gulls



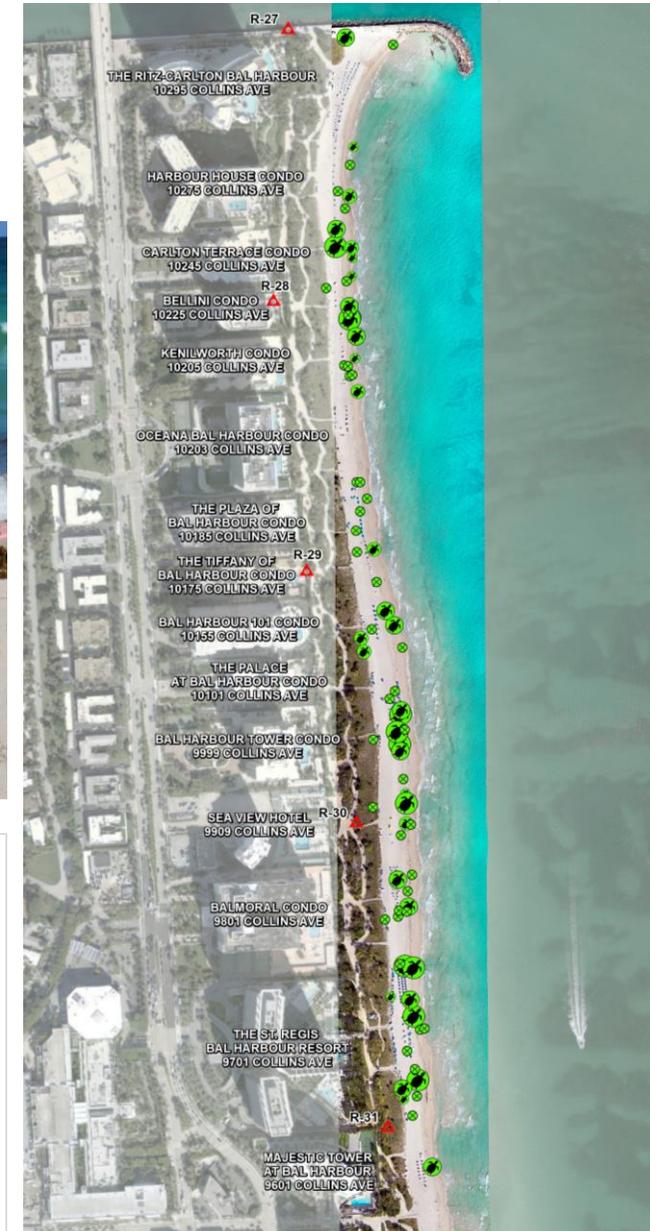
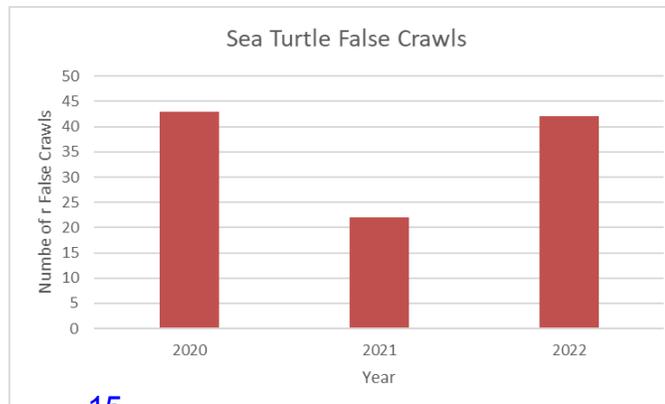
Herring Gulls

Sea Turtle Nesting Data

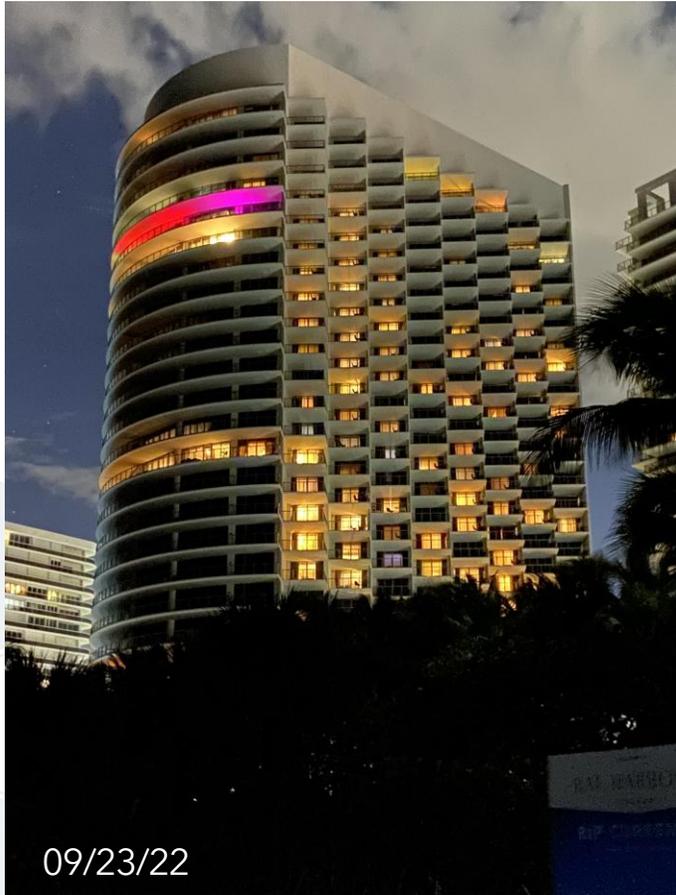
- Loggerhead nesting
 - Most in May-July, ~40 nests per season
- Sea turtle nesting data for VBH beaches requested from FWC annually
 - # of nests, false crawls, and locations provided
 - Comparison of data from previous seasons
- County lighting survey (July 2022), verified by Cummins Cederberg
- Recommendations:
 - Conduct annual lighting surveys prior to nesting season (March 1)
 - Adaptation of lightbulbs/lighting fixtures
 - Store beach equipment off beach

Legend

- ▲ Coastal Range Monument
- ⊗ False Crawl (Loggerhead)
- Loggerhead Sea Turtle Nest
- Emergence Rate
- <50%
- 50-75%
- 75-90%
- 90-100%



Sea Turtle Nesting Data



2022 Sea Turtle Nesting Season

The Florida Fish & Wildlife Commission (FWC) monitors all nesting activity throughout Florida's coasts every year. Bal Harbour Village was home to 39 loggerhead sea turtle nests during the 2022 nesting season, most of which were laid in June. These nests are protected by federal law until they hatch in the fall, when over 100 sea turtle hatchlings per nest make their way to the ocean by moonlight.

LOCATION OF NESTS OBSERVED IN 2022



BAL HARBOUR VILLAGE NESTS IN 2022



ABOUT LOGGERHEAD SEA TURTLES

(*Caretta caretta*)

- Most abundant species in Florida
- Named for their exceptionally large head with strong jaws, used to crush shellfish
- Threatened due to habitat loss
- Loggerhead nests have accounted for over 95% of all nests in Miami-Dade County since 2010
- Nesting season occurs every year in Miami between May 1st - October 31st

YOU CAN HELP PROTECT SEA TURTLES:



If you observe an unmarked nest or hatchling, please contact the FWC's 24 hour wildlife hotline:
1-888-404-3922



Leave no trace on the beach:

- Pick up your chairs, tables, tents, towels, and all other belongings
- Fill in any holes, dispose litter



Do not disturb any nest, nesting female, or hatchlings. Avoid flash photography, lanterns, and flashlights at night



Close your blinds and curtains at nighttime for oceanfacing windows



Replace your outdoor lighting with "**Low-Shielded-Long**":

- Low Mounted, Low Wattage
- Downward-facing, Shielded bulb
- Long wavelength (amber, orange, red)

USACE CSRM Back Bay Study

Strengthening Systems Through Partners & Studies



Everglades
(CERP & BBSEER)

'Back Bay' CSRM Study

Central and Southern Florida (C&SF) '216' Resiliency Study
emphasis on canal system

'Beach' CSRM Reauthorized
in 2022
*renourishment & dune
enhancement*

PortMiami CSRM

Key Biscayne
CSRM

*Combined ocean front
& back bay study*



PARKS &
CONSERVATION
LANDS



AGRICULTURE



WESTERN &
SOUTHERN SUBURBS



SLOUGHS



THE RIDGE



MAINLAND
BAYFRONT



ISLAND
BAYFRONT



ISLAND
OCEANFRONT



WATER



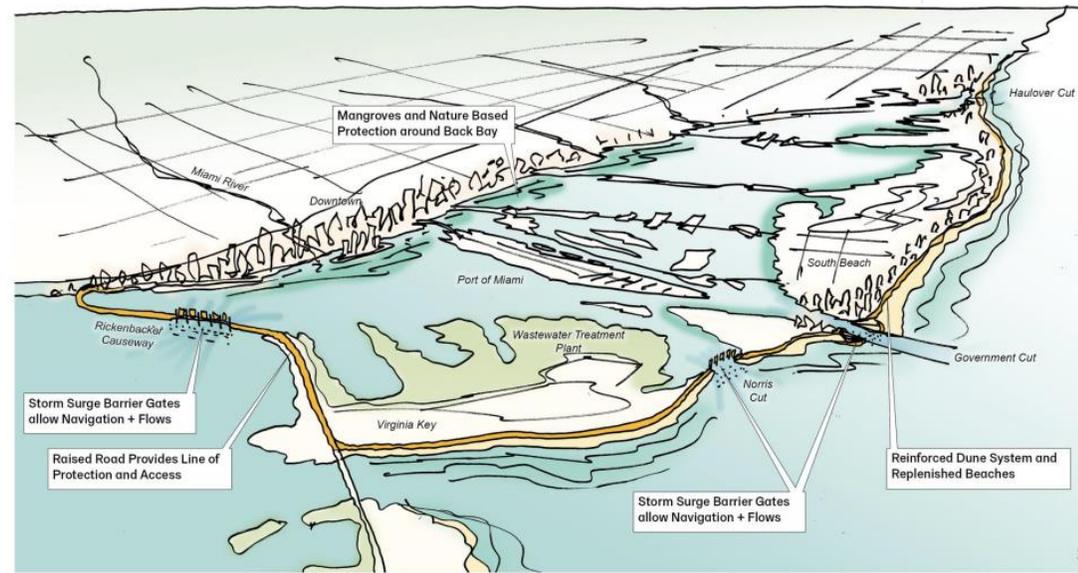
Mainland

17

Islands

USACE CSRSM Back Bay Study

- Quarterly updates on Project status
 - Study re-initiated on August 3, 2022
 - 2022-2023 public charettes 2022-2023 to discuss alternatives
 - "Go" from MDC Mayor in August 2023
 - USACE Chief's Report anticipated in 2027
 - Cummins Cederberg to provide comments to USACE on behalf of the Village
 - Storm surge barrier, reinforced dune system



- Attendance of Back Bay Study Events
 - February 2023 - Back Bay Study Public Meeting
 - June 2023 - Miami Climate Resilience Committee Meeting
 - September 2023 - Miami Climate Resilience Committee Meeting
 - August 2023 - Back Bay Study Public Meeting
 - December 2023 - Back Bay Study Workshop

Proposed Draft Concepts

A) Elevate & Adapt with Nature
 Elevating residential and floodproofing commercial buildings
 *Also referred to as 'Non-structural' measures



Included in any plan:

- Multiple lines of defense
- Reinforce critical facilities (county-wide)
- Expanded nature-based features
- Elevate homes and floodproof commercial buildings in highest-risk areas & environmental justice communities

*Not shown: proposed hybrid green/grey measures in South Dade / Cutler Wetlands

B) Barrier Island Defense System
 Leverage and reinforce barrier islands by constructing system of storm surge gates that would close ahead of major storm to keep surge out



Storms Impacting VBH Since 2000



140-mile radius

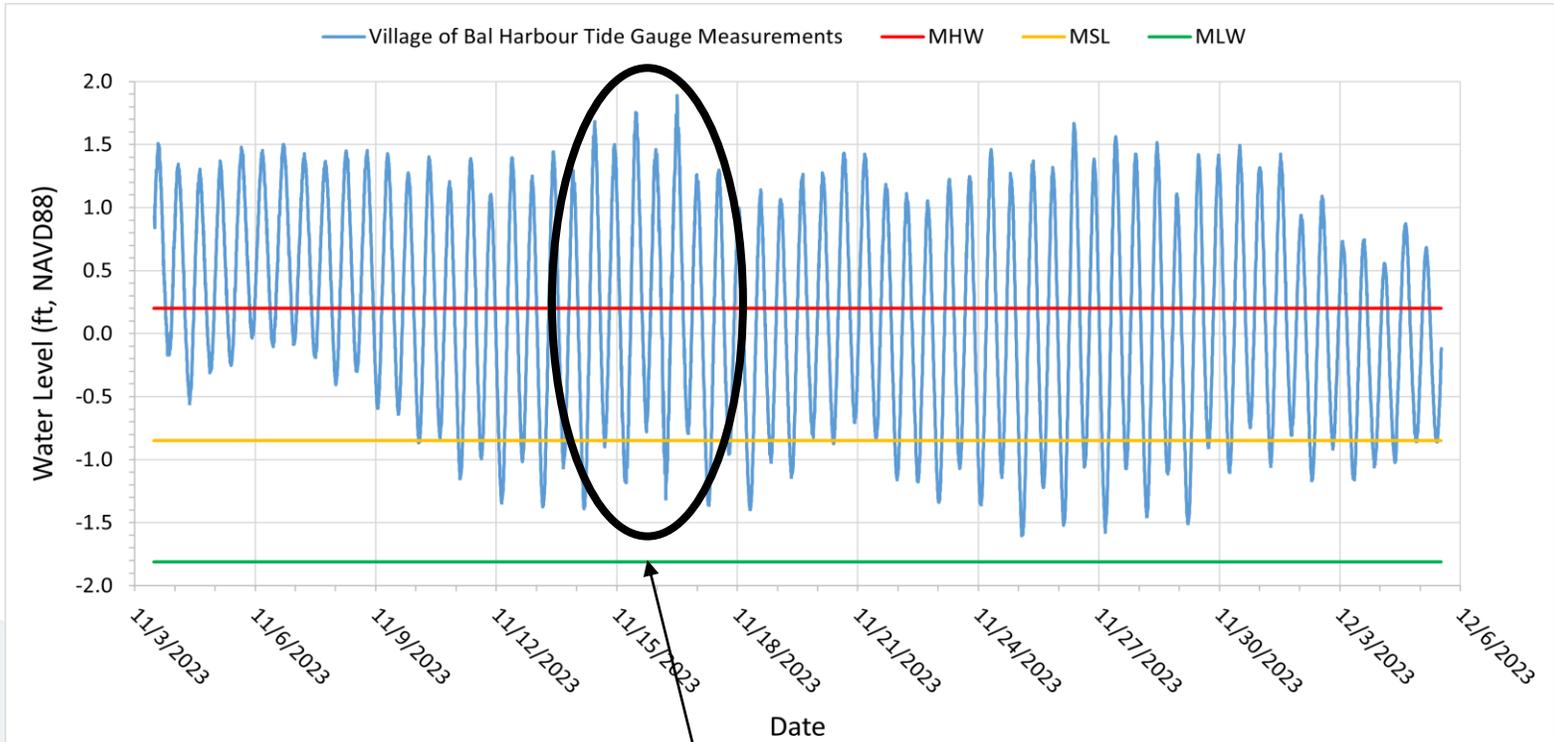
2023
Nor'easters
(not depicted)

2022
Hurricane Ian
(Lee Co.)

Hurricane Nicole
(St. Lucie Co.)

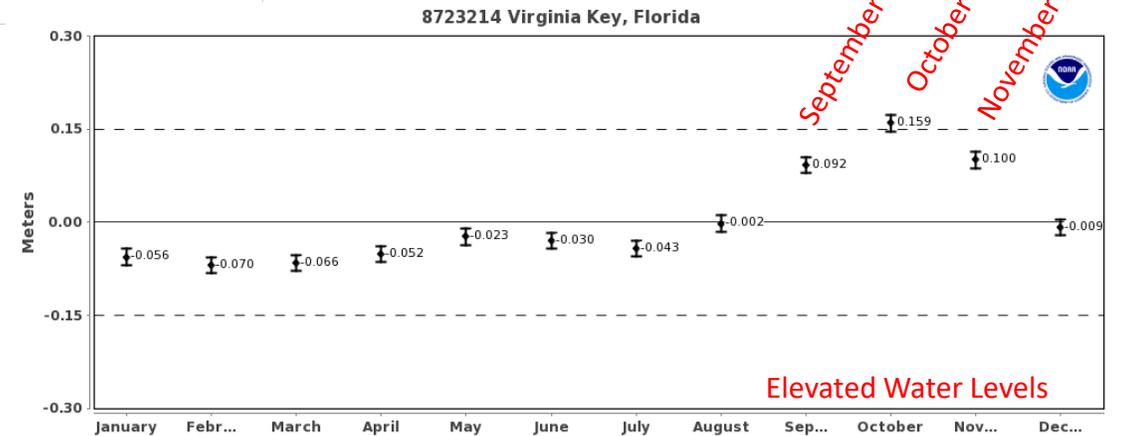
2017
Hurricane Irma
(Keys/Marco Isl.)

2023 Nov King Tide Gauge Measurements

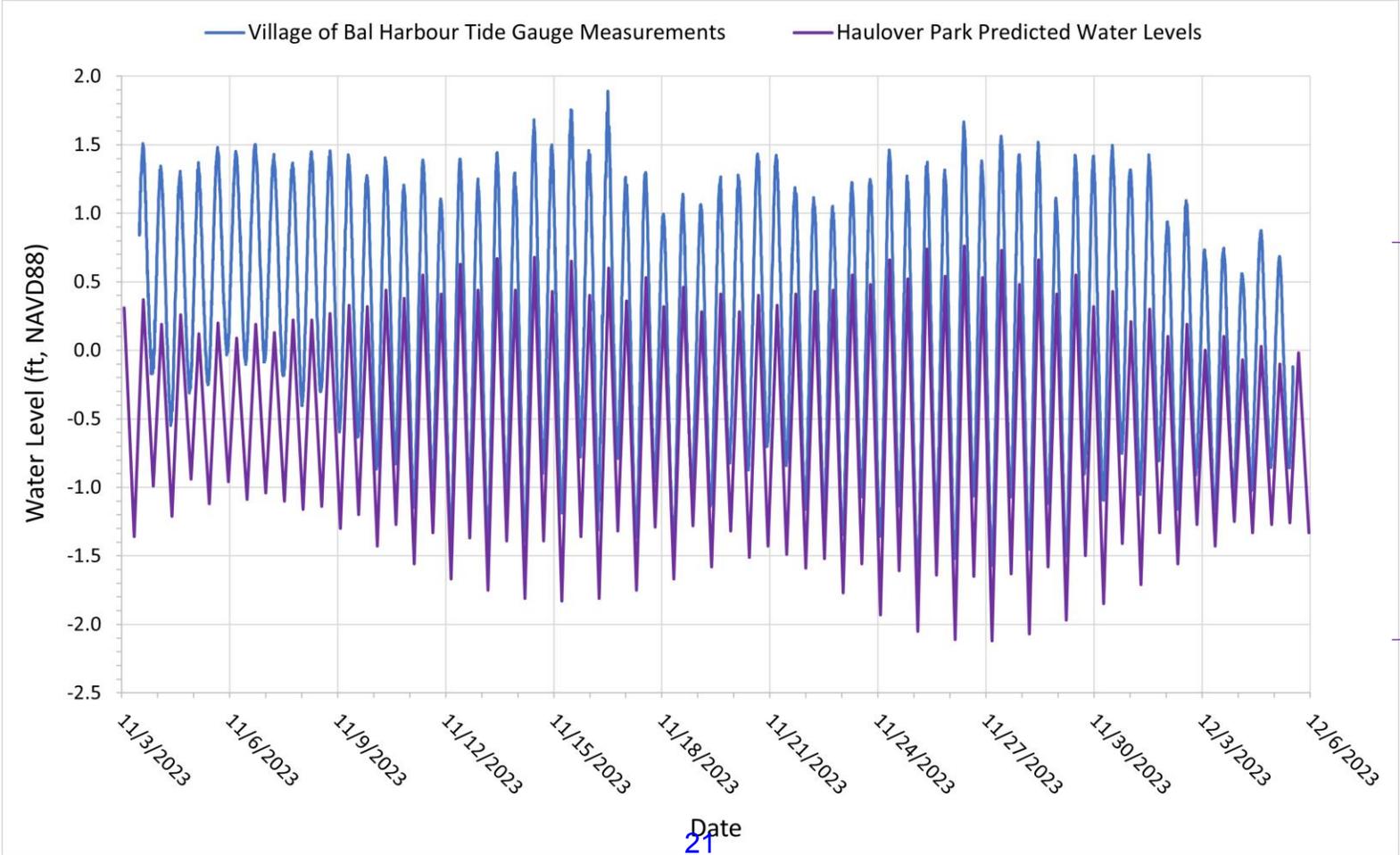


- Sept - Nov King tide season
- Spring Tide - full/new moon
- Worsen effects of Nov nor'easters

Effect of Nov. 13 New Moon



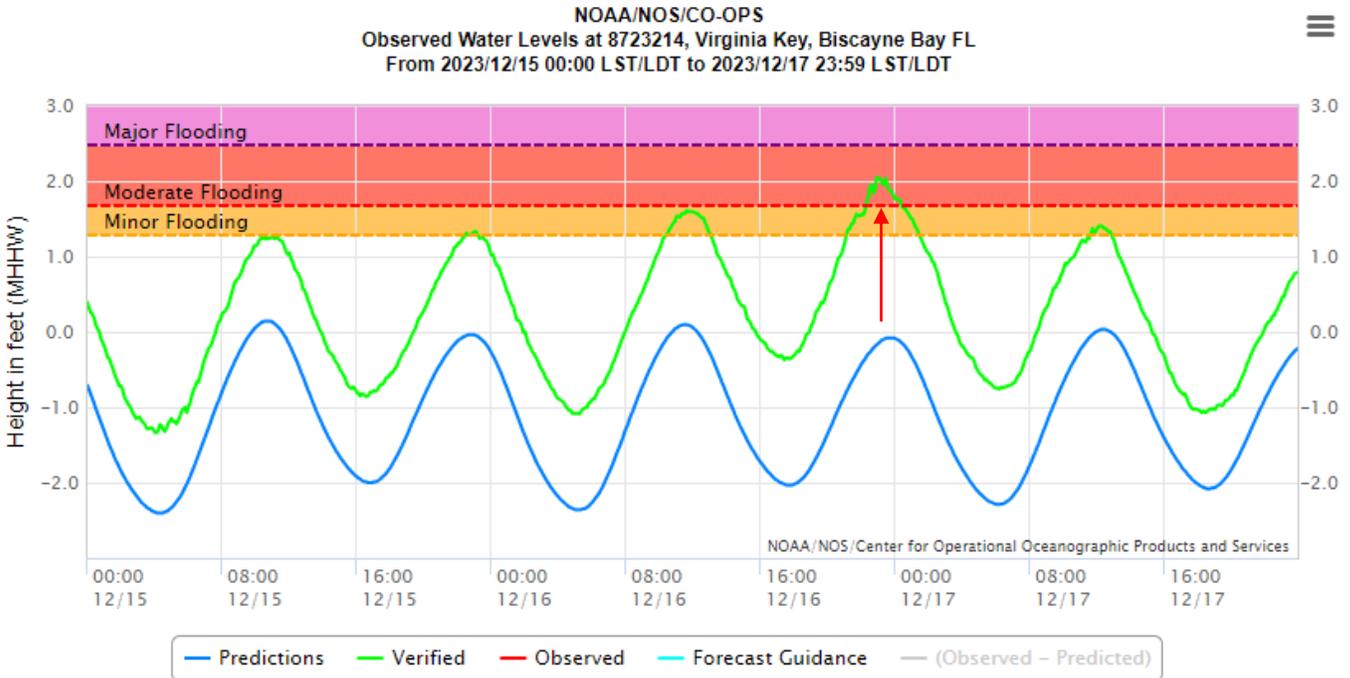
2023 Nov Tide Guage Measurements vs. Predicted NOAA Water Levels, ~1 ft difference



NOAA Predicted King Tide

Village Actual King Tide

NOAA Tide Levels – 12/10/23 – 12/19/23



NOS/NOAA/CO-OPS
Top-10 Highest Water Levels
8723214, Virginia Key, Biscayne Bay FL

Units: Standard Datum: MHHW

Date	Height (Feet above MHHW)	Event Category	Event
September 10, 2017	3.63	Tropical	Hurricane Irma
October 24, 2005	2.55	Tropical	Hurricane Wilma
October 15, 1999	2.53	Tropical	Hurricane Irene
November 10, 2022	2.14	Tropical	Hurricane Nicole
October 5, 2017	2.08	Other	Onshore Winds
December 17, 2023	2.05	Other	December East Coast Storm
October 1, 2019	1.96	Other	Onshore Winds
September 22, 2020	1.95	Other	Above Normal Tides & Onshore Winds
October 19, 2020	1.94	Other	Above Normal Tides & Onshore Winds
November 9, 2020	1.93	Tropical	Tropical Storm Eta

- Dec 17, 2023 had elevated tide more than 2 ft above MHHW
- Made the top 10 list of water levels within last 20 yrs

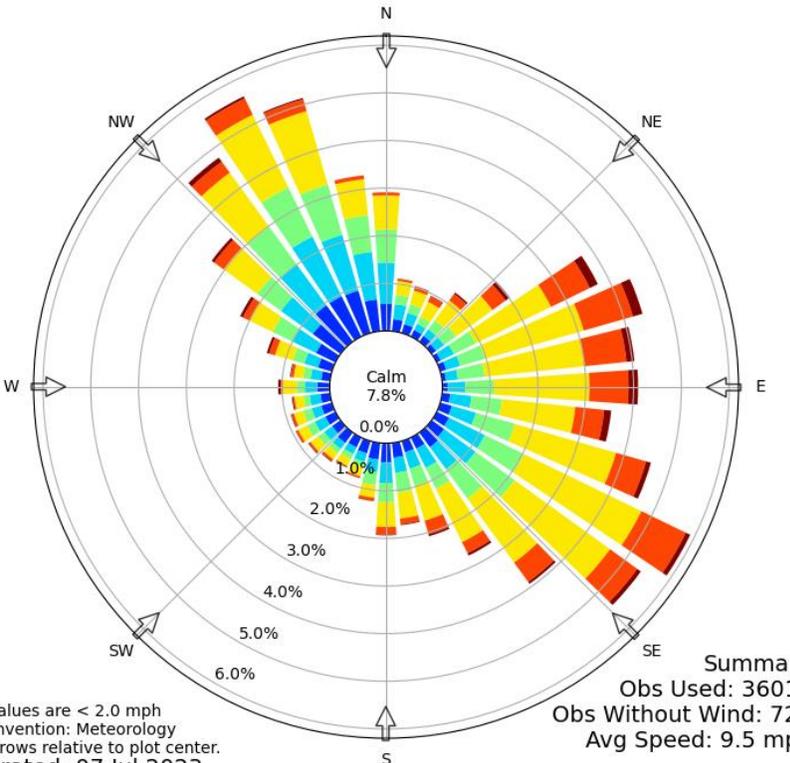
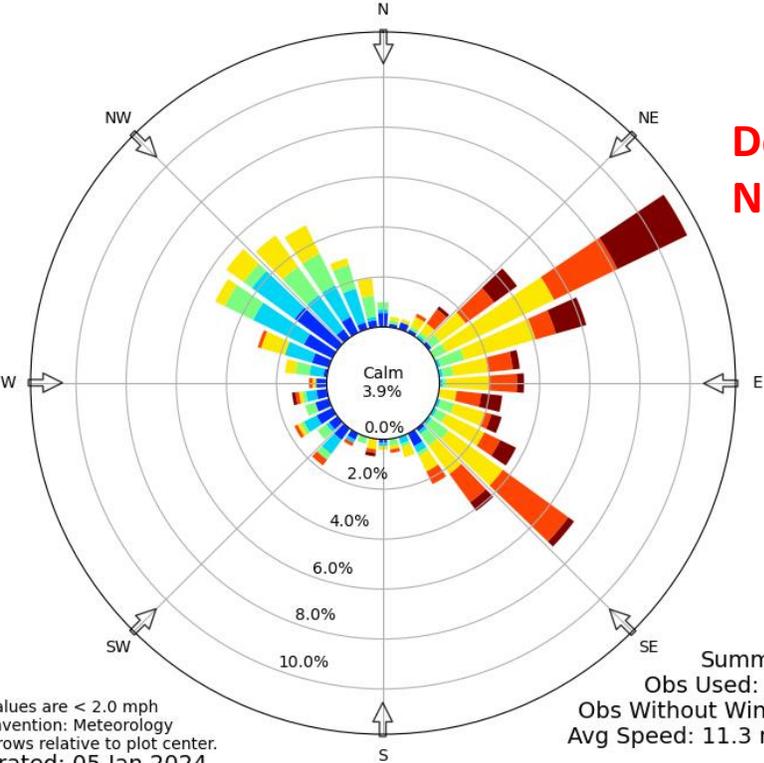
Wind Rose Plot Highlights 2023 Winter Nor'easters

12/1/23 - 12/30/23

Average December

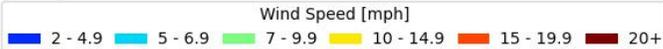
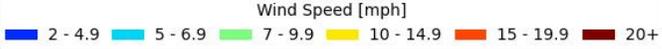
Windrose Plot for [FLL] Fort Lauderdale - Hollywood
 Obs Between: 01 Dec 2023 12:53 AM - 30 Dec 2023 11:53 PM America/New_York

Windrose Plot for [FLL] FT LAUDERDALE/HOLLY
 Obs Between: 31 Dec 1972 07:00 PM - 31 Dec 2022 11:53 PM America/New_York
 ↳ constraints: Dec



Calm values are < 2.0 mph
 Bar Convention: Meteorology
 Flow arrows relative to plot center.
 Generated: 05 Jan 2024

Calm values are < 2.0 mph
 Bar Convention: Meteorology
 Flow arrows relative to plot center.
 Generated: 07 Jul 2023



Dec. 2023 Nor'easter Pre- and Post-Storm Comparison



Post-Storm Conditions

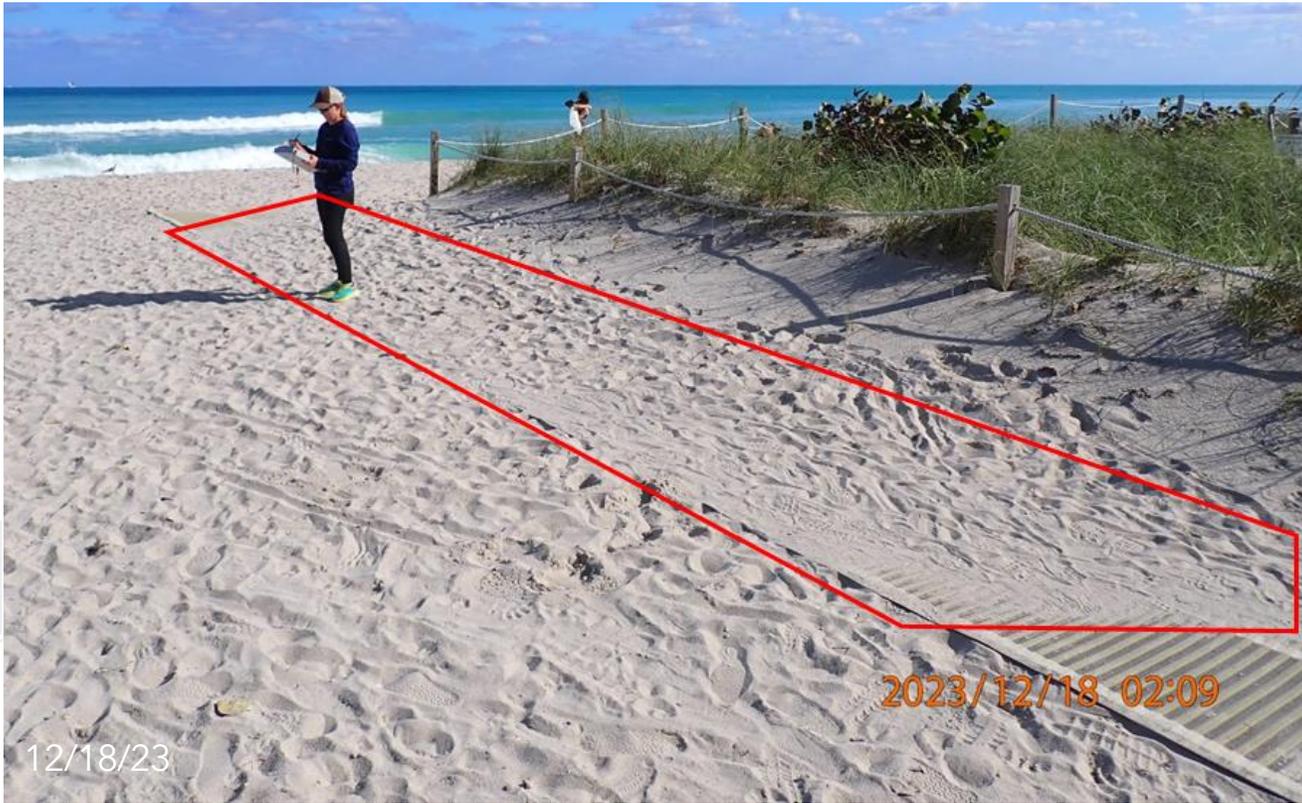


Sediment erosion south of jetty



Major settlement of beach kiosk (Access 15)

Post-Storm Conditions



Buried beach access mat (Access 1)



Burial of dune vegetation and fence barrier (Access 6-7)

Post-Storm Conditions

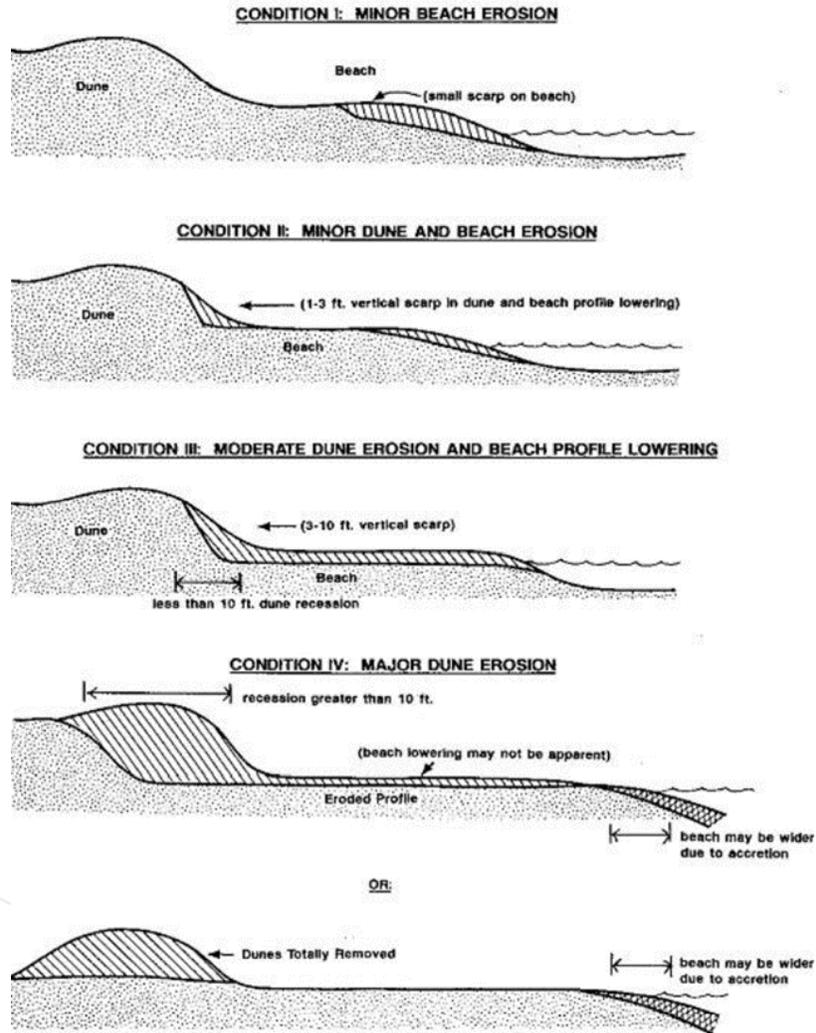


Vertical scarping at dune line (north of Access 13)



Dislodged fence posts and dune grasses (Access 14-15)

Beach Condition Map



N

1000 ft

Legend

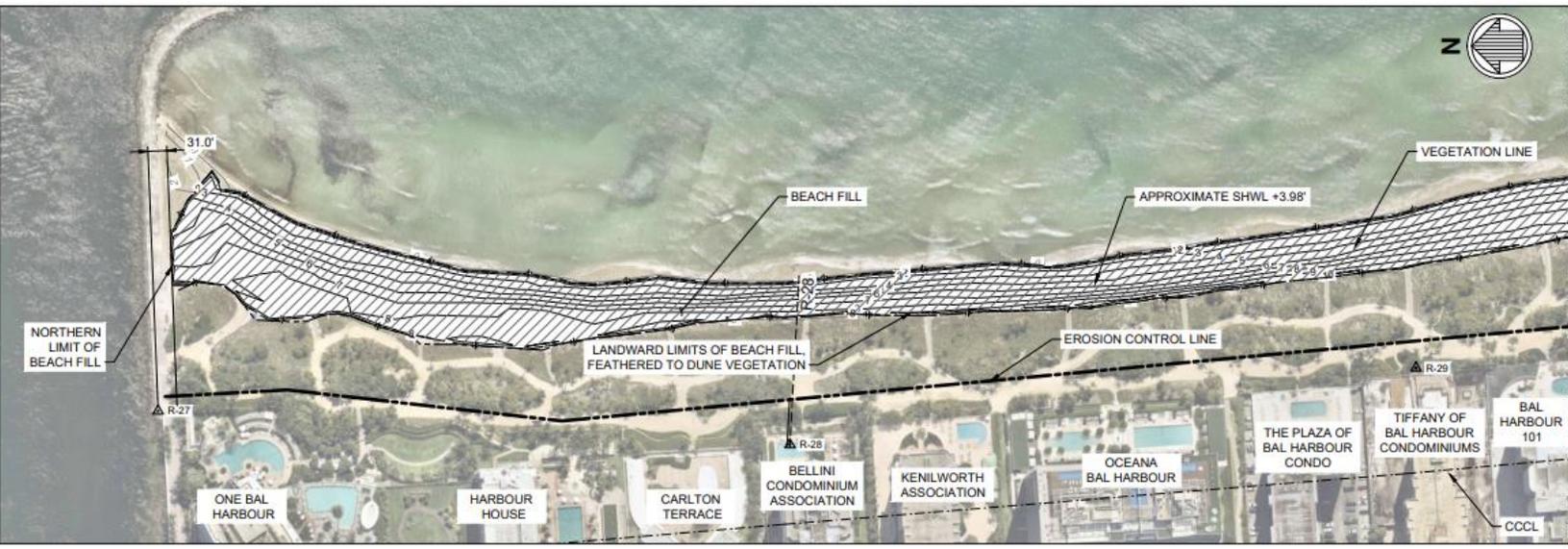
- Below Condition I
- Condition I
- Condition II
- Condition III

Options for Beach Recovery

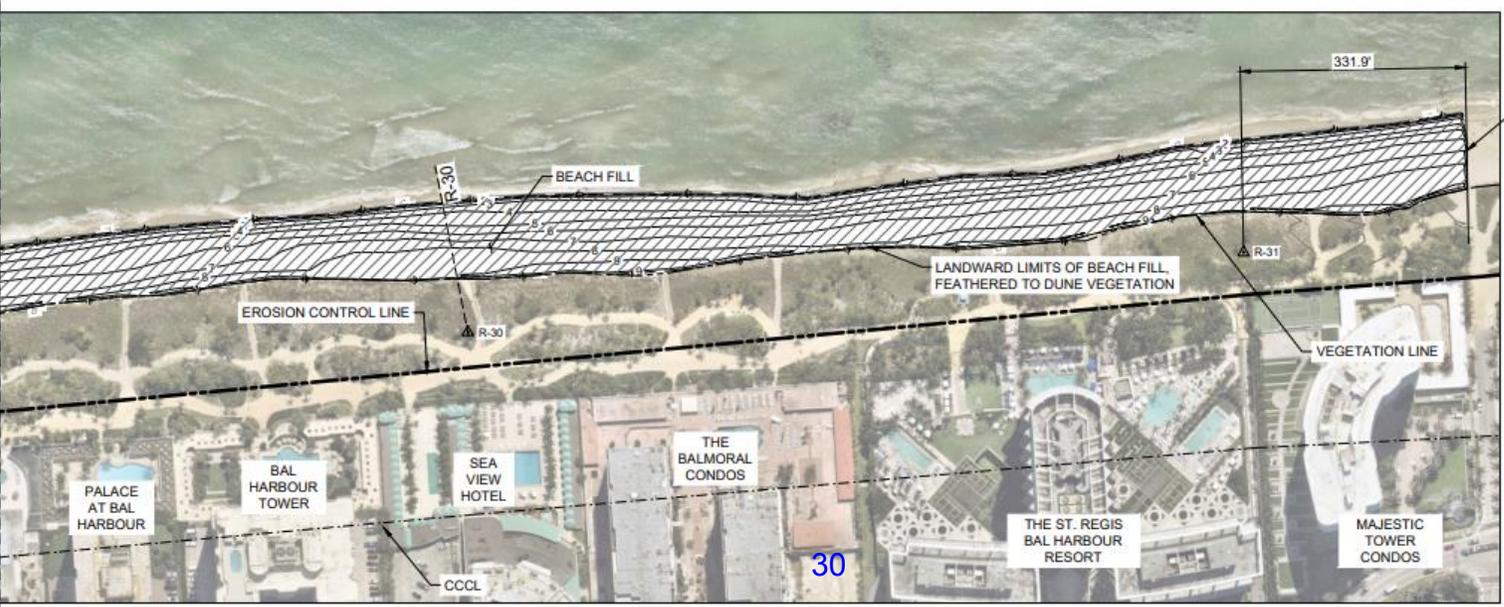
- Short-term: MDC Parks regrading of dune escarpment
 - Targeted at worst erosion areas
- Construction sands of opportunity – Rivage Project
 - 2024 / 2025 (earliest)
 - 21,147 cy, 18" of mined sand or areas of greatest need, betw. MHW & vegetation
 - Letter of No Objection requested by developer
- USACE's FCCE storm repair project
 - 2025 (anticipated)
 - Full nourishment, ~175,000 cy
- Long-term: USACE/County restoration of groin field (WRDA)
 - 2025 - 2075, redesign & construction



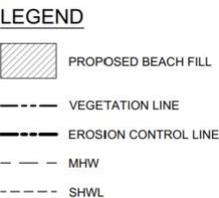
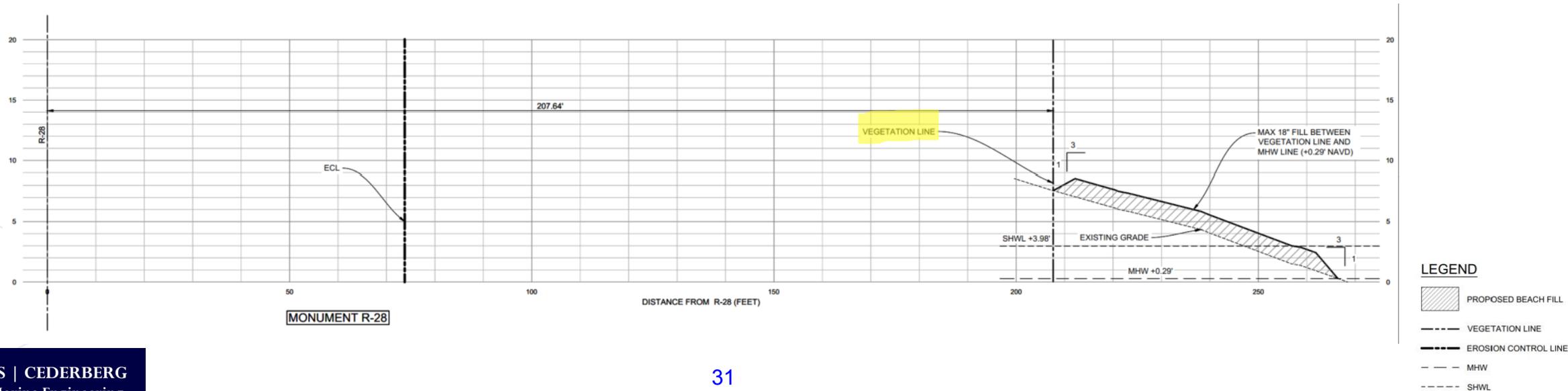
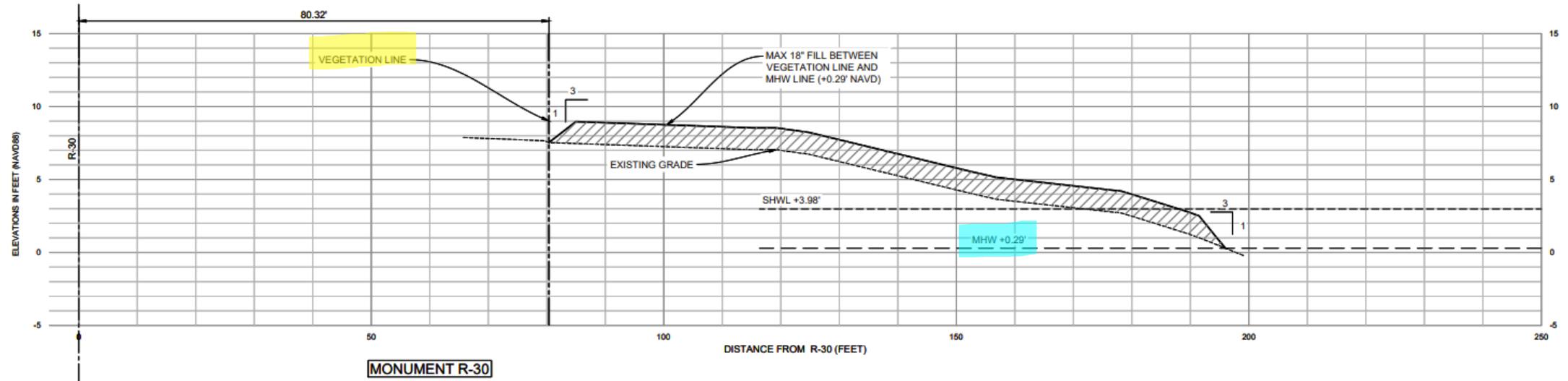
Rivage/Carlton Terrace – Beach Fill Plan View



- LEGEND**
-  PROPOSED BEACH FILL
 -  PROPOSED CONTOUR
 -  EXISTING CONTOUR
 -  VEGETATION LINE
 -  SHWL
 -  EROSION CONTROL LINE
 -  CCCL
 -  MONUMENT



Rivage/Carlton Terrace Beach Fill – Typical Sections



Recent Nourishment History (FDEP SBMP)



Date Completed	Volume (cy)	Source	Project Location (by R monument)	Length (mi)
2014	49,592	Bakers Haulover Inlet	R27-R31	0.8
January 2014	235,733	Bakers Haulover Inlet ebb shoal	R27-R31	0.8
December 2017	43,500	AIWW	R28-R29	0.2
April 2022	110,000*	Upland	R27 – R31	0.8

*Approximate volume.

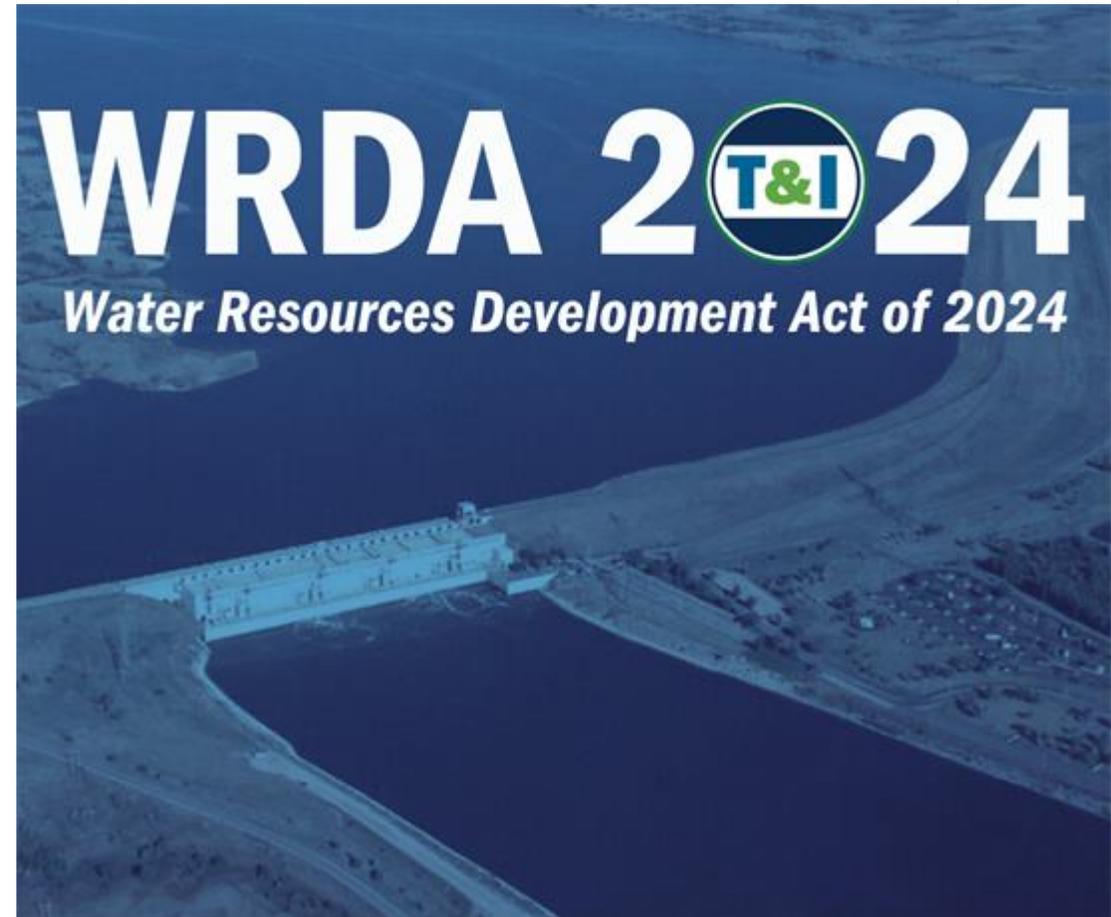
Actual Volume:
176,000 CY - mines & dredge

+ USACE/County FCCE Project planned for 2025

- Hurricanes Ian & Nicole storm recovery
- CC met USACE / County on beach, support USACE Project Impact Report (PIR)
- USACE has funding, 100% cost-share
- USACE Project Delivery Team (PDT) meets in early 2024
- New Cooperation Agreement between USACE & County needed

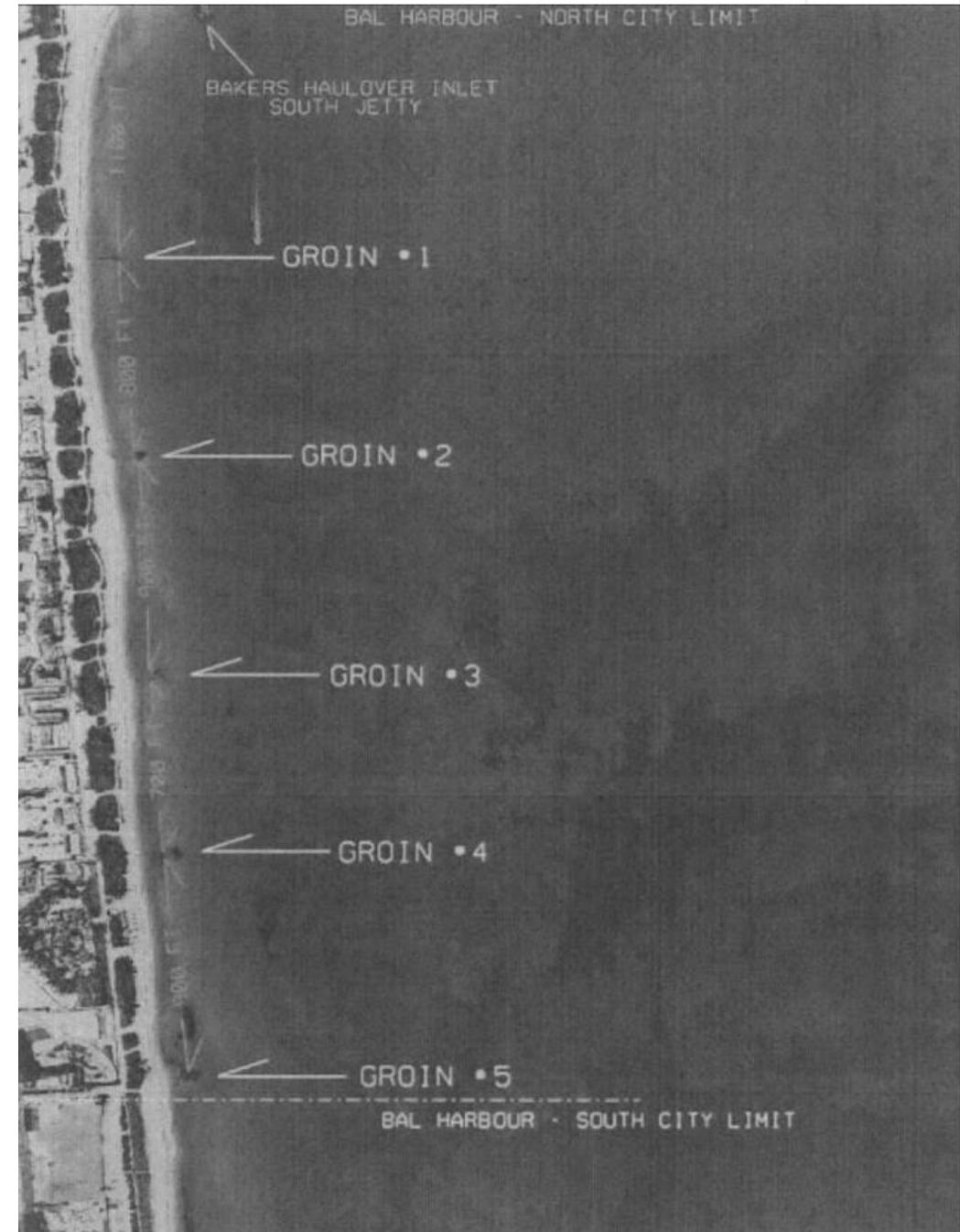
WRDA 2022 – Renewed 50-Year Authorization (USACE)

- 2025 thru 2075 nourishment, groins
- Bal Harbour, Surfside, Miami Beach
- USACE awaiting notice of appropriation
 - WRDA 2024 – Dec 2023 Hearings
- New USACE / County agmts needed
 - Design Agreement (DA) – Pre-con Engineering & Design (PED)
 - Project Partnership Agreement (PPA) – execute future construction



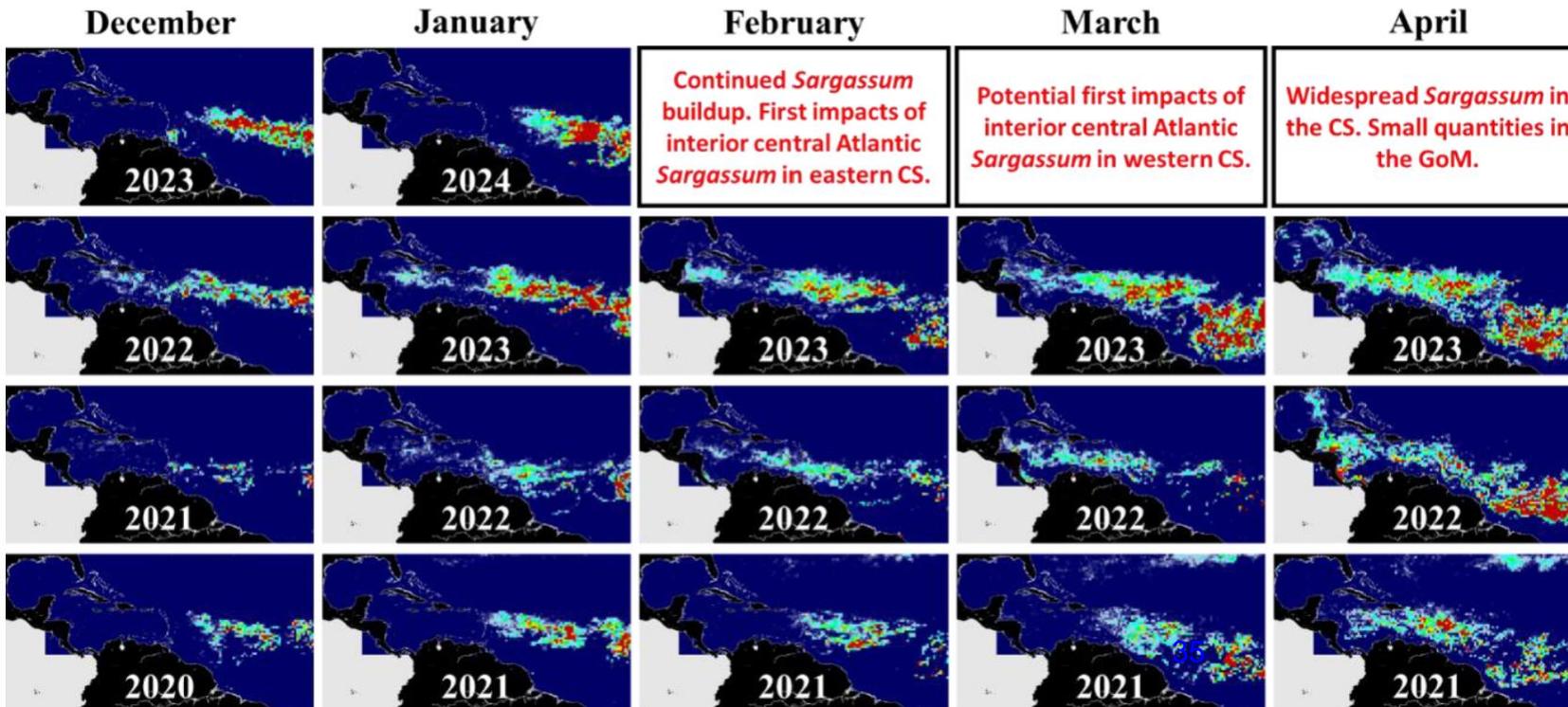
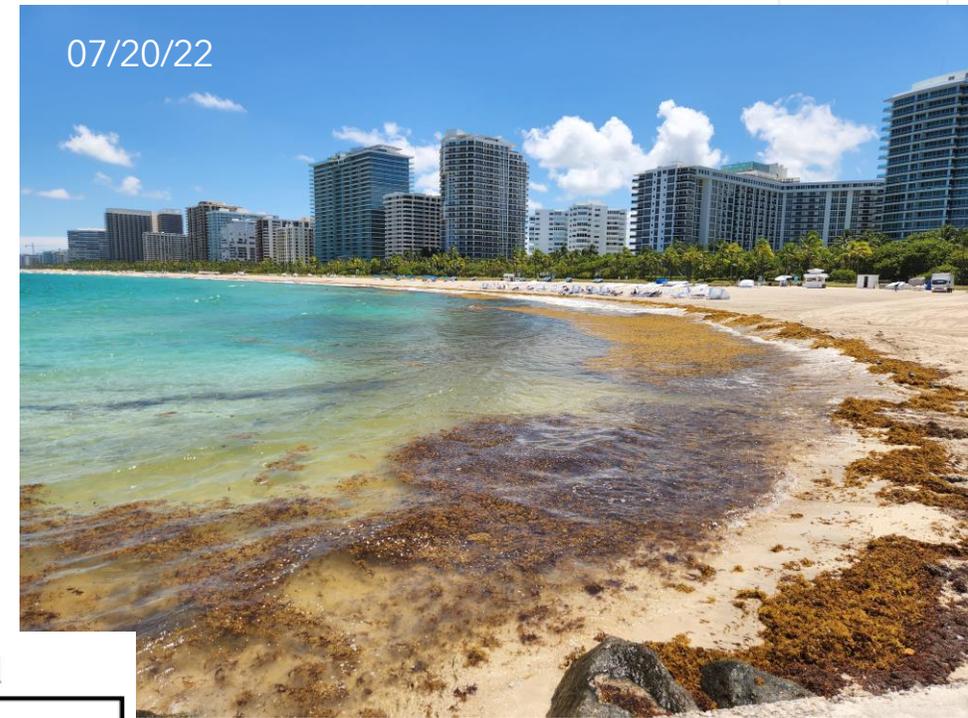
Bal Harbour Groins

- 5 groins pre-federal nourishment (1975)
- FDEP - Village Submerged Land Easement (50-ys to 2060)
- Buried each nourishment, exposed when beach erodes
- USACE redesign of groin field (2025)



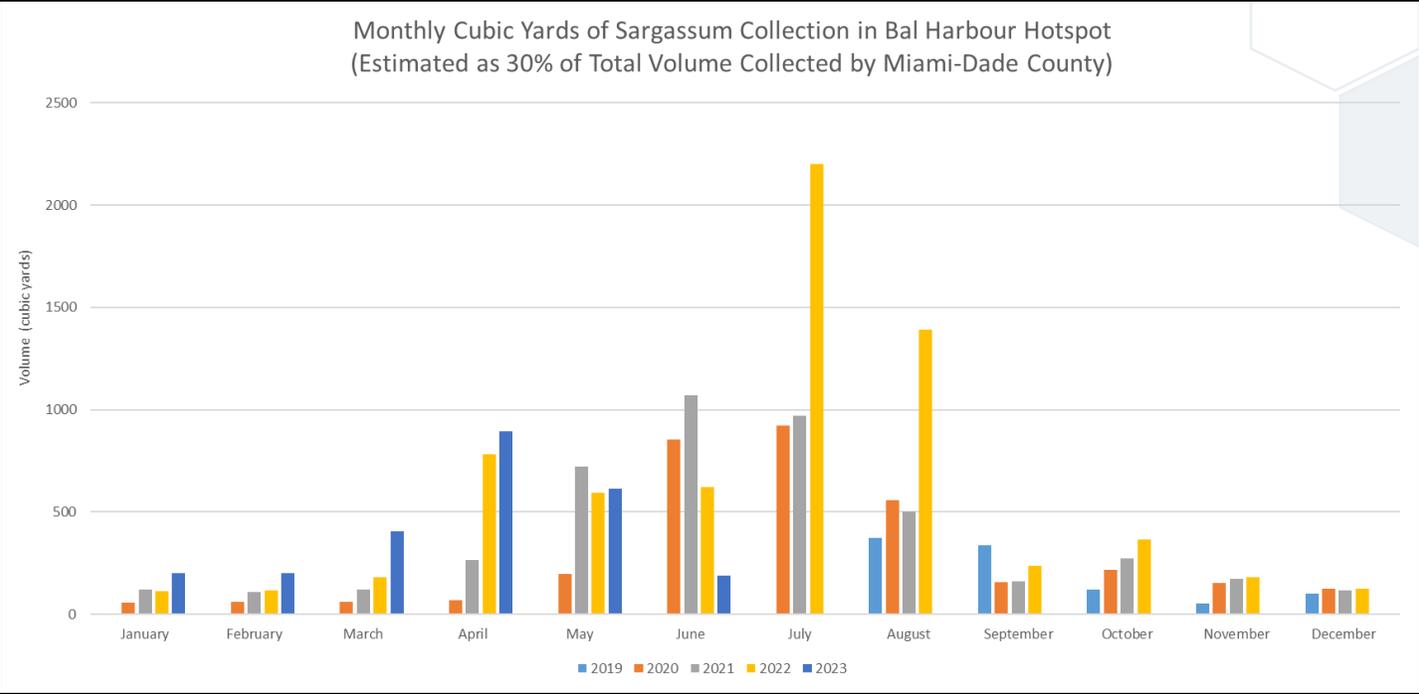
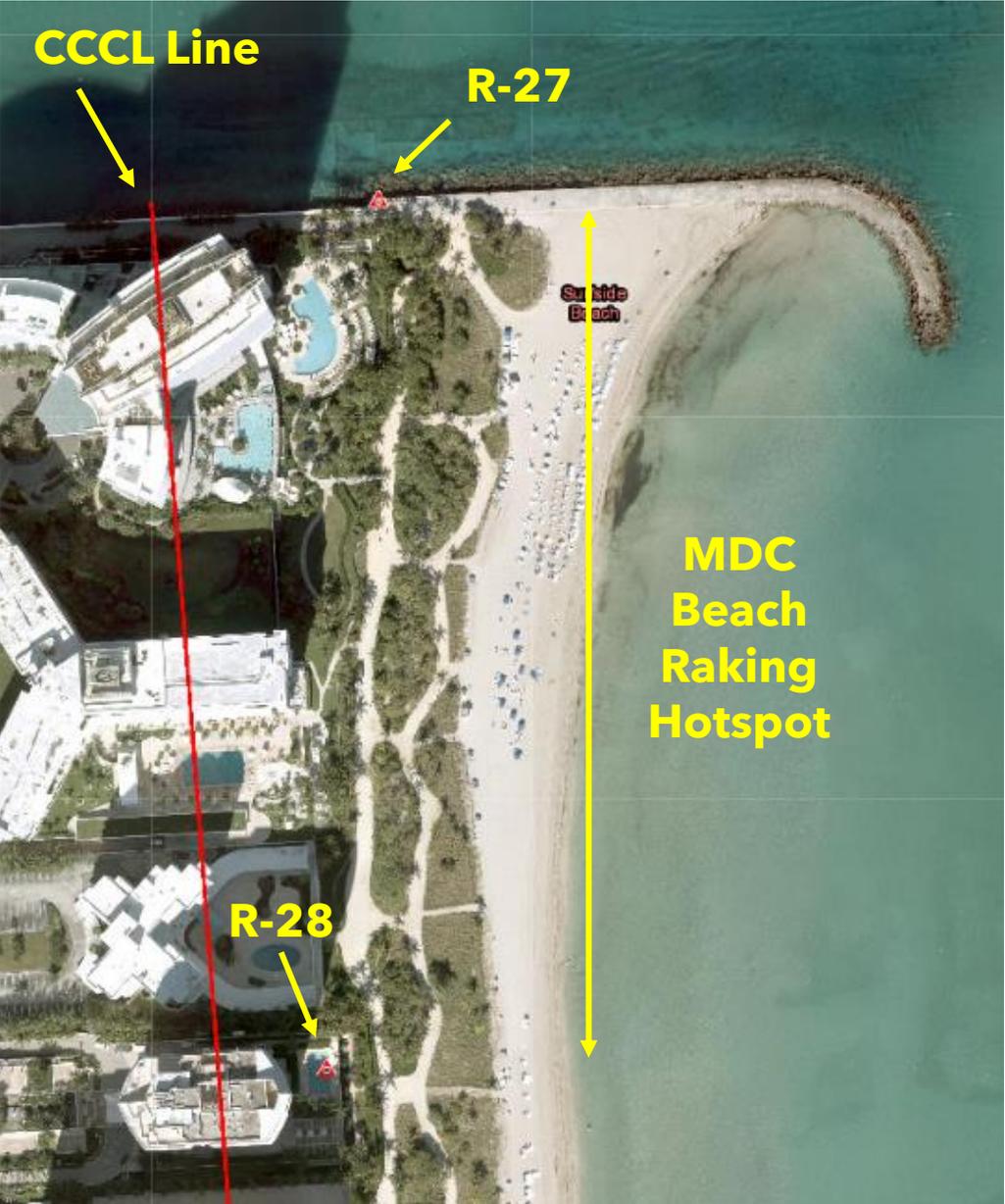
Sargassum

- Tracking of satellite imagery and news articles - 2024 may be a big year, inundation events unpredictable
- 5.5 million metric tons in Central Atlantic, Jan 2024
 - 8.5 million metric tons in Jan 2023
 - 6.5 million metric tons in Jan 2018



- County rakes & disposes of sargassum
- In-water barrier may be feasible
- Environmental permitting, collection, disposal hurdles, concerns from Surfrider Foundation

MDC Sargassum Collection – FDEP Permit No. -8042286



Questions?



Danielle Irwin, Senior Director
dirwin@cumminscederberg.com



Leonard Barrera Allen, Senior Engineer
lbarrara@cumminscederberg.com

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman David J. Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council

Regular Meeting Minutes

January 16, 2024

At 6:30 PM

Sea View Hotel, Crystal Ballroom, 9909 Collins Avenue • Bal Harbour • Florida 33154

This meeting was conducted in person. The meeting was also streamed via Zoom for viewing only. Members of the public are also encouraged to participate by email (meetings@balharbourfl.gov) or by telephone at 305-865-6449.

CALL TO ORDER/ PLEDGE OF ALLEGIANCE - Mayor Freimark called the meeting to order at 6:35 P.M.

The following were present:

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman David J. Albaum
Councilman David Wolf
Councilman Buzzy Sklar

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Susan Trevarthen, Village Attorney

The Pledge of Allegiance was led by Mayor Freimark.

REQUESTS FOR ADDITIONS, WITHDRAWALS, AND DEFERRALS

Councilman Sklar asked that Agenda Items R9B, R9C, and C7B be deferred. Mr. Gonzalez asked that Agenda Item R9A be deferred. Councilman Wolf asked that an additional discussion item regarding Form 6 be added to the Regular Agenda.

PRESENTATIONS AND AWARDS

PA1 International Holocaust Remembrance Day - Proclamation

Mayor Freimark presented a proclamation commemorating January 27, 2024 as Holocaust Remembrance Day.

PA2 Beach Erosion Update - Cummins Cederberg - This item was deferred.

CONSENT AGENDA

C6 - COUNCIL MINUTES

C6A December 18, 2023 Village Council Meeting and Workshop Minutes

C7 - RESOLUTIONS

C7A A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE RE-APPOINTMENTS OF VALERIE RENNERT AND JONI BLACHAR TO SERVE AS SPECIAL MASTERS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: A motion to approve the Consent Agenda, with Agenda Item C7B having been pulled, was moved by Vice Mayor Seth E. Salver and seconded by Councilman Buzzy Wolf.

VOTE: The Motion passed by unanimous voice vote (5-0).

C7B A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING IN THE AMOUNT NOT TO EXCEED \$50,000 TO FUND THE 2024 FLEURS DE VILLES GLOBAL EXHIBITION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

This item was considered at 9:12 P.M. after Councilman Sklar said that he had originally asked that this item be deferred to the February Council and Assistant Manager Ramiro Inguanzo said that deferring the item would not provide sufficient time for the Village to enter into an agreement in time for the exhibition, should the Council decide to move forward.

Councilman Sklar asked if the Shops would continue to activate the event without the Village's donation, to which Mr. Gonzalez said that this is more of a collaboration with the Shops and not a donation, adding that he suspected they would continue without the Village. He suggested that the agreement could say that these dollars could only be used for the Village's activations and only on properties outside of the Shops.

Councilman Sklar said that the Village would be crazy to spend \$50,000 on four mannequins and, although it is a great event, the Village needs to draw a line in the sand showing that the Village is not going to be as supportive of projects at the Shops.

Mayor Freimark suggested supporting the project within the confines described by Mr. Gonzalez adding that he would draw the line on events that solely happen within the Shops like the ice cream event.

Susan Aaron, 10225 Collins Avenue, said being from Canada she is very familiar with the event and that Bal Harbour's name would be on the list of other event cities throughout the world.

Former Assistant Mayor Patricia Cohen, 10275 Collins, said the event is exquisite and that the Village should definitely participate.

Penny Sepler, 10275 Collins Avenue, said that this event is for all the residents and guests of Bal Harbour not just for shoppers. She said that the ice cream event is fun and helps fund a charity, and she would hate to see the Village not support a worthy cause.

Neca Logan, 64 Camden Drive, said that the Village should support the event, that it is great for the community, and the residents would be happy to be involved in an international event.

MOTION: A Motion to approve the Resolution was moved by Mayor Jeffrey P. Freimark and seconded by Vice Mayor Seth E. Salver.

VOTE: The Motion passed by unanimous voice vote (4-1) with Councilman Buzzy Sklar voting against.

R5 - ORDINANCES

R5A AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING SECTION 2-384 "NOTICE BY PUBLICATION AND NOTICE BY MAIL; SECTION 6-61 "ESTABLISHMENT; DURATION; TERMINATION"; SECTION 18-116 "PUBLICATION OF RESOLUTION"; SECTION 18-117 "ASSESSMENT ROLL"; SECTION 21-52 "SAME-PUBLIC HEARING; NOTICE OF VILLAGE COUNCIL AND LOCAL PLANNING AGENCY HEARINGS" OF THE VILLAGE'S CODE TO REMOVE THE REQUIREMENT OF NEWSPAPER OF GENERAL CIRCULATION AND AUTHORIZE PUBLICATION IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

This item was considered at 8:41 P.M. following Agenda Items R7D and R9D. Mr. Gonzalez introduced the item saying that would amend certain sections related to legal advertisements in newspapers of general circulation. He said that the State recently passed a law that would allow municipalities to place legal ads on a county’s official website or other private website designated by the county.

He said the Daily Business Review, the usual publication for legal ads, was transitioning to an online-only format, and their website did not meet the State’s standards. He said that in order to utilize a public portal for legal ads, it would require amending several Village ordinances.

Ms. Trevarthen said that the Department has Revenue had blessed this type of notice for ad valorem and budget legal notices, if desired.

Vice Mayor Salver suggested implementing outreach and education to residents about the new publication methods. He said he was in favor of moving all legal communication to the portal, to which Mayor Freimark agreed.

Neca Logan, 64 Camden Drive, asked if the digital Daily Business could still be utilized to which there was a general consensus to utilize the “county” website for all ads.

MOTION: A motion to approve the ordinance on first reading was moved by Vice Mayor Seth E. Salver and seconded by Councilman David Albaum.

ROLL CALL	VOTE
Mayor Jeffrey P. Freimark	Yes
Vice Mayor Seth E. Salver	Yes
Councilman David J. Albaum	Yes
Councilman Buzzy Sklar	Yes
Councilman David Wolf	Yes

VOTE: The Motion passed by unanimous roll call vote (5-0).

R7 - RESOLUTIONS

- R7A** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RESCINDING AND REPEALING RESOLUTION NO. 2022-1481 WHICH APPROVED A PROFESSIONAL SERVICES AGREEMENT WITH ZYSCOVICH ARCHITECTS FOR THE PROVISION OF ARCHITECTURAL, ENGINEERING AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR

THE NEW VILLAGE HALL PROJECT ON AN AS NEEDED BASIS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that this resolution regarded the termination of negotiations for a not-yet-signed agreement with the chosen architect for the new Village Hall due to concerns over performance issues and errors with the Bal Harbour Waterfront Park project. He said a Request for Qualifications (RFQ) to select a new architect would be issued. He added that the Village is continuing to analyze the change orders, and if additional action is warranted, it would be brought back to the Council.

Councilman Sklar said that given the detailed report of errors and omissions, this decision should be a no-brainer for the Council.

Former Assistant Mayor Patricia Cohen, 10745 Collins Avenue suggested pausing all construction projects in that part of Collins until the Shops issue was resolved.

MOTION: A Motion to approve the Resolution was moved by Councilman Buzzy Sklar and seconded by Councilman David Wolf.

VOTE: The Motion passed by unanimous voice vote (5-0).

R7B A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE SELECTION AND INSTALLATION OF A PROPOSED ART EXHIBIT CURATED BY THE OPERA GALLERY; TO BE PLACED IN PUBLIC SPACES LOCATED IN THE VILLAGE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced Ramiro Inguanzo, Assistant Village Manager, who described the project as an installation of sculptures by Kenny Scharf in Bal Harbour public spaces curated by Opera Gallery.

Former Assistant Mayor Patricia Cohen, 10745 Collins Avenue, asked for more detail of the arrangement with Opera Gallery.

Neca Logan, 64 Camden Drive, said that although the enjoyment of art is subjective, it's important to provide the best showing possible for people who can enjoy it.

Penny Sepler, 10275 Collins Avenue, said that Kenny Scharf's art is fun and is a departure from what the Village has had before.

Mayor Freimark asked if the proposal had been reviewed by the Resort Tax Committee, to which Mr. Inguanzo said that the committee had not voted on it, but due to time constraints, he wanted to bring it to Council as soon as possible.

MOTION: A Motion to approve the Resolution was moved by Vice Mayor Seth E. Salver and seconded by Councilman Buzzy Sklar.

VOTE: The Motion passed by unanimous voice vote (5-0).

R7C A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE AGREEMENT BETWEEN THE VILLAGE AND ABSOLUTE CONSTRUCTION SERVICES, INC. FOR THE COMPLETION OF THE TWELVE INCH DIAMETER WATER MAIN CONNECTION TO THE MIAMI DADE COUNTY WATER METER ADJACENT TO THE BAL HARBOUR WATERFRONT PARK SITE AS DETAILED WITHIN THE ABSOLUTE CONSTRUCTION SERVICES, INC. PROPOSAL DATED DECEMBER 12, 2023, IN THE AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND SEVEN HUNDRED SIXTY EIGHT DOLLARS (\$55,768); INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FIVE THOUSAND SEVENTY DOLLARS (\$5,070), ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item for the installation of a sewer-water valve connection as part of the Waterfront Park construction. He said that the connection was previously installed as part of the park project and now needs to be connected to the Miami-Dade County Water and Sewer. He said that the item was separated from the park project to avoid interference or delays in construction and that the work would occur after all park construction tasks were completed and would not affect the operations of the park.

There were no comments from the public.

MOTION: A Motion to approve the Resolution was moved by Vice Mayor Seth E. Salver and seconded by Councilman David Wolf.

VOTE: The Motion passed by unanimous voice vote (5-0).

R7D - SUPPLEMENTAL AGENDA - A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO EXPEND RESOURCES TO TAKE ALL NECESSARY STEPS TO PROTECT THE VILLAGE IN RESPONSE TO THE BAL HARBOUR SHOPS' 2024 SUBMISSION TO FURTHER EXPAND ITS PROJECT; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

This item was considered at 6:43 P.M. following the Consent Agenda. Mayor Freimark introduced the item reading a statement expressing his disappointment with Bal Harbour Shops, their disrespect for the community, their lack of notice or engagement, and the importance of adhering to laws and regulations while protecting the Village's interests. He also outlined steps to address the situation, including legal action and reconsideration of relationships, and encouraged public participation while cautioning against unintended consequences (the verbatim statement is attached).

Vice Mayor Salver thanked Mayor Freimark for providing a detailed update on a significant issue facing Bal Harbour. He said that community involvement was important and thanked everyone for being present. the importance of community involvement and express appreciation for those present.

Councilman Wolf thanked Mayor Freimark for his comprehensive update. He said that he was surprised by the Shops' proposal and the lack of prior knowledge regarding the issue. He also acknowledged the significant turnout for the Council meeting and emphasized the importance of community participation.

Councilman Sklar said that he was frustrated with the lack of transparency regarding the submittal, noting that he found out about it through a Wall Street Journal article. He described his meeting where they questioned Mr. Lazenby about his knowledge and plans for residential and hotel development, found his answers lacking, and expressed his concern for the show of disrespect. He suggested seeking legal representation.

Councilman Albaum said he was in full support of the previous statements adding that he felt deceived and lied to by the developer during his meeting with them, at which he said he was told that the proposed hotel project was on hold. He said he was angered at the lack of honesty and respect. He said that he vigorously opposed the actions taken by the developer and expressed gratitude to those who have spoken out on the issue.

Darrell Payne, Stearns Weaver Miller, 150 West Flagler Street, Suite 2200, representing Saks Fifth Avenue, expressed his shock at the proposed plans, saying that he had also learned of it through the media. He said that he was opposed to any plan that involved the demolition of Saks, adding that there would be a strain on infrastructure, environmental impacts, and disruption of business. He said that Saks advocates for a thorough review process to ensure compliance with all laws and ordinances.

Surfside Mayor Schlomo Danzinger, expressed gratitude for the opportunity to address the Council. He said that small changes, like parking lots or streetlights have a significant impact on the communities' traffic patterns, and that the proposed project would overwhelm the current infrastructure given its location on a barrier island and limited road access, and the increased density could pose a potential danger to lives. He offered his support in addressing these concerns and acknowledged the potential impact on neighboring communities like Surfside.

Bay Harbor Islands Vice Mayor Joshua Fuller said Florida Sunshine prevented him from discussing this matter in that another of his associate council members was also present. He said he appreciated that others had the opportunity to speak on the topic.

Adam Patrillo, 172 Camden Drive, said that he was a long-time resident of the Village and expressed his deep connection to the community and his reasons for choosing to live here: tranquility, luxury, security, and low density. He described his experience in commercial real estate development and project management and noted the importance of collaboration between developers and the community which he said was lacking in this case. He said that the project would have a negative impact on traffic, safety, and the overall character of the Village and urged the Council to reject the proposal.

Balbak Raheb, 128 Bal for Drive, noted his past opposition to the expansions of the Shops in 2017, expressing his concerns about trustworthiness and failed agreements. He expressed skepticism about the current proposal saying it would have negative impacts on traffic and the local community. He urged the Council to collaborate with neighboring communities in addressing legislation that undermines public input and called for proactive measures to protect the community's interests.

Sam Shamie, 9705 Collins Avenue, said he supported the Mayor's statement and emphasized the need for legal preparation in anticipation of court proceedings due to the developer's actions. He said he opposed the proposed development, and considered it to be unnecessary and unwarranted. He encouraged enforcing any violations of the original agreement with the Shops and taking legal action if necessary. He urged the Council to take proactive measures and be ready to fight back against the development, suggesting that the matter may escalate to the Supreme Court of Florida.

Former Bal Harbour Mayor Martin Packer, 10205 Collins Avenue, shared his past personal experiences with the Shops and expressed his belief that the Shops contributes nothing to the village. He likened them to a slippery snake and agreed with the Council's stance on pursuing legal action to defeat the proposed development urging and decisive action to stop the development immediately.

David Kwiat 10185 Collins Avenue, described his involvement in previous battles against building taller structures and the support from the community. He said that the proposed project would create a canyon effect and would worsen traffic congestion. He criticized the Whitman Family's purely profit-driven approach, emphasizing their lack of connection to Bal Harbour's welfare. He spoke in favor of defeating the development by any means necessary.

Amy Benishai, 10155 Collins Avenue, expresses her full support for the opposition to the development and recalled past efforts in collaboration with Patricia Cohen. She said that it would be important to understand how the costs of supporting the opposition efforts would be covered and clarification on the financial aspect of pursuing legal action against the Shops.

Kevin Wilcox, 9350 West Bay Harbor Drive in Bay Harbor Islands, said that overdevelopment of the area has created challenges for traveling short distances due to traffic congestion. He said he opposed the proposed development and suggested exploring every legal avenue, including questioning the constitutionality of the Live Local Act.

Vivian Perez, 198 Park Drive, said she has been a resident of the Village for over 20 years and said that it was important to preserve the community's charm and quality of life. They pose a question to the Council, asking whether Bal Harbour is primarily a business or a community. She expressed her concern about the potential negative impact of the proposed development and urged the Council to preserve the community.

Sandy Goldfarb, 133 Camden Drive and member of the Civic Association, expressed her concern about the potential impact on the local ecosystem, particularly regarding mosquito infestations and emphasized the importance of maintaining airflow and ocean breeze.

Iris Egozi, 167 Bal Bay Drive, expressed her support for the opposition to the proposed project, echoing the sentiments of the community. She said that it was important to preserve the charm and low-density nature of the Village and offered her assistance, including taking to the streets if required, to stop the project from moving forward.

Cassie Wuollet 110 Balfour Drive, expressed her support for the Council's opposition to the proposed development saying that overdevelopment would have negative impacts on the community adding that previous development has degraded her family's quality of life and posed a threat to her home value. She said that the development of affordable housing may have negative effects and urged the Council to take decisive action.

Former Bal Harbour Mayor Gabriel Groisman, 191 Bal Bay Drive acknowledged the Council's commitment to doing the right thing. He said that the Village and the Shops had previously worked together to achieve a balanced development, but he was now disappointed in their disregard for agreed-up terms and their pursuit of excessive expansion. He urged the Council to take decisive action to oppose the proposed development and offered his support and willingness to volunteer in any capacity to assist the Village in addressing the issue.

Barry Shevlin 162, Bal Bay Drive, Bal Harbour expressed his concerns about the proposed development and its potential impact on the village. He criticized the Live Local Act as being ill-suited for Bal Harbour and expressed his frustration with the Whitmans' disregard for residents' wishes. He said it was the duty of elected officials to preserve the village's quality of life and urged them to fight against the proposed development. He recommended they recommend seeking support from Ron Book to lobby for changes to the Live Local Act to impose major limitations on such developments.

Dave Sanchez, 1080 94th Street Bay Harbor Islands expressed his opposition to the proposed project due to its negative impact on residents and the local area. He spoke about resulting parking issues, construction disruptions, and the strain on utilities. He said that this project would tarnish the legacy of the Whitman family in Bal Harbour.

Lawrence Jaffe, 10175 Collins Avenue, Bal Harbour, said he agreed with the sentiments shared by the Mayor, Council members, residents, and Saks regarding the proposed project. He said that the proposed project is unethical, illegal, and unconscionable, and expressed his support for the opposition against it.

Bill McCue, 114 Park Drive, expressed his support for the efforts against the proposed project and emphasized that this is just the beginning of the fight. He encouraged continued determination and assertiveness.

Nina Rudolph, 212 Bal Bay Drive, expressed her concern for the promises made by Bal Harbour Shops in the past, highlighting the failures to deliver on amenities like underground parking and a jogging path. She said that her opposition to the current project proposal is not about attacking the Whitman family but about saving Bal Harbour.

Good evening, Doug Rudolph to 12 Bal Bay Drive, expressed his frustration with Bal Harbour Shops' repeated attempts to expand, noting previous failed proposals and community opposition. He said that the current project represents a significant threat to the community and urged the council to resist any concessions. He offered his unwavering support for the council's efforts to fight against the proposed development, stressing the importance of preserving the integrity of the village.

Good evening, Neca Logan, 64 Camden Drive, urged the Mayor, Council, and staff to continue their efforts in fighting against the proposed development by the Shops. She expressed her concern with the current state of infrastructure and traffic, attributing it to the Shops' expansion. She criticized Matthew Lazenby and accused Bal Harbour Shops of being poor neighbors, advocating for strict opposition to their requests and holding them accountable for any violations.

Jackie Teplitzky, 1021 Kane Concourse, Bay Harbor Islands, expressed her disappointment with the lack of proper communication and planning from Shops. She encouraged the Council to thoroughly investigate the matter, including environmental assessments and other processes while holding the Shops accountable for any costs incurred by the Village.

Gabriella Webster, 30 Park Drive, said that Ron Book could provide valuable insights and connections. She said that Mathew Whitman, like Stanley Whitman before him lacks community connections. She questioned the demographic criteria for residency and expressed her concerns about the environmental impact and potential flooding. She urged the Village to scrutinize the developer's engineering plans and proposed stricter enforcement against noise pollution and construction disruptions.

Lauren Koplowitz, 177, Balcross Drive, agreed with a firm stance against the development project and expressed her concern about the choice of lobbyists. She noted potential infrastructure challenges, such as sewer capacity and school overcrowding, and emphasized the need for a comprehensive representation. She offered to volunteer her time to support the opposition efforts.

James Pollock 10155 Collins, said Whitman family's claims of building the city are inaccurate, noting the family's attempts to circumvent regulations over the years. He spoke about federal housing policies under different administrations and said that the developers may try to use HUD programs to support their case. He agreed with the need for the community to be proactive and aggressive in opposing the project, advocating for a stance of non-negotiation.

Penny Sepler, 10275 Collins, said she felt deceived and insulted by the developers' actions. She said that despite supporting and patronizing the Bal Harbour Shops, the developers' behavior has tarnished their perception of the establishment. She used the Yiddish term "Shanda," meaning sin or shame, to characterize the situation.

Former Bal Harbour Assistant Mayor Patricia Cohen. 10275 Collins Avenue in Bal Harbour, expressed her frustration with the proposed development by Shops, highlighting her past opposition and legal battles against it. She questioned the sincerity of Matthew Whitman's intentions and emphasized the negative impact on residents, particularly in terms of traffic and blocked views. She urged the Council to address existing issues before considering new developments, stressing the negative consequences of overbuilding on the community's quality of life.

Sophie Delaplaine 90 Park Drive, expressed her concern over the construction noise and disruption caused by ongoing projects, contrasting it with promises of quiet.

The Village Clerk read emails from Jessica Bloom, Cecilia Goldberger, Shani Majer, Lisa Brill, Ronald Brill, Katherine Kallergis, and Susan Oberwager, all expressing their opposition to the proposed project.

Mayor Freimark said that the costs to support opposition efforts would be covered by the General Fund.

Councilman Sklar said that Mathew Lazenby had told him that the only way that he would be able to build up was to use the Live Local Act.

MOTION: A Motion to approve the Resolution was moved by Vice Mayor Salver.

Mr. Gonzalez explained the reason that this Supplemental Agenda item was added to the Agenda. He said that the proposed resolution with grant the authority to take necessary

actions, such as hiring lobbyists or legal professionals without prior Council Approval. He said that costs that exceeded his \$20,000 spending limit would be subject to Council ratification. He said that with the Legislature currently in session it would be essential to act swiftly.

Councilman Buzzy Sklar seconded the Motion.

Councilman Wolf asked that council members receive weekly updates from the Village Manager.

VOTE: The Motion passed by unanimous voice vote (5-0).

Mayor Freimark then opened the floor for a discussion regarding the possibility of pursuing a building moratorium which would halt the approval of certain developments to allow for planning and response to new circumstances.

Ms. Trevarthen provided an overview of the legal process that would be required adding that a moratorium ordinance would focus on development in the Business Zoning District and it would require two Council hearings and Local Planning Agency approval. There was a general consensus expressing support and requesting Staff to work with Legal to lay out a plan with the understanding that Special Meetings may be necessary. Concerns were raised about existing applications, but it was emphasized that the focus would be on new development proposals. Councilman

Councilman Wolf asked if there was any way to expedite the process, to which Ms. Trevarthen said that the circumstances did not meet the requirements for an emergency ordinance and that all steps would be taken to ensure a timely and legally proper process.

Vice Mayor Salver asked how the fact that the Shops had already submitted a proposal would affect a moratorium, to which Ms. Trevarthen said there would be counter-arguments for every step the Village takes, but she would move forward with the Council direction as aggressively and legally as appropriate.

Mayor Freimark then opened the floor to discuss the Village's representation by Ronald Book, P.A.

Councilman Sklar recommended that the Village seek other lobbying representation.

Councilman Wolf said he was disappointed that Mr. Book had not put the Live Local Act on the radar, adding that he has been successful in getting the Village funding. He asked

if it were possible to retain him for non-Live-Local-Act items. He said that if Mr. Book decides he wants to work for the Village, he cannot work for the Shops.

Mr. Gonzalez said that Mr. Book had been successful relative funding the Village has sought, but he too was disappointed that disclosures due to the Village weren't received.

There was a general consensus from the Council that if Mr. Book continued to work for the Shops in any way, shape or form, he could not work for the Village, and then to have discussions with him and determine how best to handle the remainder of the session.

Mayor Freimark recessed the meeting 8:33 P.M. and reconvened the meeting at 8:41 P.M.

R9 - NEW BUSINESS AND COUNCIL DISCUSSION

R9A Discussion Item - Update On Negotiations Regarding The Oceana Development Agreement - Village Manager Jorge M. Gonzalez - This item was deferred.

R9B Discussion Item - Electric Bikes - Councilman Buzzy Sklar - This item was deferred.

R9C Discussion Item - Filming on the Jetty - Councilman Buzzy Sklar - This item was deferred

R9D Discussion Item - Project Development Proposal from Bal Harbour Shops - Mayor Jeffrey P. Freimark - This item was discussed with Agenda Item R7D.

R9E - PUBLIC COMMENT

Penny Sepler, 10275 Collins Avenue, recognized Sylvia Flores and Kathy Fernandez for a beautiful launch of the Bal Harbour Waterfront Park.

Susan Aaron, 10225 Collins Avenue, asked for the status of the reclamation of the Beach and noted her concern about the timing of the road repairs in Haulover. Mayor Freimark said an update of Beach is planned for the next meeting and he described the pending work to be done by FDOT.

Former Assistant Mayor Patricia Cohen, 10275 Collins Avenue, asked that meeting notices contain more information about content to compel people to attend.

Councilman Wolf suggested having Staff reach out to FDOT to request moving operations to night hours.

R9F Discussion of Form 6 - Financial Disclosure Requirements - Councilman David Wolf

This item was added to the Agenda by Councilman Wolf and considered at 9:16 P.M. Councilman Wolf introduced the item saying that he had been speaking with elected officials from other municipalities who have been taking an active role in fighting the new extensive financial disclosure requirements passed in 2023 by the Florida Legislature. He said that he was disappointed that the Village had not addressed this issue.

Ms. Trevarthen described the proposal for the Village to join a lawsuit challenging the constitutionality of the Form 6 requirement, citing concerns about privacy violations and the significant change in reporting detail. She said that the action requires the support of at least ten municipalities, with each contributing \$10,000 towards the lawsuit. She described the process for joining the lawsuit and the timeline for decision-making.

There was a general consensus from the Council to support the proposed resolution.

Ms. Trevarthen read the title of the proposed resolution into the record.

R7F A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING PARTICIPATION IN A LAWSUIT SEEKING A DECLARATION THAT THE PROVISIONS OF SECTION 112.144(1)(d), FLORIDA STATUTES, THAT REQUIRE MUNICIPAL ELECTED OFFICIALS TO FILE FORM 6 FINANCIAL DISCLOSURE FORMS IS UNCONSTITUTIONAL AND INVALID; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

There were no comments from the public.

MOTION: A Motion to add the consideration of the Resolution to the Agenda was moved by Councilman David Wolf and seconded by Vice Mayor Seth E. Salver.

VOTE: The Motion passed by unanimous voice vote (5-0).

MOTION: A Motion to approve the Resolution was moved by Councilman David Wolf and seconded by Vice Mayor Seth E. Salver.

VOTE: The Motion passed by unanimous voice vote (5-0).

R10 - VILLAGE MANAGER REPORT

R11 - VILLAGE CLERK REPORT

R11A Lobbyist Report

R12 - VILLAGE ATTORNEY REPORT

R12A Monthly Attorney Report

END OF REGULAR AGENDA

ADJOURNMENT The meeting was adjourned at 9:45 P.M.

Mayor Jeffrey P. Freimark



Attest:

Dwight S. Danie, Village Clerk

**Verbatim Statement of Mayor Jeffrey P. Freimark,
Provided at the January 16, 2024 Bal Harbour Village Council Meeting.**

Your Village Council has worked hard over the course of the past seven years to be collaborative and to hear all the voices within our community. Sadly today, I come to you to say, Bal Harbour Shops has not only disrespected me but everyone within Bal Harbour Village. I am angry both personally and on behalf of Bal Harbour Village by what appears to be a perversion of the Live Local Act and circumvention of an executed development agreement that will cause significant damage to our community. It's a shame, it really is a shame, that I must be here before you today to tell the story of ownership and a company acting without any sense of ethics or moral obligations.

Let me recap. Leading into last week, I was asked to attend the meeting with Matthew Whitman-Lazenby to discuss hotel plans, nothing further. At the meeting, which included Village Manager, Jorge Gonzalez, we were presented with a PowerPoint reflecting 600 apartments and a 70-room hotel in four towers, each exceeding 250 feet in height.

There was no courtesy of advanced notice of this. When I asked when the Shops planned on socializing this with residents of Bal Harbour, the Manager and I were advised that ownership was submitting plans with the Building Department concurrent with our meeting. As such, Mr. Whitman-Lazenby and the Shops had no need to do anything else.

As the Shops currently utilize the Village's Fairfield property for staging, and this reverts to the community for a new Village Hall, I asked as to where staging for this audacious plan would take place. The response was that Whitman-Lazenby did not know. Suffice it to say, a direct discussion ensued.

Nobody here needs reminding that there was a referendum in 2021 sponsored by the Shops attempting to raise the height limitation. That was rejected by close to a 90% rate, which I suspect right now would be 100%. This is clearly an end run around our community. An unintended consequence of this, in my view, was rejection of a minimal height adjustment for the new Village Hall, all of which was intended to simply protect it better against climate issues.

Prior to this ambush, I am proud to say the Village Council has acted in an extremely collaborative manner to ensure the success of the expansion project and protect the interests of the Village. This candidly put us in a position to be subject to constructive criticism from our community, as a number of promises to minimize disruption to our citizens were not met. We have all experienced inconveniences.

At the same time, the shops did absolutely nothing to engage or communicate with residents of Bal Harbour, despite being advised frequently by need to do so. Mr. Whitman-Lazenby and the Shops clearly don't care about the community.

As this impacts others beyond Bal Harbour Village, I encourage our friends in Surfside, Bay Harbor Islands and others to engage. And I'm happy to say that several are here this evening.

The proposal presented is clearly illegal under the Live Local Act as currently enacted and intended. Live Local in its purest form, and properly implemented, is designed to address affordable housing needs, not those earning six figures or more, and enriching the owners of the Bal Harbour shops with workforce housing. There is a difference.

I find it rich that a number of statements have been made by Mr. Whitman-Lazenby: quote, "Our family has envisioned a multi-use destination at Bal Harbour Shops for more than half a century." I have never heard that from them or from anyone representing the Shops. And I haven't found anybody who has. Had the Shops approached us to discuss the potential of an affordable housing project, we would have been able to engage with them.

This subject has only come up recently in a well-orchestrated press campaign following their sneaky actions. At best, it's disingenuous.

It is my responsibility as Mayor and ours as a Village Council to protect the interests of the citizenry of Bal Harbor Village. We will do so while following all laws, regulations, and rules. Our principles of doing the right thing, the right way, will not be tarnished. This does not mean we will do anything but aggressively protect the interest of Bal Harbour Village.

There is currently a development agreement in place. This represents a contract between Bal Harbour Village and the Shops. Rest assured, the Shops will be held to strict compliance of this contract with the Village. Understand that the Village will stringently adhere to the regulations and rules in place. As it regards the development agreement, amongst part of the Village's planning, it must be determined if Live Local overrides contractual arrangements in place.

I am pleased to say that in one of the last revisions to the development agreement, we were able to protect the interests of the Village by securing funds and the property early, that was to be turned over to the Village, which allowed us amongst other things to enjoy the spectacular opening this past Sunday of the new Bal Harbour Waterfront Park.

The shops are a long way from passing all hurdles to move this forward. Any revisions or changes to due to development agreement, require the approval of the Village Council. At the very least, the hurdles include requisite traffic studies, school concurrence, infrastructure, and so on. 600 apartment units and at least 70 hotel rooms will have a material impact on our infrastructure, which we already have a lot of experience with.

In addition, as a small barrier island, our community is inordinately aware of sea ocean rise, climate change, issues with the bay, and impacts on quality of life. I am aware of other municipalities responding around the state with moratoriums, in order to have a process of completing planning and zoning work.

I would like to request, and we'll come back to this approval, to instruct our Village Attorney to do the work necessary to prepare for this in due speed, in accordance with applicable provisions and laws, and to work with the administration and staff to schedule meetings required with proper notice in order to be able to accomplish this.

Subject to Council approval, it is my responsibility as Mayor to lead the efforts of working with the Manager, and team, to ensure Bal Harbour Village is protected to the maximum level. I assure you that this will be the case. An important part of this will be to identify appropriate legal counsel, public relations counsel, lobbying support, and so on.

In full anticipation of litigation, which was threatened today in a letter received this afternoon, as it regards legal counsel, it is my view that this aspect of our concerted effort might or might not be separate from our high quality Village counsel, Weis Serota, who of course will be an integral part of our team.

What we care about, ultimately here, is prevailing and fighting this matter to protect the interest of the Village.

Regarding Tallahassee lobbyists to represent our interests, it has long been known that Ronald Book, PA, represents both Bal Harbour Village and the Shops. While that may not have been a conflict concern in the past, it may be viewed as one now, which I have discussed with him as recently as a couple of hours ago. I had heard previously that Mr. Book attended meetings representing the shops in this matter, which he told me is inaccurate. Mr. Book committed to send confirmations to both Mr. Lazenby and Shops counsel as well as to the Village Manager and me, advising that he will not represent the Shops.

As of now this has not been received. If in fact Mr. Book is representing the Shops in this matter or in general at the Council's discretion it could be caused for 30-day notice for termination. This requires further discussion as the Village has had a long-standing

and successful relationship with Mr. Book. And by way of full disclosure, Ronald Book, P.A. also represents my full-time employer, Miami Jewish Health.

I encourage all interested in participating in public comment to not hesitate to do so. It's not too late to sign up if you're interested. You are entitled to appropriately speak your minds within the three-minute time limit. You get one opportunity to speak.

For the record, the Manager and I both encouraged Mr. Whitman-Lazenby to appear in person this evening to address the citizens of Bal Harbour. We were advised today that nobody is available. I encourage those of us, we're all surprised, I encourage those of us on the day as certainly to clearly state our views. At the same time, we are all aware of issues in the past where certain comments resulted in attempts to force individuals be recused from future legal matters, including matters related to the shops. Please be deliberate in trying to avoid unintended consequences.

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman David J. Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council

Special Meeting Minutes

February 2, 2024

At 10:00 AM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

CALL TO ORDER/ PLEDGE OF ALLEGIANCE Mayor Freimark called the meeting to order at 10:04 A.M.

The following were present:

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman David J. Albaum
Councilman Buzzy Sklar

The following were not present:

Councilman David Wolf

Also Present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Susan Trevarthen, Village Attorney

The Pledge of Allegiance was led by Mayor Freimark.

1. NEW BUSINESS AND COUNCIL DISCUSSION

2.a Notice of Attorney-Client Session regarding *Bal Harbour Shops, LLC vs Bal Harbour Village*, Case No. 2024-001246-CA-01

Pursuant to Florida Statutes Section 286.011(8), the attorney-client session will begin at 10:00 a.m. and will be attended by Mayor Jeffrey P. Freimark, Vice Mayor Seth E. Salver, Councilman David J. Albaum, Councilman Buzzy Sklar, Councilman David Wolf, Village Manager Jorge Gonzalez, Village Attorney Susan Trevarthen, and Village Litigation Attorneys Etan Mark and Jordan Nadel.

The subject matter of the session shall be to discuss settlement negotiations and strategy related to litigation expenditures. These officials shall meet in private.

2. RECESS FOR ATTORNEY-CLIENT SESSION

The meeting was recessed at 10:06 P.M.

3. RECONVENE SPECIAL COUNCIL MEETING

The meeting was reconvened at 10:44 A.M.

ADJOURNMENT The meeting was adjourned at 10:44 A.M.

Mayor Jeffrey P. Freimark



Attest:

Dwight S. Danie, Village Clerk

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY MICHAEL KOSNITZKY AS TRUSTEE IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 192 BAL BAY DRIVE AND 196 BAL BAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Issue:

Should Council ratify the Building Official's approval of the Unity of Title for 192 and 196 Bal Bay Dr by approving this Resolution?

The Bal Harbour Experience:

- Beautiful Environment Safety Modernized Public Facilities/Infrastructure
 Destination & Amenities Unique & Elegant Resiliency & Sustainable Community
 Other: Unity of Title

Item Summary / Recommendation:

Michael Kosnitzky owns (the "Trustee") the real properties located at 192 and 196 Bal Bay Dr, ("Property") in the Residential zoning district. In January 2024, the Owner advised the Village of its desire to join two (2) lots into one. The Owner has submitted a Unity of Title, which has been reviewed and approved by the Village Attorney, to combine the two (2) lots.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Building Official	Chief Financial Officer	Village Manager
Eliezer Palacio	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager



DATE: February 20, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY MICHAEL KOSNITZKY AS TRUSTEE IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 192 BAL BAY DRIVE AND 196 BAL BAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending that the Village of Bal Harbour (the "Village") Council ratify the Building Official's approval of the Unity of Title ("UOT") combining two lots in the residential district into one by approving the resolution.

BACKGROUND

Michael Kosnitzky TRS (the "Owners") own the real properties located at 192 AND 196 Bal Bay Dr ("Property") of the Residential zoning district. On January 24, 2023, the Owner advised the Village of its desire to combine the two lots into one.

ANALYSIS

Currently, the Property is legally described as the following:

FEE PARCEL 1:

A PORTION OF TRACT "E", "RESIDENTIAL SECTION OF BAL HARBOUR" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 44 AT PAGE 98 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER POINT OF THE CUL-DE-SAC AT THE SOUTHERLY END OF BAL BAY DRIVE AND BLOCK 12 AS SHOWN ON SAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"; THENCE SOUTH 88 DEGREES 41 MINUTES 05 SECONDS EAST ALONG THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 12 OF SAID "RESIDENTIAL SECTION OF BAL HARBOUR" FOR 65.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID BAL BAY DRIVE, SAID POINT BEARING NORTH 88 DEGREES 41 MINUTES 05 SECONDS WEST FROM THE RADIUS POINT OF THE NEXT DESCRIBED CURVE; THENCE NORTHERLY ALONG THE

SAID EASTERLY RIGHT-OF-WAY LINE OF BAL BAY DRIVE, ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE EAST, HAVING A RADIUS OF 1437.70 FEET AND A CENTRAL ANGLE OF 04 DEGREES 11 MINUTES 16 SECONDS, FOR AN ARC DISTANCE OF 105.08 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREINAFTER DESCRIBED; THENCE CONTINUE NORTHEASTERLY ALONG THE AFORESAID CIRCULAR CURVE BEING THE EASTERLY RIGHT-OF-WAY LINE OF BAL BAY DRIVE, HAVING A RADIUS OF 1437.70 FEET AND A CENTRAL ANGLE OF 03 DEGREES 27 MINUTES 33 SECONDS FOR AN ARC DISTANCE OF 86.80 FEET TO A POINT OF COMPOUND CURVATURE; THENCE CONTINUE NORTHEASTERLY, EASTERLY AND SOUTHEASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID BAL BAY DRIVE, BEING ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 86 DEGREES 13 MINUTES 46 SECONDS FOR AN ARC DISTANCE OF 195.65 FEET TO A POINT, SAID POINT BEARS NORTH 05 DEGREES 11 MINUTES 30 SECONDS EAST FROM THE RADIUS POINT OF THE LAST DESCRIBED CURVE; THENCE SOUTH 12 DEGREES 56 MINUTES 29 SECONDS EAST FOR 147.93 FEET; THENCE SOUTH 84 DEGREES 45 MINUTES 54 SECONDS WEST FOR 35.84 FEET TO A POINT OF CURVATURE; THENCE WESTERLY ALONG A CIRCULAR CURVE TO THE LEFT, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 120.00 FEET AND A CENTRAL ANGLE OF 64 DEGREES 51 MINUTES 25 SECONDS FOR AN ARC DISTANCE OF 135.84 FEET; (SAID LAST TWO COURSES BEING ALONG THE LIMITS OF THE "PRIVATE YACHT BASIN" AS SHOWN ON THE AFORESAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"); THENCE NORTH 56 DEGREES 36 MINUTES 04 SECONDS WEST FOR 55.89 FEET TO THE POINT OF BEGINNING, ALL LYING AND BEING IN SECTION 26, TOWNSHIP 52 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA.

ALSO KNOWN AS RESIDENTIAL PARCEL "B", PER WAIVER OF PLAT RECORDED IN OFFICIAL RECORDS BOOK 30966, PAGE 4685, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

FEE PARCEL 2:

A PORTION OF TRACT "E", "RESIDENTIAL SECTION OF BAL HARBOUR" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 44 AT PAGE 98 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER POINT OF THE CUL-DE-SAC AT THE SOUTHERLY END OF BAL BAY DRIVE AND BLOCK 12 AS SHOWN ON SAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"; THENCE SOUTH 88 DEGREES 41 MINUTES 05 SECONDS EAST ALONG THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 12 OF SAID " RESIDENTIAL SECTION OF BAL HARBOUR FOR 65.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID BAL BAY DRIVE, SAID

RIGHT OF WAY LINE BEING A CIRCULAR CURVE, CONCAVE TO THE EAST AND SAID POINT BEARING NORTH 88 DEGREES 41 MINUTES 05 SECONDS WEST FROM THE RADIUS POINT OF THE NEXT DESCRIBED CURVE; THENCE NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF BAL BAY DRIVE, ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE EAST, HAVING A RADIUS OF 1437.70 FEET AND A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 49 SECONDS FOR AN ARC DISTANCE OF 191.88 FEET TO A POINT OF COMPOUND CURVATURE; (SAID POINT BEARS NORTH 81 DEGREES 02 MINUTES 16 SECONDS WEST FROM THE RADIUS POINT OF SAID CURVE); THENCE CONTINUE NORTHEASTERLY, EASTERLY AND SOUTHEASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID BAL BAY DRIVE BEING ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 86 DEGREES 13 MINUTES 46 SECONDS FOR AN ARC DISTANCE OF 195,65 FEET TO A POINT, SAID POINT BEARING NORTH 05 DEGREES 11 MINUTES 30 SECONDS EAST FROM THE RADIUS POINT OF THE AFORE DESCRIBED CIRCULAR CURVE, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTHEASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE AFORESAID BAL BAY DRIVE BEING A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 374.00 FEET AND A CENTRAL ANGLE OF 36 DEGREES 22 MINUTES 19 SECONDS FOR AN ARC DISTANCE OF 237.42 FEET TO A POINT OF COMPOUND CURVATURE; THENCE CONTINUE SOUTHEASTERLY ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID BAL BAY DRIVE ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 456.00 FEET AND A CENTRAL ANGLE OF 10 DEGREES 14 MINUTES 52 SECONDS FOR AN ARC DISTANCE OF 81.56 FEET; THENCE SOUTH 63 DEGREES 04 MINUTES 26 SECONDS WEST, FOR 65.90 FEET TO A POINT ON THE NEXT DESCRIBED CURVE, SAID POINT BEARS NORTH 38 DEGREES 27 MINUTES 16 SECONDS EAST FROM THE RADIUS POINT OF THE NEXT DESCRIBED CIRCULAR CURVE; THENCE WESTERLY ALONG A CIRCULAR CURVE TO THE LEFT, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 193.85 FEET AND A CENTRAL ANGLE OF 43 DEGREES 41 MINUTES 22 SECONDS FOR AN ARC DISTANCE OF 147.82 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 84 DEGREES 45 MINUTES 54 SECONDS WEST FOR 40.20 FEET; (SAID LAST TWO COURSES BEING ALONG THE LIMITS OF THE "PRIVATE YACHT BASIN" AS SHOWN ON THE SAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"); THENCE NORTH 12 DEGREES 56 MINUTES 29 SECONDS WEST FOR 147 .93 FEET TO THE POINT OF BEGINNING, ALL LYING AND BEING IN SECTION 26, TOWNSHIP 52 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA.

ALSO KNOWN AS RESIDENTIAL PARCEL "C", PER WAIVER OF PLAT RECORDED IN OFFICIAL RECORDS BOOK 30966, PAGE 4685, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Also known as 196 Bal Bay Drive, Bal Harbour, FL 33154, Miami-Dade County, Florida ("Parcel 1") and 192 Bal Bay Drive, Bal Harbour, FL 33154, Miami-Dade County, Florida ("Parcel 2"),

The Owner has submitted the attached UOT, which has been reviewed and approved by the Village Attorney, to combine the two lots.

THE BAL HARBOUR EXPERIENCE

This item falls under the category "Other:" A Unity of Title to combine two residential lots 192 and 196 Bal Bay Drive.

CONCLUSION

The Administration recommends the adoption of the resolution, ratifying the Building Official's approval of the UOT for the combination of the residential lots into one as described above.

Attachments:

1. Unity of Title for 192 and 196 Bal Bay Dr
2. Property Appraiser's Detailed Report 192 Bal Bay Dr
3. Property Appraiser's Detailed Report 196 Bal Bay Dr
4. Letter to Village

RESOLUTION NO. 2024-

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE, SUBMITTED BY MICHAEL KOSNITZKY AS TRUSTEE OF 196 BAL BAY LAND TRUST DATED JUNE 17, 2021, FOR THE PROPERTIES LOCATED AT 192 BAL BAY DRIVE AND 196 BAL BAY DRIVE, BAL HARBOUR FLORIDA, 33154, IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Michael Kosnitzky as Trustee of 196 Bal Bay Land Trust Dated June 17, 2021 ("Applicant") seeks to combine the lots located at 192 Bal Bay Drive and 196 Bal Bay Drive into one; and

WHEREAS, the Village Council desires to ratify the Building Official's approval of a Unity of Title for the Applicant to combine two lots in the residential district into one lot; and

WHEREAS, the Village Council finds that the approval is warranted.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Approved. That the above-stated recitals are hereby adopted and confirmed.

Section 2. Ratification of Approval of Unity of Title. That the approval of the application to create one lot out of two by unifying of the title of lots located at 192 Bal Bay Drive and 196 Biscay Drive under one property, is hereby ratified.

Section 3. Implementation. That the Village Manager is hereby authorized to take any action necessary to implement this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 20th day of February 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

This instrument prepared by and
after recording returned to:

Harold L. Lewis, Esq.
Haber Law LLP
251 NW 23rd Street
Miami, FL 33127

Folio Numbers: 12-2226-002-2357
12-2226-002-2359

(Space reserved for Clerk)

UNITY OF TITLE

WHEREAS, the undersigned (“**Owner**”) is the owner of the following described real property (“**Property**”) consisting of two (2) separate and contiguous lots located in Bal Harbour Village, Florida:

Property – Parcel 1

FEE PARCEL 1:

A PORTION OF TRACT "E", "RESIDENTIAL SECTION OF BAL HARBOUR" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 44 AT PAGE 98 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER POINT OF THE CUL-DE-SAC AT THE SOUTHERLY END OF BAL BAY DRIVE AND BLOCK 12 AS SHOWN ON SAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"; THENCE SOUTH 88 DEGREES 41 MINUTES 05 SECONDS EAST ALONG THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 12 OF SAID "RESIDENTIAL SECTION OF BAL HARBOUR" FOR 65.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID BAL BAY DRIVE, SAID POINT BEARING NORTH 88 DEGREES 41 MINUTES 05 SECONDS WEST FROM THE RADIUS POINT OF THE NEXT DESCRIBED CURVE; THENCE NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF BAL BAY DRIVE, ALONG A CIRCULAR CURVE TO THE

RIGHT, CONCAVE TO THE EAST, HAVING A RADIUS OF 1437.70 FEET AND A CENTRAL ANGLE OF 04 DEGREES 11 MINUTES 16 SECONDS, FOR AN ARC DISTANCE OF 105.08 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREINAFTER DESCRIBED; THENCE CONTINUE NORTHEASTERLY ALONG THE AFORESAID CIRCULAR CURVE BEING THE EASTERLY RIGHT-OF-WAY LINE OF BAL BAY DRIVE, HAVING A RADIUS OF 1437.70 FEET AND A CENTRAL ANGLE OF 03 DEGREES 27 MINUTES 33 SECONDS FOR AN ARC DISTANCE OF 86.80 FEET TO A POINT OF COMPOUND CURVATURE; THENCE CONTINUE NORTHEASTERLY, EASTERLY AND SOUTHEASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID BAL BAY DRIVE, BEING ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 86 DEGREES 13 MINUTES 46 SECONDS FOR AN ARC DISTANCE OF 195.65 FEET TO A POINT, SAID POINT BEARS NORTH 05 DEGREES 11 MINUTES 30 SECONDS EAST FROM THE RADIUS POINT OF THE LAST DESCRIBED CURVE; THENCE SOUTH 12 DEGREES 56 MINUTES 29 SECONDS EAST FOR 147.93 FEET; THENCE SOUTH 84 DEGREES 45 MINUTES 54 SECONDS WEST FOR 35.84 FEET TO A POINT OF CURVATURE; THENCE WESTERLY ALONG A CIRCULAR CURVE TO THE LEFT, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 120.00 FEET AND A CENTRAL ANGLE OF 64 DEGREES 51 MINUTES 25 SECONDS FOR AN ARC DISTANCE OF 135.84 FEET; (SAID LAST TWO COURSES BEING ALONG THE LIMITS OF THE "PRIVATE YACHT BASIN" AS SHOWN ON THE AFORESAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"); THENCE NORTH 56 DEGREES 36 MINUTES 04 SECONDS WEST FOR 55.89 FEET TO THE POINT OF BEGINNING, ALL LYING AND BEING IN SECTION 26, TOWNSHIP 52 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA.

ALSO KNOWN AS RESIDENTIAL PARCEL "B", PER WAIVER OF PLAT RECORDED IN OFFICIAL RECORDS BOOK 30966, PAGE 4685, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Property – Parcel 2

FEE PARCEL 2:

A PORTION OF TRACT "E", "RESIDENTIAL SECTION OF BAL HARBOUR" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 44 AT PAGE 98 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER POINT OF THE CUL-DE-SAC AT THE SOUTHERLY END OF BAL BAY DRIVE AND BLOCK 12 AS SHOWN ON SAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"; THENCE SOUTH 88 DEGREES 41 MINUTES 05 SECONDS EAST ALONG THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 12 OF SAID " RESIDENTIAL SECTION OF BAL HARBOUR FOR 65.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID BAL BAY DRIVE, SAID RIGHT OF WAY LINE BEING A CIRCULAR CURVE, CONCAVE TO THE EAST AND SAID POINT BEARING NORTH 88 DEGREES 41 MINUTES 05 SECONDS WEST FROM THE RADIUS

POINT OF THE NEXT DESCRIBED CURVE; THENCE NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF BAL BAY DRIVE, ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE EAST, HAVING A RADIUS OF 1437.70 FEET AND A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 49 SECONDS FOR AN ARC DISTANCE OF 191.88 FEET TO A POINT OF COMPOUND CURVATURE; (SAID POINT BEARS NORTH 81 DEGREES 02 MINUTES 16 SECONDS WEST FROM THE RADIUS POINT OF SAID CURVE); THENCE CONTINUE NORTHEASTERLY, EASTERLY AND SOUTHEASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID BAL BAY DRIVE BEING ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 86 DEGREES 13 MINUTES 46 SECONDS FOR AN ARC DISTANCE OF 195.65 FEET TO A POINT, SAID POINT BEARING NORTH 05 DEGREES 11 MINUTES 30 SECONDS EAST FROM THE RADIUS POINT OF THE AFORE DESCRIBED CIRCULAR CURVE, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTHEASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE AFORESAID BAL BAY DRIVE BEING A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 374.00 FEET AND A CENTRAL ANGLE OF 36 DEGREES 22 MINUTES 19 SECONDS FOR AN ARC DISTANCE OF 237.42 FEET TO A POINT OF COMPOUND CURVATURE; THENCE CONTINUE SOUTHEASTERLY ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID BAL BAY DRIVE ALONG A CIRCULAR CURVE TO THE RIGHT, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 456.00 FEET AND A CENTRAL ANGLE OF 10 DEGREES 14 MINUTES 52 SECONDS FOR AN ARC DISTANCE OF 81.56 FEET; THENCE SOUTH 63 DEGREES 04 MINUTES 26 SECONDS WEST, FOR 65.90 FEET TO A POINT ON THE NEXT DESCRIBED CURVE, SAID POINT BEARS NORTH 38 DEGREES 27 MINUTES 16 SECONDS EAST FROM THE RADIUS POINT OF THE NEXT DESCRIBED CIRCULAR CURVE; THENCE WESTERLY ALONG A CIRCULAR CURVE TO THE LEFT, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 193.85 FEET AND A CENTRAL ANGLE OF 43 DEGREES 41 MINUTES 22 SECONDS FOR AN ARC DISTANCE OF 147.82 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 84 DEGREES 45 MINUTES 54 SECONDS WEST FOR 40.20 FEET; (SAID LAST TWO COURSES BEING ALONG THE LIMITS OF THE "PRIVATE YACHT BASIN" AS SHOWN ON THE SAID PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR"); THENCE NORTH 12 DEGREES 56 MINUTES 29 SECONDS WEST FOR 147.93 FEET TO THE POINT OF BEGINNING, ALL LYING AND BEING IN SECTION 26, TOWNSHIP 52 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA.

ALSO KNOWN AS RESIDENTIAL PARCEL "C", PER WAIVER OF PLAT RECORDED IN OFFICIAL RECORDS BOOK 30966, PAGE 4685, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Also known as 196 Bal Bay Drive, Bal Harbour, FL 33154, Miami-Dade County, Florida ("Parcel 1") and 192 Bal Bay Drive, Bal Harbour, FL 33154, Miami-Dade County, Florida ("Parcel 2"), and

Owner recognizes and acknowledges that for the public health, welfare, safety or morals, the herein-described property should not be divided into separate parcels owned by several owners so long as the same is put to the hereinafter use, and

In consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and for other good and valuable consideration, Owner hereby agrees to restrict the use of the subject property in the following manner:

1. **Property as One Parcel.** The Property shall be considered as one parcel of land. No portion of the Property shall be encumbered, mortgaged, sold, transferred, divided, conveyed, devised or assigned, except in its entirety as one parcel of land.

2. **Use of Property.** The Property shall only be used for legal, permissible purposes, in accordance with all applicable zoning.

3. **Covenant Running with the Land.** This Unity of Title is a covenant running with the land and shall remain in full force and effect and be binding upon the Owner, and its heirs, successors, and assigns until such time as this Unity of Title is modified or released in the manner provided herein.

4. **Term.** This Unity of Title shall run with the land and shall be binding on all parties and all persons claiming under it for a period of 30 years from the date this Unity of Title is recorded, after which time it shall be extended automatically for successive periods of 10 years each.

5. **Modification, Amendment, Release.** This Unity of Title may only be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then-owner(s) of the Property, with joinders by all mortgagees, if any, and by the Director of the Bal Harbour Village Building Department or his or her successor or designee.

6. **Enforcement.** Enforcement of this Unity of Title shall be by action against any parties or person violating, or attempting to violate, any of the covenants set forth herein. The prevailing party in any action or suit pertaining to or arising out of this Unity of Title shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable attorneys' fees. This enforcement provision shall be in addition to any other remedies available at law or in equity.

7. **Authorization for Village to Withhold Permits and Inspections.** In the event the terms of this Unity of Title are not being complied with, in addition to any other remedies available, the Village is hereby authorized to withhold any further permits, and to refuse to make any inspections or grant any approvals, until such time as this Unity of Title is complied with.

8. **Approval of Village.** The Resolution of the Village Council of Bal Harbour Village approving this Unity of Title shall, upon execution, be attached hereto as Exhibit A to be recorded in the Public Records of Miami-Dade County, Florida at the Owner's expense.

9. **Recording.** Owner shall promptly record this Unity of Title, along with any attachments hereto in the Public Records of Miami-Dade County, Florida at the Owner's expense, and shall provide a copy of the recorded instrument to the Village within 10 days after recording.

Owner further agrees that these conditions, restrictions and limitations shall be deemed covenants running with the land and may be recorded, at Owner's expense, in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the Owner, their heirs, successors, personal representatives and assigns and upon all mortgagees or lessees until such time as the same may be released in writing by the Director of the Department of Regulatory and Economic Resources, or his designee, or the executive officer of the successor of such Department, or in the absence of such director or executive officer, by his assistant in charge of the office in his absence. Further provided, however, that a release will be executed when the premises are made to conform with applicable zoning regulations or the use or structure is removed from the premises and there is no further reason to maintain the Unity of Title on the public records.

County Use Only

Verified by: _____
Accepted by: _____

[SIGNATURE ON FOLLOWING PAGE]

[SIGNATURE PAGE TO UNITY OF TITLE]

This Unity of Title has been executed by the Owner on this 29th day of January, 2024.

Signed, sealed and delivered in the presence of:

196 BAL BAY FLORIDA LAND TRUST
DATED JUNE 17, 2021

[Signature]

Witness
Printed Name: Christine Tsai
Address: 600 Brickell Ave., #3100
Miami, FL 33131

By: [Signature]
Name: Michael Kosnitzky
Title: Trustee

[Signature]

Witness
Printed Name: Keith J Blum
Address: 2950 NE 170th Street
#212
Aventura FL 33180

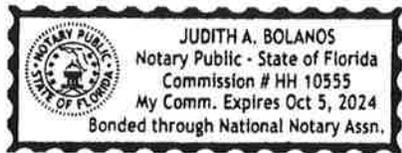
ACKNOWLEDGMENT

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 29th day of January, 2024 by Michael Kosnitzky as Trustee of 196 BAL BAY FLORIDA LAND TRUST DATED JUNE 17, 2021 who is personally known to me or has produced _____ as identification.

[Signature]
Notary Public, State of FLORIDA
Print Name: JUDITH A. BOLANOS

My Commission Expires:



JOINDER BY MORTGAGEE

City National Bank of Florida, Mortgagee under that certain mortgage from Michael Kosnitzky as Trustee of 196 BAL BAY FLORIDA LAND TRUST DATED JUNE 17, 2021 in favor of City National Bank of Florida, dated July 25, 2023, and recorded in Official Records Book 33862, Page 3401 of the Public Records of Miami-Dade County, Florida, covering all or a portion of the property described in the foregoing Unity of Title, does hereby acknowledge that the terms of this Unity of Title are and shall be binding upon the undersigned Mortgagee and its successors in title.

Signed, sealed and delivered in the presence of:

CITY NATIONAL BANK OF FLORIDA, a national banking corporation

[Signature]
Witness
Printed Name: Jessica Hernandez
Address: 6041 Manchester Lane
Davie, FL 33331

By: [Signature]
Name: Diego Martinez
Title: VP Capital Markets

[Signature]
Witness
Printed Name: MARIA O. Padron
Address: 511 W. 36th
Hialeah FL 33012

ACKNOWLEDGMENT

STATE OF Florida)
COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization this 30th day of January, 2024 by Diego Martinez as VP-Capital markets of City National Bank of Florida, a national banking corporation, who [] is personally known to me or [] has produced _____ as identification.

[Signature]
Notary Public, State of Florida
Print Name:

My Commission Expires:



JOINDER BY MORTGAGEE

UBS Bank USA, an Industrial Bank and Mortgagee under that certain mortgage from Michael Kosnitzky as Trustee of 196 BAL BAY FLORIDA LAND TRUST DATED JUNE 17, 2021 in favor of UBS Bank USA, dated December 6, 2021, and recorded in Official Records Book 32916, Page 13 of the Public Records of Miami-Dade County, Florida, covering all or a portion of the property described in the foregoing Unity of Title, does hereby acknowledge that the terms of this Unity of Title are and shall be binding upon the undersigned Mortgagee and its successors in title.

Signed, sealed and delivered in the presence of:

UBS BANK USA, a national banking corporation

Tiffany Bontes
Witness
Printed Name: Tiffany Bontes
Address: 95 State St. Suite 2200
SLC, UT 84111

By: Chelsi Hadley
Name: Chelsi Hadley
Title: Executive Director

Ivy Chomjak
Witness
Printed Name: Ivy Chomjak
Address: 95 State St. Suite 2200
SLC, UT 84111

ACKNOWLEDGMENT

STATE OF Utah
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 31st day of January, 2024 by Chelsi Hadley Executive Director of UBS Bank USA, a national banking corporation, who is personally known to me or has produced _____ as identification.

Marianne DeLange
Notary Public, State of Utah
Print Name: Marianne DeLange

My Commission Expires: 9/23/2026



EXHIBIT A

Resolution of the Village Council of Bal Harbour Village Approving Unity of Title



OFFICE OF THE PROPERTY APPRAISER

Detailed Report

Generated On: 02/08/2024

PROPERTY INFORMATION	
Folio	12-2226-002-2359
Property Address	192 BAL BAY DR BAL HARBOUR, FL 33154-
Owner	MICHAEL KOSNITZKY TRS , 196 BAL BAY FLORIDA LAND TR
Mailing Address	600 BRICKELL AVE STE 3100 MIAMI, FL 33131
Primary Zone	1100 SGL FAMILY - 2301-2500 SQ
Primary Land Use	0081 VACANT RESIDENTIAL : VACANT LAND
Beds / Baths /Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	25,070 Sq.Ft
Year Built	0



ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$15,042,000	\$11,995,995	\$5,642,550
Building Value	\$0	\$0	\$0
Extra Feature Value	\$0	\$0	\$0
Market Value	\$15,042,000	\$11,995,995	\$5,642,550
Assessed Value	\$13,195,594	\$11,995,995	\$85,285

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Working Waterfront	Classified Value		\$5,557,265	
Non-Homestead Cap	Assessment Reduction	\$1,846,406		

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$13,195,594	\$11,995,995	\$85,285
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$15,042,000	\$11,995,995	\$85,285
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$13,195,594	\$11,995,995	\$85,285
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$13,195,594	\$11,995,995	\$85,285

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>



OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2359

Property Address: 192 BAL BAY DR

Roll Year 2023 Land, Building and Extra-Feature Details

LAND INFORMATION					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	R-1	1100	Square Ft.	25,070.00	\$15,042,000

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2359

Property Address: 192 BAL BAY DR

Roll Year **2022** Land, Building and Extra-Feature Details

LAND INFORMATION					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	R-1	1100	Square Ft.	25,070.00	\$11,995,995

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2359

Property Address: 192 BAL BAY DR

Roll Year **2021** Land, Building and Extra-Feature Details

LAND INFORMATION					
The Land calculated value for this property has been overridden. Please refer to the Land Value in the Assessment Section, in order to obtain the most accurate value.					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
WORKING WATERFRONT	R-1	1100	Square Ft.	25,078.00	

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2359

Property Address: 192 BAL BAY DR

FULL LEGAL DESCRIPTION
BAL HARBOUR RES SEC PB 44-98
PORT OF TR E DESC COMM 88 DEG E
OF CENTER POINT OF CUL DE SAC AT
S END OF BAL BAY DR & BLK 12 FOR
65FT NLY AD 191.88FT NELY ELY
SELY AD 195.65FT FOR POB TH CONT
SELY AD 237.42FT SELY AD 81.56FT
S 63 DEG W 65.90 WLY AD 147.82FT
S 84 DEG W 40.20FT N 12 DEG W
147.93FT TO POB AKA PARCEL C
PER WP D-24062 OR 30966-4685
LOT SIZE 25078 SQ FT M/L
FAU 12 2226 002 2350

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
06/21/2021	\$15,000,000	32596-3104	Qual by exam of deed

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OFFICE OF THE PROPERTY APPRAISER

Detailed Report

Generated On: 02/08/2024

PROPERTY INFORMATION	
Folio	12-2226-002-2357
Property Address	196 BAL BAY DR BAL HARBOUR, FL 33154-1313
Owner	MICHAEL KOSNITZKY TRS , C/O MICHAEL KOSNITZKY ESQ , 196 BAL BAY FLORIDA LAND TR
Mailing Address	600 BRICKELL AVE STE 3100 MIAMI, FL 33131
Primary Zone	1100 SGL FAMILY - 2301-2500 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths /Half	7 / 9 / 1
Floors	2
Living Units	1
Actual Area	15,326 Sq.Ft
Living Area	11,240 Sq.Ft
Adjusted Area	12,353 Sq.Ft
Lot Size	25,047 Sq.Ft
Year Built	2022



ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$15,028,200	\$11,984,990	\$5,917,354
Building Value	\$6,176,500	\$0	\$0
Extra Feature Value	\$162,700	\$0	\$0
Market Value	\$21,367,400	\$11,984,990	\$5,917,354
Assessed Value	\$19,522,689	\$11,984,990	\$85,179

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Non-Homestead Cap	Assessment Reduction	\$1,844,711		\$5,832,175

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$19,522,689	\$11,984,990	\$85,179
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$21,367,400	\$11,984,990	\$5,917,354
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$19,522,689	\$11,984,990	\$85,179
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$19,522,689	\$11,984,990	\$85,179

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2357

Property Address: 196 BAL BAY DR

Roll Year 2023 Land, Building and Extra-Feature Details

LAND INFORMATION						
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value	
GENERAL	R-1	1100	Square Ft.	25,047.00	\$15,028,200	
BUILDING INFORMATION						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	2022	15,326	11,240	12,353	\$6,176,500
EXTRA FEATURES						
Description			Year Built	Units	Calc Value	
Whirlpool - Attached to Pool (whirlpool area only)			2022	90	\$12,600	
Patio - Brick, Tile, Flagstone			2022	1,600	\$17,600	
Luxury Pool - Good.			2022	1	\$75,000	
Glass fences in backyard applications			2022	200	\$14,000	
Elevator - Passenger			2022	2	\$24,000	
Dock - Wood Girders on Concrete Pilings			2022	650	\$19,500	

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2357

Property Address: 196 BAL BAY DR

Roll Year 2022 Land, Building and Extra-Feature Details

LAND INFORMATION					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	R-1	1100	Square Ft.	25,047.00	\$11,984,990

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2357

Property Address: 196 BAL BAY DR

Roll Year 2021 Land, Building and Extra-Feature Details

LAND INFORMATION					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	R-1	1100	Square Ft.	25,047.00	\$5,917,354

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 02/08/2024

Property Information

Folio: 12-2226-002-2357

Property Address: 196 BAL BAY DR

FULL LEGAL DESCRIPTION
BAL HARBOUR RES SEC PB 44-98
PORT OF TR E DESC COMM 88 DEG E
OF CENTER POINT OF CUL DE SAC AT
S END OF BAL BAY DR & BLK 12 FOR
65FT NLY ELY AD 105.08FT FOR POB
TH CONT NELY AD 86.80FT NELY ELY
SELY AD 195.65FT S 12 DEG E
147.93FT S 84 DEG W 35.84FT WLY
AD 135.84FT N 56 DEG W 55.89FT
TO POB AKA PARCEL B PER
WP-D 24062 OR 30966-4685
LOT SIZE 25047 SQ FT M/L
FAU 12 2226 002 2350

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
06/21/2021	\$28,000,000	32596-3300	Qual by exam of deed

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January 29th 2024

VIA EMAIL:

Building Department
Village of Bal Harbour
655 96th Street
Bal Harbour, FL 33154

Attn.: Lourdes M. Rodriguez
lrodriguez@balharbourfl.gov

Re: Unity of Title

**Property: 196 Bal Bay Drive, Bal Harbour, FL 33154, Folio #12-2226-002-2357
192 Bal Bay Drive, Bal Harbour, FL 33154, Folio #12-2226-002-2359**

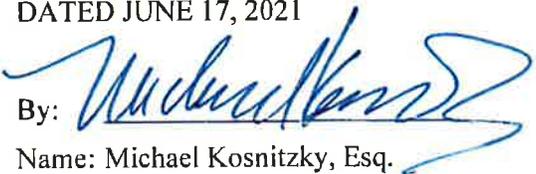
Dear Ms. Rodriguez:

This letter shall serve as formal notice to Bal Harbour Village of 196 BAL BAY LAND TRUST DATED JUNE 17, 2021's request for unification of title of the adjoining properties located at 196 Bal Bay Drive, Bal Harbour, FL 33154, Folio 12-2226-002-2357 and 192 Bal Bay Drive, Bal Harbour, FL 33154, Folio 12-2226-002-2359. Attached herewith as **EXHIBIT A** is a copy of the executed Unity of Title submitted to Bal Harbour Village in conjunction with this Letter and application, to be recorded in the public records of Miami-Dade County. Upon unification the address and folio number that shall remain are:

**Address: 196 Bal Bay Drive, Bal Harbour, FL 33154
Folio #12-2226-002-2357**

Regards,

196 BAL BAY LAND TRUST
DATED JUNE 17, 2021

By: 
Name: Michael Kosnitzky, Esq.

Title: Trustee

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY JEROME AND DEBBIE FALIC IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 209 BAL BAY DRIVE AND 160 BISCAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Issue:

Should Council ratify the Building Official's approval of the Unity of Title for 209 Bal Bay Dr and 160 Biscay Dr by approving this Resolution?

The Bal Harbour Experience:

- | | | |
|--|---|--|
| <input type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input checked="" type="checkbox"/> Other: <u>Unity of Title</u> | | |

Item Summary / Recommendation:

Jerome Falic and Debbie Falic own (the "Owner") the real properties located at 209 Bal Bay Dr and 160 Biscay Dr, ("Property") in the Residential zoning district. On January 22, 2024, the Owner advised the Village of its desire to join two (2) lots into one. The Owner has submitted a Unity of Title, which has been reviewed and approved by the Village Attorney, to combine the two (2) lots.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

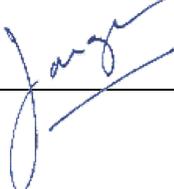
Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Building Official	Chief Financial Officer	Village Manager
Eliezer Palacio	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: February 20, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY JEROME AND DEBBIE FALIC IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 209 BAL BAY DRIVE AND 160 BISCAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending that the Village of Bal Harbour (the "Village") Council ratify the Building Official's approval of the Unity of Title ("UOT") combining two lots in the residential district into one by approving the resolution.

BACKGROUND

Jerome Falic and Debbie Falic (the "Owners") own the real properties located at 209 Bal Bay Dr ("Property") of the Residential zoning district. On January 22, 2023, the Owner advised the Village of its desire to combine the two lots into one.

ANALYSIS

Currently, the Property is legally described as the following:

BAL HARBOUR RESIDENTIAL SEC, LOT 5 BLK 10 AND PROP INT IN & TO COMMON ELEMENTS NOT DEDICATED TO PUBLIC, LOT SIZE 133.540 X 152
OR 15579-3448 0692 4 Folio # 12-2226-002-1830

BAL HARBOUR RESIDENTIAL SEC, PB 44-98, LOT 6 BLK 10
AND PROP INT IN & TO COMMON ELEMENTS NOT DEDICATED TO PUBLIC
LOT SIZE IRREGULAR OR 21065-0258 02 2003 4 Folio # 12-2226-002-1840

The Owner has submitted the attached UOT, which has been reviewed and approved by the Village Attorney, to combine the two lots.

THE BAL HARBOUR EXPERIENCE

This item falls under the category "Other:" A Unity of Title to combine two residential lots 209 Bal Bay Dr and 160 Biscay Dr.

CONCLUSION

The Administration recommends the adoption of the resolution, ratifying the Building Official's approval of the UOT for the combination of the residential lots into one as described above.

Attachments:

1. Unity of Title for 209 Bal Bay Dr and 160 Biscay Dr
2. Property Appraiser's Detailed Report 209 Bal Bay Dr
3. Property Appraiser's Detailed Report 160 Biscay Dr

RESOLUTION NO. 2024-

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY JEROME AND DEBBIE FALIC IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 209 BAL BAY DRIVE AND 160 BISCAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Jerome and Debbie Falic (the "Applicant") seeks to unify 209 Bal Bay Drive and 160 Biscay Drive to complete the development of a single family home; and

WHEREAS, the Village Council desires to ratify the Building Official's approval of a Unity of Title for the Applicant to combine two lots in the residential district into one lot; and

WHEREAS, the Village Council finds that the approval is warranted.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Approved. That the above-stated recitals are hereby adopted and confirmed.

Section 2. Ratification of Approval of Unity of Title. That the approval of the application to create one lot out of two by unifying of the title of lots located at 209 Bal Bay Drive and 160 Biscay Drive under one property, is hereby ratified.

Section 3. Implementation. That the Village Manager is hereby authorized to take any action necessary to implement this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 20th day of February 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

This instrument prepared by and after recording return to:

Paul Feldman, Esq.
Law Offices of Paul Feldman, P.A.
2750 NE 185th Street, Suite 203
Aventura, FL 33180

Folio Number(s): 12-2226-002-1830 and 12-2226-002-1840

UNITY OF TITLE

The undersigned, JEROME FALIC and DEBBIE FALIC (collectively, the “**Owner**”) is the owner of the following described real property (“**Property**”) located in Bal Harbour Village, Florida:

Lots 5 and 6, in Block 10, of RESIDENTIAL SECTION OF BAL HARBOUR, according to the Plat thereof, as recorded in Plat Book 44, at Page 98, of the Public Records of Miami-Dade County, Florida.

Street addresses: 209 Bal Bay Drive, Bal Harbour, FL 33154 and 160 Biscay Drive, Bal Harbour, FL 33154

In consideration of the issuance of a building permit by Bal Harbour Village (“**Village**”) for the construction of a single-family residence on the Property, Owner hereby agrees to restrict the use of the Property in the following manner:

1. **Property as One Parcel.** The Property shall be considered as one parcel of land. No portion of the Property shall be encumbered, mortgaged, sold, transferred, divided, conveyed, devised or assigned, except in its entirety as one parcel of land.
2. **Use of Property.** The Property shall only be used for residential purposes. The only construction which may be permitted on the Property is that of a single-family residential unit.
3. **Covenant Running with the Land.** This Unity of Title is a covenant running with the land and shall remain in full force and effect and be binding upon the Owner, and its heirs, successors, and assigns until such time as this Unity of Title is modified or released in the manner provided herein.
4. **Term.** This Unity of Title shall run with the land and shall be binding on all parties and all persons claiming under it for a period of 30 years from the date this Unity of Title is

recorded, after which time it shall be extended automatically for successive periods of 10 years each.

5. **Modification, Amendment, Release.** This Unity of Title may only be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then-owner(s) of the Property, with joinders by all mortgagees, if any, and by the Director of the Bal Harbour Village Building Department or his or her successor or designee.
6. **Enforcement.** Enforcement of this Unity of Title shall be by action against any parties or person violating, or attempting to violate, any of the covenants set forth herein. The prevailing party in any action or suit pertaining to or arising out of this Unity of Title shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable attorneys' fees. This enforcement provision shall be in addition to any other remedies available at law or in equity.
7. **Authorization for Village to Withhold Permits and Inspections.** In the event the terms of this Unity of Title are not being complied with, in addition to any other remedies available, the Village is hereby authorized to withhold any further permits, and to refuse to make any inspections or grant any approvals, until such time as this Unity of Title is complied with.
8. **Recording.** Owner shall promptly record this Unity of Title in the Public Records of Miami-Dade County, Florida at the Owner's expense, and shall provide a copy of the recorded instrument to the Village within 10 days after recording.

SIGNATURE BLOCKS ON FOLLOWING PAGES



OFFICE OF THE PROPERTY APPRAISER

Detailed Report

Generated On: 01/23/2024

PROPERTY INFORMATION	
Folio	12-2226-002-1840
Property Address	160 BISCAY DR BAL HARBOUR, FL 33154-1323
Owner	JEROME FALIC , DEBBIE FALIC
Mailing Address	209 BAL BAY DR BAL HARBOUR, FL 33154
Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0802 MULTIFAMILY 2-9 UNITS : 2 LIVING UNITS
Beds / Baths /Half	4 / 3 / 0
Floors	1
Living Units	2
Actual Area	5,016 Sq.Ft
Living Area	4,464 Sq.Ft
Adjusted Area	4,324 Sq.Ft
Lot Size	17,730.44 Sq.Ft
Year Built	Multiple (See Building Info.)



ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$5,390,032	\$2,304,758	\$2,159,692
Building Value	\$455,554	\$455,875	\$337,762
Extra Feature Value	\$14,993	\$15,149	\$15,304
Market Value	\$5,860,579	\$2,775,782	\$2,512,758
Assessed Value	\$5,860,579	\$2,764,033	\$2,512,758

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Non-Homestead Cap	Assessment Reduction		\$11,749	

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,860,579	\$2,764,033	\$2,512,758
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,860,579	\$2,775,782	\$2,512,758
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,860,579	\$2,764,033	\$2,512,758
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,860,579	\$2,764,033	\$2,512,758

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 01/23/2024

Property Information

Folio: 12-2226-002-1840

Property Address: 160 BISCAY DR

Roll Year 2023 Land, Building and Extra-Feature Details

LAND INFORMATION						
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value	
GENERAL	R-2	0800	Front Ft.	97.42	\$5,390,032	
BUILDING INFORMATION						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	2	1980	470	0	190	\$26,144
2	2	1978	722	706	479	\$14,787
1	1	1948	3,253	3,187	3,084	\$397,836
2	1	1948	571	571	571	\$16,787
EXTRA FEATURES						
Description			Year Built			Calc Value
Wood Fence			1978			\$2,165
Patio - Brick, Tile, Flagstone			1978			\$11,088
Chain-link Fence 4-5 ft high			1978			\$1,740

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Property Information

Folio: 12-2226-002-1840

Property Address: 160 BISCAY DR

Roll Year 2022 Land, Building and Extra-Feature Details

LAND INFORMATION						
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value	
GENERAL	R-2	0800	Front Ft.	97.42	\$2,304,758	
BUILDING INFORMATION						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	2	1980	470	0	190	\$26,348
2	2	1978	722	706	479	\$14,904
1	1	1948	3,253	3,187	3,084	\$397,836
2	1	1948	571	571	571	\$16,787
EXTRA FEATURES						
Description			Year Built	Units	Calc Value	
Wood Fence			1978	233	\$2,203	
Patio - Brick, Tile, Flagstone			1978	1,600	\$11,176	
Chain-link Fence 4-5 ft high			1978	300	\$1,770	

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 01/23/2024

Property Information

Folio: 12-2226-002-1840

Property Address: 160 BISCAY DR

Roll Year 2021 Land, Building and Extra-Feature Details

LAND INFORMATION							
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value		
GENERAL	R-2	0800	Front Ft.	97.42	\$2,159,692		
BUILDING INFORMATION							
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value	
1	2	1980	470	0	190	\$19,142	
2	2	1978	722	706	479	\$15,021	
1	1	1948	3,253	3,187	3,084	\$286,812	
2	1	1948	571	571	571	\$16,787	
EXTRA FEATURES							
Description			Year Built			Units	Calc Value
Wood Fence			1978			233	\$2,240
Patio - Brick, Tile, Flagstone			1978			1,600	\$11,264
Chain-link Fence 4-5 ft high			1978			300	\$1,800

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OFFICE OF THE PROPERTY APPRAISER

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Property Information

Folio: 12-2226-002-1840

Property Address: 160 BISCAY DR

FULL LEGAL DESCRIPTION

BAL HARBOUR RESIDENTIAL SEC
PB 44-98
LOT 6 BLK 10
AND PROP INT IN & TO COMMON
ELEMENTS NOT DEDICATED TO PUBLIC
LOT SIZE IRREGULAR
OR 21065-0258 02 2003 4

SALES INFORMATION

Previous Sale	Price	OR Book-Page	Qualification Description
10/25/2022	\$4,800,000	33449-3810	Atypical exposure to market; atypical motivation
02/01/2003	\$0	21065-0258	Sales which are disqualified as a result of examination of the deed
10/01/2002	\$0	20775-0343	Sales which are disqualified as a result of examination of the deed
07/01/1994	\$550,000	16456-3907	Sales which are qualified
05/01/1987	\$385,800	13290-1380	Deeds that include more than one parcel
04/01/1975	\$140,000	00000-00000	Sales which are qualified
05/01/1974	\$85,000	00000-00000	Sales which are qualified

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OFFICE OF THE PROPERTY APPRAISER

Detailed Report

Generated On: 01/23/2024

PROPERTY INFORMATION	
Folio	12-2226-002-1830
Property Address	209 BAL BAY DR BAL HARBOUR, FL 33154-1368
Owner	JEROME FALIC & W DEBBIE
Mailing Address	209 BAL BAY DR BAL HARBOUR, FL 33154-1368
Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths /Half	5 / 5 / 1
Floors	2
Living Units	1
Actual Area	10,406 Sq.Ft
Living Area	8,601 Sq.Ft
Adjusted Area	8,598 Sq.Ft
Lot Size	19,500 Sq.Ft
Year Built	Multiple (See Building Info.)



ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$7,410,000	\$3,168,750	\$2,968,875
Building Value	\$1,858,080	\$1,880,262	\$1,401,026
Extra Feature Value	\$50,691	\$51,299	\$51,909
Market Value	\$9,318,771	\$5,100,311	\$4,421,810
Assessed Value	\$2,975,937	\$2,889,260	\$2,805,107

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Save Our Homes Cap	Assessment Reduction	\$6,342,834	\$2,211,051	\$1,616,703
Homestead	Exemption	\$25,000	\$25,000	\$25,000
Second Homestead	Exemption	\$25,000	\$25,000	\$25,000

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$2,925,937	\$2,839,260	\$2,755,107
SCHOOL BOARD			
Exemption Value	\$25,000	\$25,000	\$25,000
Taxable Value	\$2,950,937	\$2,864,260	\$2,780,107
CITY			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$2,925,937	\$2,839,260	\$2,755,107
REGIONAL			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$2,925,937	\$2,839,260	\$2,755,107

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 01/23/2024

Property Information

Folio: 12-2226-002-1830

Property Address: 209 BAL BAY DR

Roll Year 2023 Land, Building and Extra-Feature Details

LAND INFORMATION						
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value	
GENERAL	R-2	0800	Square Ft.	19,500.00	\$7,410,000	
BUILDING INFORMATION						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	2	2017	683	683	546	\$133,825
1	1	2005	9,723	7,918	8,052	\$1,724,255
EXTRA FEATURES						
Description	Year Built	Units	Calc Value			
Wall - CBS unreinforced	2005	850	\$2,890			
Pool 8' res BETTER 3-8' dpth, tile 650-1000 sf	2005	1	\$33,200			
Paving - Asphalt	2005	2,500	\$3,188			
Patio - Brick, Tile, Flagstone	2005	1,250	\$11,413			

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 01/23/2024

Property Information

Folio: 12-2226-002-1830

Property Address: 209 BAL BAY DR

Roll Year 2022 Land, Building and Extra-Feature Details

LAND INFORMATION						
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value	
GENERAL	R-2	0800	Square Ft.	19,500.00	\$3,168,750	
BUILDING INFORMATION						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	2	2017	683	683	546	\$135,233
1	1	2005	9,723	7,918	8,052	\$1,745,029
EXTRA FEATURES						
Description		Year Built	Units	Calc Value		
Wall - CBS unreinforced		2005	850	\$2,924		
Pool 8' res BETTER 3-8' dpth, tile 650-1000 sf		2005	1	\$33,600		
Paving - Asphalt		2005	2,500	\$3,225		
Patio - Brick, Tile, Flagstone		2005	1,250	\$11,550		

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 01/23/2024

Property Information

Folio: 12-2226-002-1830

Property Address: 209 BAL BAY DR

Roll Year 2021 Land, Building and Extra-Feature Details

LAND INFORMATION						
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value	
GENERAL	R-2	0800	Square Ft.	19,500.00	\$2,968,875	
BUILDING INFORMATION						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	2	2017	683	683	546	\$100,628
1	1	2005	9,723	7,918	8,052	\$1,300,398
EXTRA FEATURES						
Description			Year Built	Units	Calc Value	
Wall - CBS unreinforced			2005	850	\$2,958	
Pool 8' res BETTER 3-8' dpth, tile 650-1000 sf			2005	1	\$34,000	
Paving - Asphalt			2005	2,500	\$3,263	
Patio - Brick, Tile, Flagstone			2005	1,250	\$11,688	

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OFFICE OF THE PROPERTY APPRAISER

Generated On: 01/23/2024

Property Information

Folio: 12-2226-002-1830

Property Address: 209 BAL BAY DR

FULL LEGAL DESCRIPTION

26-27 52 42 PB 44-98
BAL HARBOUR RESIDENTIAL SEC
LOT 5 BLK 10
AND PROP INT IN & TO COMMON
ELEMENTS NOT DEDICATED TO PUBLIC
LOT SIZE 133.540 X 152
OR 15579-3448 0692 4

SALES INFORMATION

Previous Sale	Price	OR Book-Page	Qualification Description
06/01/1992	\$0	15579-3448	Sales which are disqualified as a result of examination of the deed
10/01/1990	\$0	14762-2928	Sales which are disqualified as a result of examination of the deed
02/01/1985	\$500,000	12410-0261	Sales which are qualified

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BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE AGREEMENT BETWEEN THE VILLAGE AND CONCRETE PRO INC., FOR THE RESTORATION OF THE JOGGING PATH, AS DETAILED WITHIN PROPOSAL NO. 23.1145.R2.BAL, IN THE AMOUNT NOT TO \$55,193; INCLUSIVE OF A 10% CONTINGENCY ALLOCATION IN THE AMOUNT OF \$5,018, ROUNDED UP TO THE NEAREST DOLLAR.

Issue:

Should the Village Council approve the Agreement with Concrete Pro Inc., for the restoration of the Beach Jogging Path as detailed within the agreement?

The Bal Harbour Experience:

- | | | |
|--|--|---|
| <input type="checkbox"/> Beautiful Environment | <input checked="" type="checkbox"/> Safety | <input checked="" type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

The restoration work was performed at the Beach Jogging Path in 2018. Over time the path has become uneven in many areas and excessively compacted which prevents proper drainage after heavy rainfall. Also, the volume of coquina sand is excessive in many areas, while deficient in others. A request for proposals was sent to 11 local contractors for the required work. Two proposals were received to restore the entire 3,122 linear foot long path to its intended composition and compaction. Concrete Pro Inc. provided the lowest cost proposal in the amount of \$50,175. A 10% or \$5,018 contingency has been applied. The total not to exceed cost for the work detailed within the Concrete Pro Inc. proposal is \$55,193 rounded up to the nearest dollar.

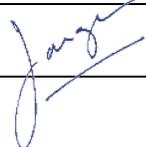
THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Financial Information:

Amount	Account	Account #
\$55,193	Maintenance of Jogging Path/ Bike Path	10-53-504604

Sign off:

Director Public Works & Beautification Department	Chief Financial Officer	Village Manager
John Oldenburg	Claudia Dixon	Jorge M. Gonzalez



BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: February 20, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE AGREEMENT BETWEEN THE VILLAGE AND CONCRETE PRO INC., FOR THE RESTORATION OF THE JOGGING PATH, AS DETAILED WITHIN PROPOSAL NO. 23.1145.R2.BAL, IN THE AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND ONE HUNDRED NINETY THREE DOLLARS (\$55,193); INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FIVE THOUSAND EIGHTEEN DOLLARS (\$5,018), ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

BACKGROUND

The Bal Harbour Beach jogging path is in the area between the western dune edge and planted vegetation belt eastward of the vehicular/bicycle path. The length of the jogging path is three thousand, one hundred twenty-two feet (3,122) long, with an average width of fourteen feet (14) and contains a concrete perimeter edge. In 2015, a three-hundred-foot section was restored and in 2018, an additional two thousand eight hundred nineteen feet (2,819) section was restored.

ANALYSIS

Since the last large scale restoration work was performed in 2018, the jogging path received mechanical raking two to three times weekly and periodic installation of additional coquina sand as needed. However, over time the path has become uneven in many areas and excessively compacted which prevents proper drainage after heavy rainfall. Also, the volume of coquina sand is excessive in many areas, while deficient in others.

Staff has developed a scope of work to restore the surface of the jogging path to its intended composition and compaction. The entire 3,122 linear feet of the path is proposed to be restored and due to the existing volume of coquina sand, it is anticipated that the existing material onsite is sufficient for this work with a small amount of additional coquina sand to be included as needed. To obtain pricing, staff contacted local contractors to obtain proposals to perform this work. Since October 2023, a total of

eleven (11) contractors working as general, landscaping, and paving contractor firms were solicited to provide proposals. The chart on the next page details the contractors solicited and the results of the request for proposal actions.

Vendor Name	Proposal Submittal	Cost
Southern Asphalt Engineering Inc.	Yes	\$56,635
Quality Construction Performance	No Response	
Brightview Landscape Services	Declined	
Concrete-Pro Inc.	Yes	\$50,175
Homestead Concrete and Drainage	No Response	
C & I Construction and Design	No Response	
Eagle General Contracting Grp.	Declined	
Southern Florida Construction and Excavation	Declined	
Weekley Asphalt	No Response	
Miami Excavating Contractors	Declined	
Dirt Matters	No Response	

Southern Asphalt Engineering Inc. provided Proposal No. 20240069, in the amount of fifty-six thousand six hundred thirty-five dollars (\$56,635). Concrete Pro Inc. provided the lowest cost Proposal No. 23.1145.R2.BAL, in the amount of fifty thousand one hundred seventy-five dollars (\$50,175).

During construction, professional report development and specialized utility maintenance activities, contingency funds are utilized as reserve monies used to cover unexpected costs which arise from unforeseen conditions. These funds are not allocated to any specific area of work and if they are not required, the funds are returned to the overall General Fund Budget at the completion of the work. To anticipate the cost of unforeseen conditions and additional meetings not accounted for within the proposals, it is appropriate to include a contingency of ten percent (10%) of the total cost, which equates in this instance to five thousand eighteen dollars (\$5,018), rounded up to the nearest dollar.

Therefore, the total not to exceed cost for the restoration of the Bal Harbour Beach jogging path as detailed within the proposal No. 23.1145.R2.BAL provided by Concrete Pro Inc. is fifty-five thousand one hundred ninety-three dollars (\$55,193), inclusive of the applied contingency, rounded up to the nearest dollar.

Scope of Work

- 3,122 linear feet, 14 average width.
- The grading of the existing coquina sand to 1 ½" below top of curb.
- The compaction to 60% of the remaining sand above the sub-base.
- The installation of excess graded coquina sand to the area and a 30% compaction resulting in a level walking surface to ½ "from the top of the concrete edge finished elevation.

- This work will require the use of a milling machine and/or a mini excavator or skid steer loader, and hand work.
- The work is to be performed in a continuous manner. Any coquina sand that is moved should be replaced as much as possible at the end of the day. The work area must be returned to usable space at the end of the workday.
- All work areas will be coned and caution taped off at any entry points or dune crossings while work is being performed.
- Work hours are Monday - Friday from 8:30 am until 5:00 pm.
- There is currently an entrance/exit located at both 96th Street and near Haulover Inlet for access, and 96 Street is to be used for limited staging.
- Public Works & Beautification Department employees will escort dump trucks and work trucks on and off the job.
- Include 20 cubic yards of new coquina sand if additional sand is required.

THE BAL HARBOUR EXPERIENCE

This action is aligned with the Village's stated mission through the *Bal Harbour Experience*. The restoration of the jogging path to its original intended composition and compaction, that provides a safe surface for joggers, corresponds directly to the goals of Modernized Public Facilities and Infrastructure and Safety.

CONCLUSION

The 3,122-foot-long Bal Harbour Beach jogging path is in the area between the western dune edge and planted vegetation belt eastward of the vehicular/bicycle path. Since the last large scale restoration work in 2018, the path has become uneven in many areas and excessively compacted which prevents proper drainage after heavy rainfall. Also, the volume of coquina sand is excessive in many areas, while deficient in others.

After several months of contacting various contractors to perform this work, Concrete Pro Inc. provided the lowest cost proposal in the amount of \$50,175. A 10% or \$5,018 contingency allocation has been included to account for unforeseen conditions.

I have reviewed the proposal submitted by Concrete Pro Inc. and Southern Asphalt Engineering Inc. and deem the cost to be appropriate for the services requested. Consequently, I am recommending the approval of the Agreement with Concrete Pro Inc., the lowest cost proposer, for the services as detailed within their Proposal No. 23.1145.R2.BAL, in the not to exceed cost of \$55,193, inclusive of the applied contingency, rounded up to the nearest dollar.

Attachments:

1. Concrete Pro Inc., Proposal No. 23.1145.R2.BAL

RESOLUTION NO. 2024-____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE AGREEMENT BETWEEN THE VILLAGE AND CONCRETE PRO INC., FOR THE RESTORATION OF THE JOGGING PATH, AS DETAILED WITHIN PROPOSAL NO. 23.1145.R2.BAL, IN THE AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND ONE HUNDRED NINETY THREE DOLLARS (\$55,193); INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FIVE THOUSAND EIGHTEEN DOLLARS (\$5,018), ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Bal Harbour Beach jogging path is in the area between the western dune edge and planted vegetation belt eastward of the vehicular/bicycle path; and

WHEREAS, since the last large scale restoration work was performed in 2018, the path has become uneven in many areas and excessively compacted which prevents proper drainage after heavy rainfall. Also, the volume of coquina sand is excessive in many areas, while deficient in other; and

WHEREAS, staff solicited and received a proposal No. 23.1145.R2.BAL from Concrete Pro Inc., to restore the surface of the jogging path to its intended composition and compaction in the amount of \$50,175; and

WHEREAS, a 10% contingency allocation has been applied in the amount of \$5,018, rounded up to the nearest dollar to account for unforeseen conditions and unplanned costs; and

WHEREAS, this Council has determined that it is the best interest of the Village to approve the Agreement with Concrete Pro Inc., for the services as detailed in Proposal No. 23.1145.R2.BAL, in the amount not to exceed \$55,193, inclusive of the contingency allocation, rounded up to the nearest dollar.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Task Agreement Approved. That the Agreement with Concrete Pro Inc., for the services as detailed in their Proposal No. 23.1145.R2.BAL, in the amount not to exceed \$55,193, inclusive of the contingency allocation, rounded up to the nearest dollar, is hereby approved and the Village Manager is hereby authorized to sign the quote on behalf of the Village.

Section 3. Expenditure Approved. That the expenditure identifying budgeted funds for the envisioned Bal Harbour Beach Jogging Path restoration activities is hereby approved.

Section 4. Implementation. That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

Section 5. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 20th day of February 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.



Proposal No. 23.1145.R2.BAL

Project : COQUINA BEACH WALK REPAIR

County: MIAMI DADE

Project by: Gyo Cordero

Bid Date: 3-Nov-2023

Revised: 25-Jan-2024

To: Robert Clark
 Phone: 954-684-2039
 Email: rclark@balharbourfl.gov

SCOPE OF WORK:

THE FOLLOWING IS OUR PROPOSAL FOR THE PROJECT ABOVE AS PER SPECIFICATIONS. THE SCOPE OF WORK INCLUDES:

Grading of the existing Coquina Sand to 1 ½" below top of curb along the jogging path, approx 3122'. Compact 60% of the remaining sand above the sub-base. Installation of excess graded Coquina Sand to the area and a 30% compaction resulting in a level walking surface to ½" from the top of the concrete edge finished elevation.

Include 20 cubic yards of new Coquina Sand if additional sand is required.

This work will require the use of a mini excavator or skid steer loader, and hand work.

Work will be performed in a continuous manner. Any Coquina Sand that is moved should be replaced as much as possible by the end of the day.

All work areas should be coned and caution taped off at any entry points of dune crossings while work is being performed.

Work hours are Monday - Friday from 8:30 am to 5:30 pm.

LUMP SUM: \$50,175.00

EXCLUSIONS:

- a. Bonding, Permits and Inspections fees
- b. Professional Design fees, Surveying Services and As-builts, Testing Laboratory Services.
- c. Prevailing Wages, Night and Weekend Work
- d. Maintenance of Traffic, Police Services, Light Towers
- e. Utilities, Fencing and Sanitary Facilities
- f. Demolition (paving & utilities)
- g. Temporary protection of underground, Adjacent structures including both New & Existing surfaces
- h. Reinforcing, Miscellaneous Metals, Waterproofing, Bond Breaker
- i. Restoring Existing Pavement or Surface Restoration, Integral Colored Concrete Pavement, Pavers
- j. Environmental & Erosion Control, Remove or Plug, Dewatering, Storm Drainage, Sewer Systems.
- k. Sod, landscaping and/or irrigation items
- l. And any other work not specified above in Scope of Work.

All Materials guaranteed to be as specified. Material price subject to industry increase every 6 months. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Client agrees that payments will not be withheld due to any delayed work that is beyond the scope of this contract or any conditions beyond our control. This proposal is void after 30 days. Invoices to be paid Net 30. Overdue accounts are subject to a service charge of 2% of the total outstanding balance per month. Make all payments payable to Concrete Pro Inc.

Submitted by: Gyovania Cordero, Estimator _____

Date: 25-Jan-2024 _____

Acceptance of Proposal:

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined as above.

Owner Print Names & Signature _____

Date: _____

Contractor Print Names & Signature _____

Date: _____

Professional Services Agreement

This Professional Services Agreement (the "Agreement") is made and entered into as of the ____ day of _____, 2024 (the "Effective Date") by and between Bal Harbour Village, a Florida municipality (the "Village") and Concrete Pro Inc., an independent contractor ("Contractor"), with each being referred to herein as a Party or collectively as the "Parties."

WHEREAS, the Bal Harbour Beach jogging path is in the area between the western dune edge and planted vegetation belt eastward of the vehicular/bicycle path; and

WHEREAS, since the last large scale restoration work was performed in 2018, the path has become uneven in many areas and excessively compacted which prevents proper drainage after heavy rainfall. Also, the volume of coquina sand is excessive in many areas, while deficient in other; and

WHEREAS, the Village desires to enter into an agreement with Contractor for the provision of these services.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the Village and Contractor agree as follows:

- I. **SCOPE OF SERVICES.** Contractor shall provide the scope of services ("Services" or "Work") set forth in Contractor's proposal ("Proposal"), incorporated herein and attached hereto as Exhibit "A." Contractor shall commence the Work upon receipt of a Notice to Proceed, in a form similar to Exhibit "B" attached hereto.
- II. **TERM.** This Agreement shall commence on the Effective Date and shall continue for an (**180 calendar days**), unless otherwise terminated with or without cause, by the Village in accordance with the provisions of this Agreement.
- III. **PAYMENT.** In consideration of Contractor's completion of the Services rendered hereunder, the Village shall pay to Contractor, as provided for in the Proposal in the amount of \$50,175. Additional services shall not be provided without the Village's prior written approval.

All Services performed shall be invoiced to the Village. Upon receipt of an acceptable and approved invoice, payment(s) shall be made within thirty (30) days for that portion (or those portions) of the service satisfactorily rendered (and referenced in the particular invoice).

IV. TERMINATION.

A. Termination for Cause.

If a Party fails to fulfill in a timely manner, or otherwise violates or defaults upon, any of the covenants, agreements, or stipulations material to this Agreement, the non-defaulting Party, shall thereupon have the right to terminate this Agreement for cause. Prior to exercising its option to terminate for cause, the non-defaulting Party shall notify the defaulting Party of its violation of the particular term(s) of this Agreement and shall grant the defaulting Party fifteen (15) business days to cure such default. If such default remains uncured after fifteen (15) business days, the non-defaulting Party may terminate this Agreement without further notice to the defaulting Party. Upon termination, the non-defaulting Party shall be fully discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, the Agreement.

Notwithstanding the above, Contractor shall not be relieved of liability to the Village for damages in an amount up to and not to exceed the total paid to date by the Village to Contractor sustained by the Village by virtue of any breach of the Agreement by the Contractor. The Village, at its sole option and discretion, shall be entitled to bring any and all legal or equitable actions that it deems to be in its best interest in order to enforce the Village's rights and remedies against Contractor. The Village shall be entitled to recover all costs of such actions, including reasonable attorney's fees up to and not to exceed the total paid to date by the Village to Contractor.

B. Termination for Convenience of the Village.

The Village may, through its Village Manager, and for its convenience and without cause, terminate the Agreement at any time during the Term by giving written notice to Contractor of such termination; which shall become effective thirty (30) days following receipt by Contractor of such notice. If the Agreement is terminated for convenience by the Village, Contractor shall only be paid for any Services satisfactorily performed up to the date of termination; following which both parties shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement. In the event that the Village pays Contractor in advance, the Village shall be entitled to a refund of the prorated amount calculated from the date the contract is terminated through the date that the contract would have expired had the Village not exercised

this clause, Contractor shall issue such refund within thirty (30) days of the effective date of termination of the Agreement.

V. INSURANCE REQUIREMENTS

Contractor shall maintain general commercial, automobile (where applicable), workers’ compensation, and professional liability insurance in an amount acceptable to the Village.

Contractor shall maintain the following required types and minimum limits of insurance coverage during the term of this Agreement

	<u>Per Occurrence</u>	<u>Aggregate</u>
General Liability	\$1,000,000	\$2,000,000
Automobile Liability	\$1,000,000 combined single limit per accident	
Professional Liability	\$500,000	\$1,000,000
Workers’ Compensation	Statutory Amount	

This Agreement shall not be deemed approved until the Contractor has obtained all insurance required under this section and has supplied the Village with evidence of such coverage in the form of a Certificate of Insurance and endorsement. The Village shall be named as an additional insured via a blanket endorsement in the endorsement for commercial and automobile liability coverage. The Village shall approve of such Certificates prior to the performance of any Services pursuant to this Agreement.

CERTIFICATE HOLDER MUST READ

Bal Harbour Village
655 96th Street
Bal Harbour, FL 33154

ALL INSURANCE COMPANIES PROVIDED SHALL: Be rated at least A VII per Best’s Key Rating Guide and be licensed to do business in Florida. Contractor’s liability insurance shall be primary to any liability insurance policies that may be carried by the Village. Contractor shall be responsible for all deductibles and self-insured retentions on their liability insurance policies.

Contractor agrees to provide at least thirty (30) calendar days written notice of cancellation, material change, or renewal refusal to the Village by certified

mail, unless policies are renewed with equal or better coverage.

VI. INDEMNIFICATION.

Both Parties agree to indemnify and hold harmless the other Party and its officers, employees, agents, and contractors, from and against any and all third party actions (whether at law or in equity), claims, liabilities, losses, judgments, costs and expenses, including, but not limited to, attorneys' fees and costs (collectively, "Losses"), for personal or bodily injury, wrongful death, or loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or willful or intentional conduct of the negligent Party, its officers, employees, agents, subcontractors, or any other person or entity acting under negligent Party's control or supervision, arising out of the negligent Party's performance of the Services pursuant to this Agreement. To that extent, the negligent Party shall pay all such Losses which may issue from any lawsuit arising from such claims, and shall pay all costs and attorneys' fees expended by the afflicted Party in the defense of such claims and losses, including appeals. Subject to Section 768.28, Florida Statutes, which monetary limits shall apply regardless of whether they would apply in the absence of this provision, the Village shall indemnify the Contractor up to the statutory limits.

Nothing in this Agreement shall be deemed or treated as a waiver by the Village of any immunity to which it is entitled by law, including but not limited to the Village's sovereign immunity as set forth in Section 768.28, Florida Statutes.

VII. ENTIRE AGREEMENT.

This Agreement, Contractor's proposal, and any warranties shall constitute the entire Agreement. In the event of a conflict between the provisions of those documents and this Agreement, the provisions of this Agreement shall prevail. Any amendment to the terms of this Agreement shall be evidenced in writing and executed by both Parties.

VIII. WARRANTIES.

Contractor represents and warrants that Contractor is free to enter into the terms of this Agreement and that Contractor has no obligation to any third party or otherwise that are inconsistent with any of its provisions. Contractor further represents and warrants that Contractor has and shall maintain for the

duration of this Agreement, all professional licenses required to be held by an individual or entity providing the Services by any and all federal, state or local law, rule or policy.

Contractor warrants that its services are to be performed within the limits prescribed by the Village and with the usual thoroughness and competence of the Contractor's profession.

Contractor acknowledges that the responsibilities enumerated in this Agreement (a) will not adversely affect her primary employment; (b) will not create a conflict of interest as defined by Chapter 112, Part III of the Florida Statutes.

IX. SEVERABILITY.

The Parties to this Agreement expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body. If any provision of this Agreement is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Agreement) and the remainder of this Agreement, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Agreement to be inequitable under the circumstances.

X. ANTI-DISCRIMINATION

Bal Harbour Village ("Recipient") and National Water Main Cleaning Company, ("Contractor"). The Recipient by entering into an agreement with the State of Florida, Division of Emergency Management for American Rescue Plan Act funding allocations is required by federal law to incorporate the following contractual provisions in all Bal Harbour Village contracts which will be paid for in whole or in part with funds obtained from the federal government.

A) EQUAL OPPORTUNITY EMPLOYMENT

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- a. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. Contractor certifies that it does not discriminate in its membership or policies based on race, color, national origin, religion, sex, sexual orientation, familial status or handicap. Contractor further agrees that neither Contractor, nor any parent company, subsidiaries or affiliates of Contractor are currently engaged in, nor will engage in during the term of this Agreement, the boycott of a person or business based in or doing business with a member of the World Trade Organization or any country with which the United States has free trade.

XI. SCRUTINIZED COMPANIES

- A.** Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- B.** If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business

operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

- C. The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

XII. COPELAND ANTI-KICKBACK ACT

1. "Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract."
2. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause in subsection b(i) above and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor accepts responsibility for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR § 5.12.

XIII. CONTRACT WORK HOURS AND SAFETY STANDARDS

Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the

basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

XIV. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

“Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).”

XV. SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such the contractor is required to verify that neither the contractor, its principals (defined at 2 CFR § 180.995), nor its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

The contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction into which it enters.

XVI. BYRD ANTI-LOBBYING AMENDMENT

“Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended). Contractor shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.”

XVII. NOTICES.

All notices hereunder shall be given in writing by registered or certified mail, return receipt requested, postage prepaid, addressed to the Parties at the following respective addresses, or at such other address as may be designated in writing by either Party to the other, and shall be deemed delivered for all purposes hereunder upon deposit of same into the United States mail:

To Village: Jorge Gonzalez, Village Manager
Bal Harbour Village
655 96th Street
Bal Harbour, FL 33154

Copies To: Dwight S. Danie, Village Clerk
Bal Harbour Village
655 96th Street
Bal Harbour, FL 33154

Susan L. Trevarthen, Village Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 E. Broward Blvd. Suite 1900
Fort Lauderdale, FL 33312

To Contractor: Gyovania Cordero, President
Concrete Pro, Inc.
3350 SW 148 AVE. # 110
Miramar, FL 33027

XVIII. COMPLIANCE WITH LAWS.

Contractor agrees to comply with all laws, ordinances, rules, and regulations that are now or may become applicable to the Services covered by this Agreement, regardless of the applicable jurisdiction.

XIX. SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon the Parties and their respective successors, heirs and assigns. However, the Parties agree that nothing contained herein shall authorize the assignment of this Agreement or the delegation of any duties hereunder by either Party, unless previously set out

in this Agreement, without the prior written consent of the other party.

XX. SURVIVAL OF TERMS.

Termination or expiration of this Agreement for any reason shall not release either Party from any liabilities or obligations set forth in this Agreement which (a) the Parties have expressly agreed shall survive any such termination, or (b) remain to be performed and by their nature would be intended to be applicable following any such termination or expiration. Any liabilities which have accrued prior to termination pursuant to the insurance and/or indemnification obligations set forth below shall survive the termination of this Agreement.

XXI. GOVERNING LAWS.

This Agreement shall be governed by, construed in accordance with, the laws of the State of Florida. The venue for any dispute arising from this Agreement shall be the Circuit Court of Miami-Dade County, Florida. The Parties voluntarily waive any right to trial by jury in the event of litigation between the Parties, which arises out of this Agreement in any way.

XXII. NO CONTINGENT FEES.

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

XXIII. WAIVER.

No delay or omission by either Party hereto, in the exercise of any right or remedy hereunder, shall impair such right or remedy or be construed to be a waiver thereof. Any waiver of any such right or remedy by any Party must be in writing and signed by the Party against which such waiver is sought. A waiver by either of the Parties hereto of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or any other covenant herein contained. All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise.

XXIV. FORCE MAJEURE.

Non-performance of Contractor or Village shall be excused to the extent that performance is rendered impossible or delayed by strike, fire, hurricane, flood, terrorism, governmental acts or orders or restrictions, or other similar reason where failure to perform is beyond the control of and not caused by the negligence of the non-performing Party ("Force Majeure"), provided that the non-conforming Party gives prompt notice of such conditions to the other Party and makes all reasonable efforts to perform.

XXV. INDEPENDENT CONTRACTOR.

Contractor has been procured and is being engaged to provide Services to the Village as an independent contractor, and not as an agent or employee of the Village. Accordingly, Contractor shall not attain nor be entitled to any rights or benefits of the Village, nor any rights generally afforded classified or unclassified employees of the Village. Contractor further understands that Florida Workers' Compensation benefits available to employees of the Village are not available to Contractor and agrees to provide workers' compensation insurance for any employee or agent of Contractor rendering Services to the Village under this Agreement.

XXVI. CONTRACTOR'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW

Pursuant to Section 119.0701 of the Florida Statutes, Contractor agrees to:

- A.** Keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this agreement. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the Village.
- B.** Upon request from the Village's custodian of public records, Contractor shall provide the Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- C.** Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and final documents

provided or created in connection with this Agreement are and shall remain the property of the Village. Notwithstanding, it is understood that at all times Contractor's workpapers shall remain the sole property of Contractor, and are not subject to the terms of this Agreement.

- D. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of Contractor shall be delivered by Contractor to the Village Manager, at no cost to the Village, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, Contractor shall destroy any and all duplicate records that are exempt or confidential and exempt from public records disclosure requirements. Notwithstanding the terms of this Section, the Parties agree and it is understood that Contractor will maintain a copy of any information, confidential or otherwise, necessary to support its work product generated as a result of its engagement for services, solely for reference and archival purposes in accordance with all applicable professional standards, which will remain subject to the obligations of confidentiality herein.
- E. Any compensation due to Contractor shall be withheld until all records are received as provided herein.
- F. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-866-4633 clerk@balharbourfl.gov OR BY MAIL: Village of Bal Harbour - Village Clerk's Office, 655 96th Street, Bal Harbour, FL 33154.

XXVII. E-VERIFY

Effective January 1, 2021, public and private employers, contractors and subcontractors will begin the required registration with, and use of, the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department

of Homeland Security's E-Verify System to verify the employment eligibility of: a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and b) All persons (including sub-vendors/subcontractors) assigned by Contractor to perform work pursuant to the contract with the Village. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the Village of Bal Harbour.

Should Vendor become the successful Contractor awarded for the above-named project, by entering into this Agreement, the Contractor becomes obligated to comply with the provisions of § 448.095, FL. Statutes, as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees; and requiring all Subcontractors to provide an affidavit attesting that the Subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a Subcontractor knowingly violates the statute, the Subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract by the Village for a period of 1 year after the date of termination.

IN WITNESS WHEREOF, Contractor has signed and delivered this Agreement, and the Village has caused this Agreement to be signed and delivered by its duly authorized officer or representative, all as of the date first set forth above.

CONTRACTOR:
Concrete Pro Inc.,
18541 SW 43rd Street
Miramar, FL 33029

VILLAGE:
Bal Harbour Village
655 Ninety-Sixth Street
Bal Harbour, FL 33154

By: _____

Gyovania Cordero
President

By: _____

Jorge M. Gonzalez,
Village Manager

Attest: _____

Dwight S. Danie
Village Clerk

Approved as to form and legal
sufficiency for the use and
reliance of the Bal Harbour
Village only.

By: _____

Village Attorney

EXHIBIT "A" Scope of Services

The Bal Harbour Village Public Works and Beautification Department is requesting proposals for coquina sand grading, compaction and leveling of the existing jogging path in the coastal area within the Village. The entire length of the jogging path is three thousand one hundred twenty-two feet (3,122'), long and approximately fourteen feet (14') wide. The jogging path is constructed with a compacted limestone sub-base, covered with 2" of coquina sand, bordered by a concrete edge.

Scope of Work:

- The grading of the existing coquina sand to 1 ½" below top of curb.
- The compaction to 60% of the remaining sand above the sub-base.
- The installation of excess graded coquina sand to the area and a 30% compaction resulting in a level walking surface to ½ "from the top of the concrete edge finished elevation.
- This work will require the use of a milling machine and/or a mini excavator or skid steer loader, and hand work.
- The work is to be performed in a continuous manner. Any coquina sand that is moved should be replaced as much as possible at the end of the day. The work area must be returned to usable space at the end of the workday.
- All work areas should be coned and caution taped off at any entry points or dune crossings while work is being performed.
- Work hours are Monday - Friday from 8:30 am until 5:00 pm.
- There is currently an entrance/exit located at both 96th Street and near Haulover Inlet for access and the 96th Street is to be used for limited staging.
- Currently, we do not require an off-duty officer for the project. We will utilize Public Works employees to escort dump trucks and work trucks on and off the job.
- Include 20 cubic yards of new coquina sand if additional sand is required.

Proposals will include all of the necessary items to perform the job. This includes items/materials such as but not limited to:

- Mobilization
- Cones and Caution Tape
- Grading, leveling, compaction of existing material.
- Supply and installation of additional coquina sand

The deadline for the quotes will be Thursday February 8, 2024, at 12:00 pm. These Quotes are to be sent in via email to my email address. I will reply to your email confirming my receipt.

Payment Terms are net 30 DAYS.



Proposal No. 23.1145.R2.BAL

Project : COQUINA BEACH WALK REPAIR

County: MIAMI DADE

Project by: Gyo Cordero

Bid Date: 3-Nov-2023

Revised: 25-Jan-2024

To: Robert Clark
 Phone: 954-684-2039
 Email: rclark@balharbourfl.gov

SCOPE OF WORK:

THE FOLLOWING IS OUR PROPOSAL FOR THE PROJECT ABOVE AS PER SPECIFICATIONS. THE SCOPE OF WORK INCLUDES:

Grading of the existing Coquina Sand to 1 1/2" below top of curb along the jogging path, approx 3122'. Compact 60% of the remaining sand above the sub-base.

Installation of excess graded Coquina Sand to the area and a 30% compaction resulting in a level walking surface to 1/2" from the top of the concrete edge finished elevation.

Include 20 cubic yards of new Coquina Sand if additional sand is required.

This work will require the use of a mini excavator or skid steer loader, and hand work.

Work will be performed in a continuous manner. Any Coquina Sand that is moved should be replaced as much as possible by the end of the day.

All work areas should be coned and caution taped off at any entry points of dune crossings while work is being performed.

Work hours are Monday - Friday from 8:30 am to 5:30 pm.

LUMP SUM: \$50,175.00

EXCLUSIONS:

- a. Bonding, Permits and Inspections fees
- b. Professional Design fees, Surveying Services and As-builts, Testing Laboratory Services.
- c. Prevailing Wages, Night and Weekend Work
- d. Maintenance of Traffic, Police Services, Light Towers
- e. Utilities, Fencing and Sanitary Facilities
- f. Demolition (paving & utilities)
- g. Temporary protection of underground, Adjacent structures including both New & Existing surfaces
- h. Reinforcing, Miscellaneous Metals, Waterproofing, Bond Breaker
- i. Restoring Existing Pavement or Surface Restoration, Integral Colored Concrete Pavement, Pavers
- j. Environmental & Erosion Control, Remove or Plug, Dewatering, Storm Drainage, Sewer Systems.
- k. Sod, landscaping and/or irrigation items
- l. And any other work not specified above in Scope of Work.

All Materials guaranteed to be as specified. Material price subject to industry increase every 6 months. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Client agrees that payments will not be withheld due to any delayed work that is beyond the scope of this contract or any conditions beyond our control. This proposal is void after 30 days. Invoices to be paid Net 30. Overdue accounts are subject to a service charge of 2% of the total outstanding balance per month. Make all payments payable to Concrete Pro Inc.

Submitted by: Gyovania Cordero, Estimator _____

Date: 25-Jan-2024 _____

Acceptance of Proposal:

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined as above.

Owner Print Names & Signature _____

Date: _____

Contractor Print Names & Signature _____

Date: _____

Concrete Pro Inc - 3350 SW 148 AVE. # 110 Miramar, FL - 954-802-4353

EXHIBIT B - NOTICE TO PROCEED

BAL HARBOUR

- V I L L A G E -

JORGE M. GONZALEZ
VILLAGE MANAGER

Date

Concrete Pro Inc.
3350 SW 148 AVE. # 110
Miramar, FL 33027

RE: Agreement - 2024 / Professional Services -Bal Harbour Beach Jogging Path restoration

Ms. Gyovania Cordero:

Please consider this your official Notice to Proceed on the above referenced work/service. You are hereby authorized to proceed with the work as of_____. Contract time will begin to be counted on this day. The work shall be completed within the prescribed timeframe as specified in the contract documents.

The Village has appointed Robert Clark, Operations Manager, Public Works & Beautification Department as the Village's Representative who will be your single point of contact.

If you have any questions, please contact the Village Representative.

Sincerely,

Jorge M. Gonzalez
Village Manager

Cc: Public Works & Beautification Department John Oldenburg, Director
Claudia Dixon, Chief Financial Officer

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING SECTION 2-384, SECTION 6-61, SECTION 18-116, SECTION 18-117, SECTION 21-52 OF THE VILLAGE'S CODE TO REMOVE THE REQUIREMENT OF NEWSPAPER OF GENERAL CIRCULATION AND AUTHORIZE PUBLICATION IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES.

Issue:

Shall the Village Council adopt the ordinance on second reading amending the requirements to publish public notices in newspapers of general circulation as now allowed by Section 50.0311, Florida Statutes?

The Bal Harbour Experience:

- | | | |
|---|---|--|
| <input type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input checked="" type="checkbox"/> Other: <u>Administrative Efficiency</u> | | |

Item Summary / Recommendation:

In 2023 the Florida Legislature amended Section 50.311 Florida Statutes to allow municipalities the ability to publish legal notices and advertisements on a publicly accessible website. Recent price increases and fewer options available for print ads have prompted the Village to explore other available and cost efficient options. The first step in moving forward is to amend sections of the Village Code that require publishing in a newspaper of general circulation. If this ordinance is passed on second reading, the next step would be to enter into an agreement with the provider of a publicly accessible website. The Village Council unanimously approved this item on its first reading at its January 16, 2024 Council Meeting.

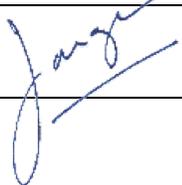
THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Village Clerk Dwight S. Danie		Village Manager Jorge M. Gonzalez
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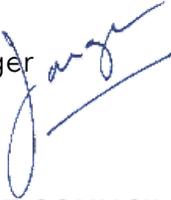


BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: February 20, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING SECTION 2-384 "NOTICE BY PUBLICATION AND NOTICE BY MAIL; SECTION 6-61 "ESTABLISHMENT; DURATION; TERMINATION"; SECTION 18-116 "PUBLICATION OF RESOLUTION"; SECTION 18-117 "ASSESSMENT ROLL"; SECTION 21-52 "SAME-PUBLIC HEARING; NOTICE OF VILLAGE COUNCIL AND LOCAL PLANNING AGENCY HEARINGS" OF THE VILLAGE'S CODE TO REMOVE THE REQUIREMENT OF NEWSPAPER OF GENERAL CIRCULATION AND AUTHORIZE PUBLICATION IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance on second reading.

BACKGROUND

In 2023 the Florida Legislature amended Section 50.311 Florida Statutes to allow municipalities the ability to publish legal notices and advertisements on a "publicly accessible website" which is defined as a county's official website or other private website designated by the county for the publication of legal notices and advertisements that is accessible via the Internet. The Statute allows a governmental agency to use the website for legally required advertisements and public notices if the cost of publishing on such a website is less than the cost of publishing in a newspaper.

The Village primarily has utilized the Daily Business Review (DBR) for publishing all legal ads requiring newspapers of general circulation, and the Miami Herald/El Nuevo Herald (Herald) for publishing legal ads that require placement in a newspaper of largest or widest circulation.

Following the DBR's announcement that on December 21, 2023, it would publish its last printed issue, the Miami-Dade County Municipal Clerks Association hosted a meeting where RealAuction.com, LLC, the provider of the publicly accessible website that the County uses for the publication of their public notices, presented an additional option for municipalities for the publication of all legal notices.

ANALYSIS

This year the budget for advertising legal notices included a total amount of \$2,000 for the DBR, where a typical ad for a 2nd reading ordinance can cost approximately \$120. This same ad would cost approximately \$20,000 in the Herald. A typical election or assessment ad in the Herald can cost approximately \$1,300 to \$3,000 or more. With the removal of the DBR as a publishing option, the only available newspaper of general circulation would be the Herald, which would require an increase in the annual budget for advertising at least an additional estimated \$20,000.

The estimated cost of a website publication would be a flat fee of around \$50 per ad, which substantially lowers the annual budgeted amount for legal advertising to \$1,500. The utilization of a publicly accessible website, with a site unique to the Village, would also eliminate additional costs for ad size, length of notice, number of characters, and duration of publication. In addition, the Village would control the timing of its own publications.

The first step in moving forward in this direction is to amend the sections of the Village Code that require publishing legal ads in a newspaper of general circulation. If this ordinance is passed on second reading, the next step would be to enter into an agreement with the provider of a publicly accessible website. We are still coordinating with Miami-Dade County to secure an agreement for the host site that we will use for future ads. In the meantime, we will continue to place legal advertisements in the Miami Herald to ensure compliance with State and local requirements.

The Village Council unanimously approved this item on its first reading at its January 16, 2024 Council Meeting.

THE BAL HARBOUR EXPERIENCE

Other - Administrative Efficiency - The Village would realize substantial savings in annual costs for legal ads and the publication process would be streamlined.

CONCLUSION

I am recommending that the Village Council pass this Ordinance on second reading to amend parts of the Village Code requiring the publication of legal ads in a newspaper of general circulation.

ORDINANCE NO. 2024____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING SECTION 2-384 "NOTICE BY PUBLICATION AND NOTICE BY MAIL; SECTION 6-61 "ESTABLISHMENT; DURATION; TERMINATION"; SECTION 18-116 "PUBLICATION OF RESOLUTION"; SECTION 18-117 "ASSESSMENT ROLL"; SECTION 21-52 "SAME-PUBLIC HEARING; NOTICE OF VILLAGE COUNCIL AND LOCAL PLANNING AGENCY HEARINGS" OF THE VILLAGE'S CODE TO REMOVE THE REQUIREMENT OF NEWSPAPER OF GENERAL CIRCULATION AND AUTHORIZE PUBLICATION IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 50, Florida Statutes, has been amended to allow municipalities the ability to publish all required notices and advertisements on a publicly accessible website as specified in Section 50.0311, Florida Statutes; and

WHEREAS, pursuant to its Code of Ordinances, the Village of Bal Harbour ("Village") has traditionally advertised and published required notices in newspapers of general circulation; however, there have been recent cost increases and fewer options available for publication in newspapers; and

WHEREAS, as a more cost-effective option, the Village desires to publish its official notices through a publicly accessible website in accordance with Section 50.0311, Florida Statutes; and

WHEREAS, Sections 2-384, 6-61, 18-116, 18-117, and 21-52 of the Village's Code of Ordinances ("Code") include language that limits the Village's options to publish its legal notices only in a "newspaper of general circulation"; and

WHEREAS, the Village desires to amend its Code to remove all limitations to publishing its legal notices in a newspaper of general circulation and to expand its options for publication by adding language to include publication by all permitted sources under Chapter 50; and

WHEREAS, the Village Council finds it is in the best interest of the Village to amend its Code to expand its options for publication that are authorized pursuant to Chapter 50.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above-stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended - Chapters 2, 6, 18, and 21. That Sections 2-384, 6-61, 18-116, 18-117, and 21-52 of the Code of Bal Harbour Village, Florida, are hereby amended to read as follows:¹

CHAPTER 2 - ADMINISTRATION

ARTICLE IX. - ASSESSMENTS

Sec. 2-384. - Notice by publication and notice by mail.

- (a) Upon completion of the Initial Assessment Roll, the Village Clerk shall publish, or direct the publication of, once in a newspaper of general circulation within the Village or otherwise in accordance with Chapter 50, Florida Statutes, as may be amended from time to time, a notice stating that at a meeting of the Village Council on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the Village Council will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of Assessment and approve the aforementioned initial Assessment roll.
- (b) At the same time as the publication of the notice, the Village Clerk shall direct a mailed notice of the public hearing on the Assessment Roll only when and if required pursuant to the requirements of Section 197.3632, Florida Statutes. The published notice and the mailed notice shall conform to the requirements set forth in Section 197.3632, Florida Statutes, as may be amended from time to time, the "Uniform Assessment Collection Act," and may be provided in accordance with Chapter 50, Florida Statutes, as may be amended from time to time.

CHAPTER 6 - BUILDINGS AND BUILDING REGULATIONS

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

ARTICLE III. - BUILDING MORATORIUMS

Sec. 6-61. - Establishment; duration; termination.

(d) The clerk shall give reasonable notice, by publication in ~~a newspaper of general circulation in the Village~~ accordance with Chapter 50, Florida Statutes, as may be amended from time to time, of the public hearing which has been scheduled before the Village Council.

CHAPTER 18 - TAXATION AND FINANCE

ARTICLE V. - OFF-STREET PARKING FACILITIES

Sec. 18-116. - Publication of resolution.

Upon the adoption of the resolution provided for in section 18-115, the Village shall cause the resolution to be published one time in ~~a newspaper of general circulation published in Dade County~~ accordance with Chapter 50, Florida Statutes, as may be amended from time to time.

Sec. 18-117. - Assessment Roll.

(b) Notice of Public Hearing; Publication and Mailing.

(1) Upon the completion of the Assessment Roll, the Village Clerk shall direct the publication of a notice, ~~once in a newspaper of general circulation with the Village~~ in accordance with Chapter 50, Florida Statutes, as may be amended from time to time, stating that a meeting of the Village Council will be held on a certain day and hour, not earlier than 20 calendar days from such publication, at which meeting the Village Council will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of Assessment and approve the aforementioned Assessment Roll.

(2) At the same time, the Clerk shall direct a notice of the public hearing on the Assessment Roll to be mailed pursuant to the requirements of Section 197.3632, Florida Statutes, as may be amended from time to time, the "Uniform Assessment Collection Act.," if required by that statute, ~~or in accordance with Chapter 50,~~ Florida Statutes, as may be amended from time to time.

(3) Both the published notice and the mailed notice shall conform to the requirements set forth in Section 197.3632, Florida Statutes, as may be amended from time to time, the "Uniform Assessment Collection Act," or in accordance with Chapter 50, Florida Statutes, as may be amended from time to time.

CHAPTER 21 - ZONING

ARTICLE II. - ADMINISTRATION

Sec. 21-52. - Same—Public hearing; notice of Village Council and Local Planning Agency hearings.

(b) *Notice of Village Council hearing.* No action on the application shall be taken by the Village Council until a public hearing has been held, upon at least ten days' notice as provided in this Subsection and in accordance with general law.

(1) *Published notice required.* The date, time and place of such hearing shall be published in ~~a newspaper of general circulation in the Village~~ accordance with Chapter 50, Florida Statutes, as may be amended from time to time, at least ten days prior to the date of the hearing. Such notice shall include: (i) the title of each proposed ordinance or resolution or a description of each proposed action, (ii) a statement that all interested parties may appear at the meeting and be heard on the proposed action, and (iii) the places within the Village where the proposed ordinance or resolution or information about the proposed action may be inspected by the public.

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. That 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 16th day of January, 2024.

PASSED AND ADOPTED on second reading this 20th day of February, 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

Issue:

Should the Village Council adopt the Ordinance amending Chapter 21 "Zoning" regulations for Live Local Act 2023?

The Bal Harbour Experience:

- Beautiful Environment Safety Modernized Public Facilities/Infrastructure
 Destination & Amenities Unique & Elegant Resiliency & Sustainable Community
 Other: _____

Item Summary / Recommendation:

In its 2023 Session, the Florida Legislature adopted the "Live Local Act of 2023" for the stated purpose of promoting the development and availability of affordable housing in the State. The Governor signed the bill into law on March 29, 2023.

The Village seeks to amend Chapter 21 by defining terms and revising regulations and procedures to implement the requirements of the Live Local Act, as it may be amended, for the period of time in which it is effective.

The purpose of this Ordinance is to provide uniformity, clarity and predictability to the Village's implementation of the Act, and the Village therefore determines that it is appropriate for all applications for LLA Development to be processed in accordance with the regulations herein, regardless of the timing of such application or submission. Also, any application for LLA Development submitted after the effective date of the Act but before the effective date of this Ordinance shall be subject and processed pursuant to this Ordinance.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.

Sign off:

Director Title	Building Official	Village Manager
Director Name	Eliezer Palacio	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: February 20, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance.

BACKGROUND

Early last year, the Village began to address Code provisions that were outdated, required updating, or addressed matters of concern to the quality of life or our residents. Certain amendments were approved to the "Noise" ordinance, construction site standards, underground parking provisions and certain elements of the Ocean Front district development standards and uses. These amendments were a result of feedback from our residents, concerns over safety and unsightliness of construction sites, resiliency and climate change concerns with underground parking facilities, as well as the overall character of our community. In light of the growing trend of further state preemption of local laws, it is advisable to continue to review our zoning code and make the necessary amendments to bring them up to current standards, address resiliency where needed and implement protections to the character of our community and the quality of life of our residents.

During the 2023 legislative session, the Florida Legislature adopted the "Live Local Act of 2023" (LLA or the Act) for the stated purpose of promoting the development and availability of affordable housing the State. While the stated purpose is admirable and well intended, the act is a significant and further preemption of local authority in zoning matters. The Act specifically preempts the Village from regulating use, height and

density on specific LLA projects that meet specified requirements. The LLA, however, does not entirely preempt local authority and as a result, there are several proposed amendments in this agenda item that are necessary to properly implement the LLA and at the same time protect the built-out character of our community and the quality of life of all our residents.

Therefore, as we continue to review and address Code provisions as mentioned above, it is appropriate to also consider the impacts of the Act and how the Village should best address its implementation and application. A review of other communities who have made amendments to their Zoning Code to address implementation of the Act was conducted and the relevant best practices which would best apply in Bal Harbour Village were identified. In addition, our Village Planner, Michael Miller and Associates was tasked with a similar review and development of recommendations to consider. Lastly, our Village Attorneys were asked to coordinate with staff. This collaboration has resulted in a set of recommended amendments for Village Council consideration that, we believe, capture the best ideas from the review of other communities as well as being tailored to the unique applications in Bal Harbour Village.

At the January 19, 2024 Council Meeting, in response to the overwhelming public comment received from the community regarding the recently received application from the Bal Harbour Shops under the LLA, the Village Council instructed the Village Attorney to explore the feasibility and advisability of establishing a Moratorium to review and address the impacts of the LLA. After careful consideration, the Village Attorney has advised that a Moratorium is not necessary at this time. Instead, staff has worked to develop the necessary code amendments that would ensure proper implementation of the LLA in Bal Harbour. These amendments will ensure that the Village is completely compliant with the Act, while working to both retain the character of our master planned community, as well as ensure that the affordable housing developed is dignified and respectful, and not segregated nor potentially unequal or discriminatory in any way.

Live Local Act

The LLA implements many strategies to accomplish its stated goal. Among them are several preemptions of local government planning and zoning authority. Below is a brief summary of some of the key relevant provisions that affect local government generally found in Section 166.0415(7) of the Act ("Subsection 7"):

(7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed

multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.

(b) A municipality may not restrict the density of a proposed development authorized under this subsection below the highest allowed density on any land in the municipality where residential development is allowed.

(c) A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential development located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.

(d) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the municipality is required if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.

(e) A municipality must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-half mile of a major transit stop, as defined in the municipality's land development code, and the major transit stop is accessible from the development.

(f) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.

(g) Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.

(h) This subsection does not apply to property defined as recreational and commercial working waterfront ins. 342.201(2)(b) in any area zoned as industrial.

(i) This subsection expires October 1, 2033.

The Act imposes various obligations, including the requirement for a municipality to permit mixed-use residential development as an allowable use in any area zoned for

commercial, industrial, or mixed use if at least 40 percent of the residential units are, for a period of at least 30 years, affordable as defined in Section 420.0004, Florida Statutes.

Section 420.0004, Florida Statutes, defines "affordable" as follows:

"Affordable" means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households indicated in subsection (9) [extremely-low-income persons], subsection (11) [low-income persons], subsection (12) [moderate-income persons] or subsection (17) [very-low-income persons]."

"Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

"Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

"Very-low-income persons" means one or more natural persons or a family, not including students as defined herein, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

"Extremely-low-income persons" means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount

annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.

The Village has one commercial zoning district, the B Business District, in which the LLA applies (no industrial or mixed use zoning districts), and the B Business District does not allow residential use. The Village has "Commercial" land use areas (the BHS site / Truist Bank site are the areas that are zoned B). Under subsection 7(f) of the LLA, if less than 20% of the land in a community is designated as "Commercial" on the adopted Future Land Use Map (FLUM), any residential development must be within a mixed-use development (not free-standing). Approximately 4% of the land area in the Village is designated "Commercial". As such, any application under LLA must be "Mixed-Use Residential."

Finally, subsection 7(d) of the Act provides that LLA development applications must be "administratively approved" if the development "satisfies the Village's land development regulations for multifamily developments ... and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.

Furthermore, in recent meetings with members of the State Legislature, we were explicitly advised that the LLA does not preempt anything other than Use, Height and Density; and they reassured us that the various concurrency requirements in our community must be met. Lastly, some legislators encouraged the Village to consider ordinances that would result in the delivery of dignified and respectful housing that would not be segregated nor potentially unequal or discriminatory in any way.

Analysis

The purpose of this Ordinance is to amend Chapter 21, the Village's zoning code, to provide uniformity, clarity and predictability to the Village's implementation of the Act, and the Village therefore determines that it is appropriate for all applications for LLA Development to be processed in accordance with these regulations, regardless of the timing of such application or submission. Also, any application for LLA Development submitted after the effective date of the Act but before the effective date of this Ordinance shall be subject to, and processed pursuant to this Ordinance.

It is the intention of the Village to comply with the Act by adoption of this Ordinance, and provide for affordable housing for Village residents of a quality and character respectful of the dignity of Village residents, in a manner that is not discriminatory to

any resident in terms of their access to the amenities and quality of development in which they reside.

It is not a best practice to rely solely on administrative interpretation to harmonize the requirements of the LLA with those of the Village Code. Therefore, for ease of reference, it is appropriate to amend the B Business District of the Village's Zoning Code in Chapter 21 to specifically reference the statutorily permitted uses and statutorily mandated regulations and processes for LLA Development.

In addition, the Village requires submission of a major site plan amendment pursuant to Section 21-322 of the B Business District of the Code in order to determine that these other requirements are satisfied. The major site plan process requires Village Council approval, but the minor site plan process requires an administrative approval by the Village Manager, considering the review and recommendation of the Village's Architectural Review Board. As a result, this minor site plan process is most similar to the requirements of the Act and most suitable for LLA Development.

After a review of the existing Village Code provisions and a review of best practices from other communities, the Village finds it appropriate and in the public interest that the land development regulations applicable to LLA Development be based on those regulations applicable to development of residential uses in the OF Oceanfront District, in large part because it is the Village's only zoning district that allows more than 45 feet in height. While 56 feet is the height allowed in the B Business District, the preemption introduced by the Live Local Act could allow for much greater height than is already approved. Therefore, the OF Oceanfront District is the only other suitable model.

The proposed amendments to Chapter 21 define terms and revise regulations and procedures to appropriately implement the requirements of the Act, as it may be amended from time to time. Adopting these regulations aligns with best practices followed by other municipalities. Additionally, it streamlines the overarching policy and criteria for maintaining consistency during the review of LLA Development submissions. The most critical concern within our Village is the gradual erosion of its unique character and charm due to the impacts of overdevelopment, which could greatly affect the quality of life of our residents.

ANALYSIS

The Village was completely master-planned and is essentially built-out as an exclusive high-end community, with distinct land use areas (known as Euclidian Zoning). This includes high-rise residential / hotel / resort development along the Atlantic Ocean east of Collins Avenue, low-rise (2-4 story) multifamily development located along the west side on Collins Avenue and at a few other locations within the gated area along Park Drive at the south end of the community or near the Haulover Inlet, single-family

homes within the gated area between Park Drive and the Indian Creek Waterway, the Bal Harbour Shops (BHS) Mall located west of Collins Avenue and north of 96th Street, a small commercial site north of 96th Street between Collins Avenue and Harding Avenue, various municipal facilities (Village Hall / Parks / beach / etc.) and various private open spaces and recreational facilities (passive parks / marina).

The community can be best described as a suburban neighborhood to the City of Miami - clearly not Urban in character in the context of Miami-Dade County. Along Collins Avenue large setbacks have always been required, originally by plat and later by zoning. The beachfront sites are a minimum of 200 feet in width and extend hundreds of feet toward the oceanfront. Shorter buildings / structures like parking garages on the Ocean Front (OF) sites are limited to 22 feet / 2-stories in height and have a 100-foot minimum setback. Towers must have at least a 150' setback from Collins Avenue. The low-rise multiple-family development along the west side of Collins Avenue is limited to 4-stories in height and has a minimum 50-foot building setback. The Village was designed specifically to avoid the appearance of a high-rise "concrete canyon" along its roadways.

The BHS site is generally limited to 3-stories / 56 feet in height with an exception for 5-stories for parking garages (same overall height). A slightly taller (69') carve-out area is allowed within a small portion of the site. All of the single-family homes are limited to 2-stories. Following established urban design guidelines, similar types of land development should follow the same pattern of setbacks, scale, building height, and bulk. The Charter and Code reinforce the above via various land development regulations.

The amended language and new section added to the B Business District for LLA as described below has been drafted to protect and maintain the character of the Village as initially planned:

B" Business District Permitted Uses

The proposed Code amendment will include a new definition for "statutory uses" such as LLA Mixed-Uses per Florida Statute.

(c) Statutory uses: Mixed Use multifamily development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, as it may be amended. For purposes of this section, "Mixed Use" means a combination of residential uses and their amenities with nonresidential uses, where the percentage of FAR devoted to nonresidential uses exceeds 35% of the total FAR. The nonresidential uses shall be those uses allowed as permitted or conditional uses provided in subsections (a) and (b) above.

Please see attached Ordinance which identifies the various proposed amendments.

"B" Business District Maximum Building Height

The proposed amendment will simply include a reference to the 2023 LLA building height exception.

For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, the Village will comply with the building height requirements set forth in section 166.04151(7), F.S., as it may be amended from time to time.

Please see attached Ordinance which identifies the various proposed amendments.

"B" Business District Yards / Setbacks (Sec. 21-319) - The current Code contains those building setbacks created over the years for Village's "B" Business District commercial uses. These were created specifically for a maximum 56-foot height / 3-story commercial development, not high-rise buildings. As the current 2023 LLA potentially allows a developer to utilize a higher standard, staff has analyzed the long-established land development regulations for the OF District to ensure similar types of development utilize the same or similar setbacks and other regulations, as allowed by the LLA.

In the OF District, the original 1946 subdivision plat included a minimum setback from Collins Avenue of 100 feet for any building. Subsequently, as oceanfront development was built, the Village adjusted some of the setbacks and other land development regulations. The current OF District requires a minimum 100-foot setback for parking garages with a maximum height of 22 feet above street grade. Any towers must be set back a minimum of 150 feet from Collins Avenue. As a building gets taller additional setbacks are required.

Similarly the setbacks for other roadways listed in the B Business District are intended for the existing specified commercial development. The existing setbacks are not suited for taller buildings that could overshadow / overscale the adjoining roadways and nearby low-density residential development. Therefore, staff recommends that the Village adopt amendments to the "B" Business District regulations to mandate similar setbacks as have existed in the OF District for decades.

(2) Front Yard Setback for Live Local Act Development. To ensure that the appearance and scale of all taller buildings are consistent as to appearance and separation from the right of way and surrounding uses, the following

front Yard Setbacks from the OF Oceanfront District shall be maintained for development pursuant to the Live Local Act (which allows additional height for mixed use or residential development in the B Business District, based on the maximum building height in the OF Oceanfront District):

a. From Collins Avenue/Bal Harbour Boulevard and Harding Avenues: All buildings and structures used for residential or mixed use of 17 stories or less shall be set back a minimum of 150 feet from the right of way. Each story above the 17th story shall be set back an additional 25 feet from the story below: i.e., 18 stories, 175-foot setback; 19 stories, 200-foot setback; etc. Buildings may comply by either setting back each higher story by the minimum amount or by placing the entire building at the maximum setback from the right of way. Parking Structures used for residential or mixed use shall be set back a minimum of 100 feet from the right of way.

b. From 96th St.: 0 feet for all Buildings, Parking Structures, and all other Structures.

c. From Bal Bay Drive, Park Dr. and Bal Cross Drive: All Buildings and Structures used for residential or mixed use shall be set back a minimum of 100 feet from the property line of the listed roadways. The following requirements shall apply to such Buildings and Structures, including their Parking Structures that are taller than 56 feet (or 69 feet as provided in Section 21-318):

(i) The minimum setback shall be the height of the Building or Structure.

(ii) Each story above the 10th story shall be set back an additional 25 feet from the story below: i.e., 11 stories, 125-foot setback; 12 stories, 150-foot setback; etc.

(iii) Buildings and Structures may comply by either setting back each higher story by the minimum amount or by placing the entire Building or Structure at the maximum setback from the property line of the listed roadways.

Please see attached Ordinance which identifies the various proposed amendments.

“B” Business District Floor Area Ratio (FAR) (Sec. 21-321) - The current state law does not include any preemption allowing an LLA Development to apply a higher FAR from another building or zoning district in the Village; however, were that to change, this provision would apply.

(c) For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida (which allows residential development in the B Business District):

1. FAR shall be determined by the B Business District regulations; if state law later preempts the application of this FAR standard, FAR shall be as defined in Section 21-280 for the OF Oceanfront District, and shall comply with the FAR requirements of the OF Oceanfront District in Section 21-286, so that only the FAR of Parking Structures under 22 feet in height shall be exempt from the calculation of maximum FAR; and

2. The Village will comply with the density requirements set forth in section 166.04151 (7), F.S., as it may be amended from time to time, by applying the density requirements of Section 21-285(1) of the OF Oceanfront District.

Please see attached Ordinance which identifies the various proposed amendments.

“B” Business District Site Plan Review (Sec. 21-322) - The proposed amendments will add revised site plan review procedures for LLA developments, as required by state law. Currently the ARB is required to review and Village Council is required to approve all development in the “B” Business District. The LLA mandates that such development be approved administratively if the project complies with local land development regulations.

Please see attached Ordinance which identifies the various proposed amendments so that the minor site plan process, culminating in approval by the Village Manager, will apply, while the substantive standards for major site plan review will continue to apply.

“B” Business District Administrative Review & Design Criteria for LLA Projects - This new Code section is intended to establish project review procedures and adopt project design criteria for mixed-use development in the district. The recommended project design criteria are similar to the Village’s current ARB review procedures and building criteria. However, as related to mixed-use development, additional criteria is proposed for the residential uses (affordable & market rate housing), and sets forth urban design parameters (breezeways / building lengths / building articulation) to avoid large massive unbroken building appearances.

Please see attached Ordinance which identifies the various proposed amendments assuring the affordability and equity/dignity of the affordable residential uses, and controlling the mass of the mixed use buildings to make them more compatible with the neighboring low intensity residential uses to the north, and to preserve the character of the Collins Avenue corridor.

“B” Business District Off-Street Parking (Sec. 21-381 and 21-382) - The Village’s Code includes separate off-street parking provisions for the Special Business Improvement District. The proposed amendment will require the use of the standard off-street parking regulations for all residential uses, as they differ greatly from the specialized criteria allowed for this exclusive commercial mall.

(d) For development pursuant to the Live Local Act in the B Business District, 100% of required parking spaces for residential uses shall be fully enclosed, designated for residential use only, and integrated into the Building containing the residential units served by that parking. Parking spaces serving any nonresidential uses in the Building open to the public shall be in accordance with the requirements of the Business (B) District.

Please see attached Ordinance which identifies additional Off-Street Parking requirements for residential development in the B Business District pursuant to the Act.

THE BAL HARBOUR EXPERIENCE

By amending the Village Code, the Village would continue to “implement smart policies and strategic solutions to address the challenges of today and to ensure that we remain a Resilient and Sustainable community able to protect our future.”

CONCLUSION

This Ordinance seeks to amend Chapter 21 by defining terms and revising regulations and procedures to implement the requirements of the Live Local Act, as it may be amended, from time to time. The purpose of this Ordinance is to provide uniformity, clarity and predictability to the Village’s implementation of the LLA. In addition, the proposed Ordinance streamlines the overarching policy and criteria for maintaining consistency during the review of LLA Development submissions.

It is recommended that the Village Council adopt the proposed Ordinance on First Reading. It is also recommended that the proposed Ordinance be scheduled for Local Planning Agency review and recommendation and for Second Reading on March 5, 2024.

ORDINANCE NO. 2024____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

WHEREAS, the Bal Harbour Village (the "Village") Council finds it periodically necessary to amend its Code of Ordinances (the "Village Code") in order to update regulations and procedures to implement municipal goals and objectives; and

WHEREAS, Section 166.04151(7), Florida Statutes, as created by Chapter 2023-17, Laws of Florida, known as the Live Local Act of 2023 (the "Live Local Act" or the "Act"), in relevant part, requires municipalities to permit mixed-use multifamily residential development in areas zoned for commercial use if at least 40% of the multifamily residential units are, for a period of at least 30 years, affordable as defined in Section 420.0004, Florida Statutes; and

WHEREAS, the Live Local Act expires on October 1, 2033; and

WHEREAS, the Village seeks to amend Chapter 21 by defining terms and revising regulations and procedures to implement the requirements of the Live Local Act, as it may be amended, for the period of time in which it is effective; and

WHEREAS, the Village has one commercial zoning district, the B Business District, in which the Live Local Act applies (no industrial or mixed use zoning districts), and the B Business District does not allow residential use; and

WHEREAS, Section 166.04151(7)(f), Florida Statutes, provides that, if a municipality has designated less than 20% of the land area within its jurisdiction for commercial or industrial use, it is required to allow multifamily development pursuant to the Act as part of a mixed-use development, and the Village finds and determines that less than 20% of the Village's land area is designated for commercial use; and

WHEREAS, the Act requires that such mixed-use multifamily development (“LLA Development”) involve a combination of residential and nonresidential components, as well as a minimum 40% percentage of residential dwelling units that qualify as affordable housing units; and

WHEREAS, the Act requires that the residential component of LLA Development must be a minimum of 65% of the total square footage of the LLA Development; and

WHEREAS, the Act contains self-executing provisions regarding LLA Development that affect the application of the list of permitted uses and the density and height regulations applicable to such development in commercial zoning districts, and the Village hereby acknowledges and incorporates those mandatory provisions into this Ordinance for ease of reference; and

WHEREAS, rather than rely on administrative interpretation and for ease of reference, it is appropriate to amend the B Business District of the Village’s zoning code in Chapter 21 to specifically reference the statutorily permitted uses and statutorily mandated regulations and processes for LLA Development; and

WHEREAS, the Village finds it appropriate and in the public interest that the land development regulations applicable to LLA Development be based on those regulations applicable to development of residential uses in the OF Oceanfront District, because it is the Village’s only zoning district that allows more than 45 feet in height; greater height is available for development in the B Business District, and the Act’s height preemption introduces the potential for much greater height for LLA Development than is already allowed in the B Business District; and

WHEREAS, the Planned Development option for development in the OF Oceanfront District requires a discretionary rezoning decision of the Village Council, based on the negotiation of a site plan and development agreement that establish development standards which may vary from the OF Oceanfront District standards, so it is therefore not relevant to the application of the Act in the Village; and

WHEREAS, certain modifications to the OF Oceanfront District standards are necessary for them to be applied to LLA Development in the B Business District because mixed use development is not allowed in the OF Oceanfront District as of right; and

WHEREAS, the addition of LLA Development to an existing B Business development is a change that triggers the requirement of the B Business District for a major site plan amendment; and

WHEREAS, the Act provides that LLA Development must be “administratively approved” if it satisfies the Village’s regulations for multifamily developments, and is otherwise consistent with the Village’s Comprehensive Plan and Code requirements (aside from the use, height and density preemptions of the Act), and the Village requires submission of a major site plan amendment pursuant to Section 21-322 of the B Business District of the Code in order to determine that these other requirements are satisfied; and

WHEREAS, the major site plan process requires Village Council approval, but the minor site plan process requires an administrative approval by the Village Manager considering the review and recommendation of the Village’s Architectural Review Board, and is therefore the process most similar to the requirements of the Act and most suitable for LLA Development; and

WHEREAS, the purpose of this Ordinance is to provide uniformity, clarity and predictability to the Village’s implementation of the Act, and the Village therefore determines that it is appropriate for all applications for LLA Development to be processed in accordance with the regulations herein, regardless of the timing of such application or submission, and that any application for LLA Development submitted after the effective date of the Act but before the effective date of this Ordinance shall be subject, and processed pursuant to this Ordinance; and

WHEREAS, it is the intention of the Village to comply with the Act by adoption of this Ordinance, and provide for affordable housing for Village residents of a quality and character respectful of the dignity of Village residents, that is not discriminatory to any resident in terms of their access to the amenities and quality of development in which they reside; and

WHEREAS, the Village Council specifically finds and determines that this Ordinance is necessary to facilitate the orderly development of affordable multifamily housing pursuant to the Act; identify the B Business District as the sole zoning district in the Village eligible for LLA Development; confirm that LLA Development must be mixed-use

residential rather than solely residential as provided by the Act; confirm which land development regulations are applicable to LLA Development, while incorporating the statutory mandates as to density, height and use; confirm the minimum dwelling unit square footage of the residential component in order to provide reasonable living conditions; provide a minimum commercial square footage of 35% to preserve the primary purpose of the B Business District and ensure that the statutory mandate for mixed-use is meaningful; confirm the maximum Floor Area Ratio for LLA Development and how it applies to Parking Structures; and designate the B Business District minor site plan process as the administrative approval process for LLA Development, including provisions for appeals of administrative decisions; and

WHEREAS, the Village Administration recommended approval of this Ordinance in its report for the February 20, 2024 Village Council meeting; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed public hearing in accordance with law on _____, 2024, determined that this Ordinance is consistent with the Village’s Comprehensive Plan, and recommended approval; and

WHEREAS, the Village Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Village Council has determined that this Ordinance is consistent with the Village’s Comprehensive Plan and in the best interest of the public health, safety and welfare.

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

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended - Chapter 21, Article III, Division 11. That Chapter 21 “Zoning,” Article III “District Regulations,” Division 11 “B Business District” of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:¹

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

CHAPTER 21. - ZONING

* * *

ARTICLE III. - DISTRICT REGULATIONS.

* * *

DIVISION 11. - B BUSINESS DISTRICT.

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 or statutory uses:

* * *

(c) Statutory uses: Mixed Use multifamily development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, as it may be amended. For purposes of this section, "Mixed Use" means a combination of residential uses and their amenities with nonresidential uses, where the percentage of FAR devoted to nonresidential uses exceeds 35% of the total FAR. The nonresidential uses shall be those uses allowed as permitted or conditional uses provided in subsections (a) and (b) above.

* * *

Section 21-318. Maximum Building Height.

Except as set forth herein, no Building or Structure in the B Business District shall exceed 56 feet or three Stories in Height, whichever is less. No Parking Structure shall exceed 56 feet or five Stories above the surface parking level in Height, whichever is less. Any Parking Structure which exceeds 36 feet or three Stories shall require a public hearing in accordance with the procedures set forth in Sections 21-51 and 21-52 and the standards set forth in Section 21-53(a). Notwithstanding any other limitation herein, for any

assemblage of contiguous Lots now or hereafter owned by the same owner in the Business District which contains five or more contiguous acres, an area not to exceed 42,600 square feet thereof may, after a public hearing in accordance with the procedures set forth in Sections 21-51 and 21-52 and the standards set forth in Section 21-53(a), contain Structures not to exceed 69 feet in Height. Except as provided below, when a parapet wall is provided, the vertical distance shall be measured from the highest point of any street bounding the property to the highest point of the parapet wall. Parapet walls shall not exceed four feet in Height as measured from the highest point of the roof to the highest point of the parapet wall. Except as otherwise provided herein, a "Story" of a Structure shall be considered to be no greater than 19 feet in Height and a "Story" of a Parking Structure shall be considered to be no greater than 11 feet six inches in Height. For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, the Village will comply with the building height requirements set forth in section 166.04151(7), F.S., as it may be amended from time to time.

Section 21-319. Yards; Setbacks.

* * *

(b) Front Yard Setback.

(1) Front Yard Setback for Commercial Development. The following front Yard Setbacks shall be maintained for commercial development of uses permitted in the B Business District as permitted or conditional uses:

- a. From Collins/Bal Harbour Boulevard and Harding Avenues: 1. 50 feet for Buildings occupied and used for the sale of merchandise or services at retail. 2. 100 feet for Parking Structures and all other Structures.
- b. From 96th Street: 7.5 feet for all Buildings, Parking Structures and all other Structures.
- c. From Bal Bay Drive: 20 feet for all Buildings, Parking Structures and all other Structures.

d. From Park Drive: 100 feet for all Buildings, Parking Structures and all other Structures.

e. From Bal Cross Drive: 50 feet for all Buildings, Parking Structures and all other Structures.

(2) Front Yard Setback for Live Local Act Development. To ensure that the appearance and scale of all taller buildings are consistent as to appearance and separation from the right of way and surrounding uses, the following front Yard Setbacks from the OF Oceanfront District shall be maintained for development pursuant to the Live Local Act (which allows additional height for mixed use or residential development in the B Business District, based on the maximum building height in the OF Oceanfront District):

a. From Collins Avenue/Bal Harbour Boulevard and Harding Avenues: All buildings and structures used for residential or mixed use of 17 stories or less shall be set back a minimum of 150 feet from the right of way. Each story above the 17th story shall be set back an additional 25 feet from the story below: i.e., 18 stories, 175-foot setback; 19 stories, 200-foot setback; etc. Buildings may comply by either setting back each higher story by the minimum amount or by placing the entire building at the maximum setback from the right of way. Parking Structures used for residential or mixed use shall be set back a minimum of 100 feet from the right of way.

b. From 96th St.: 0 feet for all Buildings, Parking Structures, and all other Structures.

c. From Bal Bay Drive, Park Dr. and Bal Cross Drive: All Buildings and Structures used for residential or mixed use shall be set back a minimum of 100 feet from the property line of the listed roadways. The following requirements shall apply to such Buildings and Structures, including their Parking Structures that are taller than 56 feet (or 69 feet as provided in Section 21-318):

(i) The minimum setback shall be the height of the Building or Structure.

(ii) Each story above the 10th story shall be set back an additional 25 feet from the story below: i.e., 11 stories, 125-foot setback; 12 stories, 150-foot setback; etc.

(iii) Buildings and Structures may comply by either setting back each higher story by the minimum amount or by placing the entire Building or Structure at the maximum setback from the property line of the listed roadways.

(23) Interior, side and rear Yards. There shall be interior, side and rear Yards having a width of not less than seven feet six inches on each side of a Building or Structure, including Parking Structures.

(34) Waterfront Setback. There shall be a waterfront Setback of 40 feet, as measured from the outside face of the Seawall.

* * *

Sec. 21-321. - Floor Area Ratio and Density.

(a) The maximum allowable Floor Area Ratio for the B Business District shall be FAR 0.70.

(b) The maximum allowable Floor Area Ratio for the Special Business Improvement Area shall be FAR 1.22.

(c) For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida (which allows residential development in the B Business District):

1. FAR shall be determined by the B Business District regulations; if state law later preempts the application of this FAR standard, FAR shall be as defined in Section 21-280 for the OF Oceanfront District, and shall comply with the FAR requirements of the OF Oceanfront District in Section 21-286, so that only the FAR of Parking Structures under 22 feet in height shall be exempt from the calculation of maximum FAR; and

2. The Village will comply with the density requirements set forth in section 166.04151 (7), F.S., as it may be amended from time to time, by applying the density requirements of Section 21-285(1) of the OF Oceanfront District.

Sec. 21-322. - Site plan review.

(a) *Definitions and Applicability.*

(1) For purposes of this section and Section 21-323, the following terms are defined:

a. *Adjacent* shall mean contiguous with, or located immediately across any roadway, right-of-way or easement from, a development site that is subject to this section.

b. *Development* shall mean (1) construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of a building or structure; or (2) any change in the use or intensity of use of any building, structure or use of land. When appropriate to the context, development refers to the act of development or to the result of development.

c. *Development Site* shall mean a lot, tract or parcel of land, or combination of lots, tracts or parcels of land, which has been developed or is proposed to be developed as a unified project.

d. *Municipal Building* shall mean a Building, Structure or other improvement owned by the Village.

e. *Exterior Facing* shall mean work subject to this section or Section 21-323 which faces a property which is not owned by the applicant, or is not located in the B Business District.

f. *Interior* shall mean work subject to this section or Section 21-323 which is not Exterior Facing.

(2) 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, including an amendment to a previously approved site plan, that would result in one or more of the following:

a. A horizontal shift of the exterior-facing boundaries of the existing building footprint of any Structure which results in an increase in Floor Area Ratio or lot coverage;

b. An increase in the height of any existing Structure;

c. Alterations to existing physical features affecting traffic circulation or access patterns between the site and any right-of-way; or

d. A change in use of a Structure, or any part thereof, to a Conditional Use or Statutory Use as listed in Section 21-316.

e. A reduction or relocation of more than ten percent of the parking spaces existing on a Development Site.

* * *

(4) A site plan application for LLA Development shall be presumed to be a major site plan. Any site plan application shall be presumed to be a major site plan unless the applicant demonstrates to the satisfaction of the Village Manager or designee that the proposed Development and/or Conditional Use will not significantly alter existing impacts to Adjacent premises or significantly increase the burden on existing infrastructure or public services, in which case it shall be reviewed as a minor site plan. In evaluating such impacts, the Village Manager or designee shall consider, as appropriate for the circumstances of the application:

- a. The extent to which the Development would create or alleviate environmental problems such as air or water pollution or noise;
- b. The amount of pedestrian or vehicular traffic likely to be generated;
- c. The number of persons, including employees, likely to be present;
- d. The size of the Development;
- e. The likelihood that additional or subsidiary Development will be generated; and
- f. The extent to which the Development would create an additional demand for, or additional use of, energy, water, sewer capacity, road infrastructure, and other public services.

(b) *Application.* The application shall be in a form prescribed by the Village Manager or designee, 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 or designee to determine whether the application involves a minor or major site plan, and whether any additional supporting documentation is required for review. A minor site plan application shall be accompanied by a nonrefundable fee of \$1,02,500.00. A major site plan application shall be accompanied by a nonrefundable application fee of \$3,5,000.00. 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 \$3,5,000.00. 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 Applications.

(1) *Procedure.* A minor site plan application shall be evaluated by the Village Manager or designee, for compliance with the criteria described in sub-paragraph (f) of this section. If the Village Manager or designee determines that more information is warranted, additional materials that are reasonably related to the application may be requested from the applicant. The Architectural Review Board shall review the application in accordance with sub-paragraph (d) below, and the Board's comments and recommendation, if any, shall be provided to the Village Manager or designee. The Village Manager or designee shall review the application, and the comments and recommendations of the Architectural Review Board, if any, and shall render a final written decision on the application within 21 days of the Architectural Review Board meeting on the application. At least seven days prior to the Village Manager or designee rendering a final decision, posted notice regarding the application shall be provided on the property and at a conspicuous location at Village Hall. The posted notices shall provide that any interested person may contact the Village Clerk and request a written notice of the final decision on the application. In issuing the final decision, the Village Manager or designee may attach conditions including, but not limited to, requirements for 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. The final written decision of the Village Manager or designee shall be mailed to the applicant and to any interested parties who have requested written notice of the decision, along with instructions on the process for an appeal.

(2) *Expiration.* 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.

(3) *Appeal.* If the applicant, or any other substantially affected party, disagrees with the final decision of the Village Manager or designee, the decision may be appealed by filing a written request with the Clerk accompanied by a \$1,500.00 appeal fee within 15 days of the date of 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 and shall have the power to approve, reverse or modify the decision of the Village Manager or designee. At its 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) *Advisory Review of Site Plan Applications by the Architectural Review Board.* The Architectural Review Board shall review each major and minor site plan application.

(1) *Criteria for ARB Review.* The Board shall evaluate the application under the following review criteria, and the design and aesthetic appearance of the site and Buildings. Definitions of capitalized terms shall be as defined in this Chapter and Section 5.5-2 of the Code.

a. The Exterior Building Components and External Architectural Features shall have Attractive and cohesive Architectural Character.

b. The orientation, appearance and design of External Architectural Features of new and existing Buildings and Structures, and/or additions or modifications to existing Buildings and Structures, shall indicate sensitivity to and shall be compatible with the Streetscape and Adjacent Buildings and Structures, enhance the appearance of surrounding properties, and create or maintain important view corridor(s).

c. Landscaping and paving materials shall ensure a cohesive relationship with and enhancement of the overall site plan design.

d. Buffering materials shall ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, Adjacent properties and pedestrian areas.

e. Colors shall be subtle and harmonious with the Landscaping and nearby Buildings and Structures. Bright or brilliant colors shall be used for accent only.

f. All rooftops of buildings with flat roof decks, including parking garage roof decks, shall be designed to minimize negative appearances by screening Mechanical Equipment and Utility Hardware, and by minimizing the ponding of stormwater through use of drains and scuppers. Rooftops shall be designed to allow for the continued maintenance of the roof surface in an attractive manner in accordance with Section 21-324.

g. Mechanical Equipment and Utility Hardware on roofs, ground or buildings shall be screened from public view with materials harmonious with the building, or shall be located so as not to be visible from streets, Waterways, service alleys, and adjoining properties. Screening shall be of such material and color so that it matches or blends with the existing roof or portion above the top floor where it is installed. This provision shall not be interpreted to require screening of Mechanical Equipment and Utility Hardware from adjoining buildings that may exceed the height of the rooftop upon which the Mechanical Equipment or Utility Hardware is installed. In this instance, only screening to the maximum height of the equipment or hardware is required.

h. The choice of materials and their usage shall be conducive to regular maintenance and durability in accordance with Section 21-324.

(2) *Conditions.* The Board may recommend to the Village Manager or designee specific conditions to address potential incompatibility, to better address the applicable criteria, or other impacts to surrounding properties.

(3) *Additional Reviews.* The initial review by the Board is mandatory for each site plan application proposed. All subsequent reviews by the Board, should they be requested, are at the option of the applicant.

(4) *Response to ARB Review.* 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 included within the staff report to the Village Manager (for an application for minor site plan approval) or the Village Council (for an application for major site plan approval), as applicable.

(e) *Staff Review of Site Plan Applications.* The Village Manager or designee shall review the application when complete and shall prepare a staff report to the Village Council (for an application for major site plan approval), or to the Architectural Review Board (for an application for minor site plan approval), as applicable, including (without limitation) an assessment of whether the review criteria of Section 21-322(d)(1) are met. The staff report shall include a recommendation for approval, approval with conditions, or denial of the site plan.

(f) *Village Council Determination of Major Site Plan Applications.* The Village Council shall consider the major site plan application 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 application. In rendering its decision, the Village Council shall consider the Village Manager or designee's recommendation. Approval of the proposed application and intended use shall require a finding that the major site plan and intended use(s):

(1) 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

(2) Will not create excessive noise, traffic, illumination or other adverse impacts; and

(3) 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

(4) 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 application, 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.

(g) *Extensions of Major Site Plan Approvals.* Failure to obtain a building permit within 18 months of the Village Council's approval of the application shall render the major site plan void, unless after good cause shown, an extension to this timeframe has been granted by the Village Council. The major site plan extension shall be advertised and noticed in the same manner as a major site plan application. The Village Council shall consider the Village Manager or designee's recommendation on the major site plan extension and render its decision after a public hearing.

(h) *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: (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 major 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.

(i) Administrative Review and Design Criteria of Live Local Act Development.

(1) Definitions. For purposes of this subsection (i), the following terms are defined:

a. The Live Local Act or the Act means the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, as it may be amended.

b. LLA Development means mixed use multifamily development pursuant to the Act. All components of the LLA Development shall be located on the same parcel or on one unified parcel.

(2) Intent. The Act requires that the Village allow LLA Development in the B Business District even though this district does not permit residential use. The Act further requires that the Village allow height, density and use inconsistent with the otherwise applicable requirements of the Code. LLA Development shall comply with all requirements of the Code for such development unless otherwise specified for LLA Development in the B Business District. The Village Manager shall review and approve a major site plan or major site plan amendment for LLA Development, if:

a. no further action by the Village is required (e.g., no variance, conditional use or other approval is required); and

b. the proposed development satisfies the land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use, in the manner further specified herein.

(3) Review Process. The review process shall assure that LLA Development satisfies all requirements of the Act, as well as the Village Comprehensive Plan and Code provisions that are not preempted by the Act for a major site plan, and all other applicable laws. LLA Development shall follow the minor site plan process, with review by the Administration of whether the LLA Development satisfies all requirements of law, including (without limitation) the review criteria of Section 21-322(d)(1) and other requirements for major site plan approval, a recommendation by the ARB, and administrative approval by the Village Manager rather than approval by the Village Council.

(4) Density and height.

a. The maximum density of a residential component of an LLA Development is the highest allowed density on any land in the Village where residential development is allowed (55 dus/acre).

b. The maximum height of a residential component of an LLA Development shall be the highest currently allowed for a commercial or residential development within the Village and within 1 mile of the proposed development, or 3 stories, whichever is higher.

c. When determining "highest allowed density" or "highest currently allowed height," the following shall not be considered:

(i) an LLA Development;

(ii) a development that is not in compliance with the current zoning code (such as non-conforming structures); and

(iii) a development with increased height or increased density, if any, allowed as a bonus or incentive, or as a variance.

(5) Standards for LLA Development Residential Components. LLA Development shall meet all requirements for major site plan approval. As LLA Development is the only type of development in the B Business District allowed to include residential uses in a mixed use project, the following additional standards are provided to assure that such residential

development is equitable, is consistent with the quality of Village development, and avoids discrimination against any Village resident.

a. Required residential and non-residential uses.

(i) Residential uses. At least 65 percent of the total square footage of a LLA Development shall be used for residential purposes. Lobby, service areas, and amenity areas exclusively serving the residential uses of the LLA Development shall not be considered residential square footage. Common/shared ground floor lobby, service areas, and amenity areas shall be proportionately allocated to the residential and non-residential square footage requirements.

(ii) Non-residential uses. A minimum 35 percent of the total square footage of the LLA Development shall be devoted to main or principal (and not accessory) nonresidential uses. Retail or restaurant uses shall be located on the first 75 feet of the ground floor of any Building of the LLA Development facing Collins Avenue/Bal Harbour Boulevard and Harding Avenues or 96th Street.

b. Equivalency of affordable dwelling units.

(i) No segregation of units. Affordable dwelling units and market rate units within an LLA Development shall be located within the same Building or shall be proportionately distributed between multiple Buildings, if multiple Buildings are proposed. In no event shall an LLA Development Building's residential component consist entirely of market rate units.

(ii) Equal access to amenities. All common areas and amenities within an LLA Development shall be equally accessible and available to all residents (both affordable and market rate units).

(iii) Equal access to units. Access to the required affordable dwelling units in an LLA Development shall be provided through the same principal entrance(s) and with the same elevators/stairwells utilized by market rate dwelling units in the development. For townhouse-style affordable dwelling units, each unit shall have its own entrance.

(iv) Equal access to parking. Parking for affordable dwelling units shall be provided in the same manner, with the same level of convenience and proximity as parking for market rate units.

(v) Equal quality of construction and common areas. The design and construction of the affordable dwelling units and associated common areas shall be of the same quality as the design and construction of the market rate units and associated common areas.

(vi) Equal provision of a range of unit types. The number of each type of affordable dwelling unit provided in an LLA Development shall be approximately proportional to the number of each type of market rate unit in the LLA Development, with type determined by the number of bedrooms. For purposes of this subparagraph, "approximately proportional" shall mean that the percentage of each type of unit among the affordable dwelling units shall be within 5 percentage points of the percentage of each type of unit among the market rate dwelling units (e.g. if 25 percent of the market rate units are two-bedroom units, then between 20 percent and 30 percent of the affordable units shall also be two-bedroom units, etc., maintaining an approximately proportional distribution of affordable and market rate units and unit types within the LLA Development). If the 5 percent calculation results in less than a full unit, then the amount shall be rounded up and "approximately proportional" shall mean a difference of one unit.

d. Affordability commitment. Pursuant to the Act, at least 40 percent of the residential units within a proposed LLA Development shall be "affordable" as defined in Section 420.0004, Florida Statutes, and shall remain affordable for a period of at least 30 years. This requirement shall be incorporated as a condition of any administrative approval of an LLA Development. Furthermore, as a prerequisite to the issuance of a building permit, the Owner shall execute and deliver to the Village for recordation in the public records, on a form approved by the Village Attorney, a deed restriction in favor of the Village ensuring compliance with, and enforcement of, this affordability requirement. Additionally, the property owner shall provide to the Village, each year on January 15, copies of all leases then in

effect for the affordable units, together with such other documentation necessary to demonstrate that such leases meet the affordability criteria as set forth in Section 420.0004, Florida Statutes, and confirm that the occupants of the affordable units meet the requirements of the income standards. The Village has the right to audit the evidence of compliance with Section 420.0004, Florida Statutes, at any time if warranted.

e. Tower articulation. To avoid large unbroken “boxy” massing appearances of taller Buildings and Parking Structures, the Village adopts the following required design criteria.

(i) Length of Building or Parking Structure. For Buildings or Parking Structures over 56 feet in height, the maximum overall length of any single Building or Parking Structure in a linear shape, with no breaks or angles greater than 15 degrees, shall not exceed 200 feet, as further regulated by the requirements provided below.

(ii) Breezeways. For purposes of this section, a “breezeway” is an open area that divides two buildings or structures, or parts of buildings or structures, that may be crossed by a path or bridge. A Building or Parking Structure may exceed 120 feet in length if breezeways divide such Building or Parking Structure, into parts not exceeding 120 feet in length. Such breezeways shall have a minimum unobstructed width of at least 20 feet for their entire length. Components of a Building(s) or Parking Structure(s) may be connected through bridges, which may have covers. The top floor bridge may be covered by the roof of the overall Building or Parking Structure.

(iii) Distance Between Buildings/Parking Structures. The minimum distance, unobstructed, between Buildings and Parking Structures on a lot, plot or parcel of land shall be 20 feet.

(iv) Alternative Design. Notwithstanding the above, the Village may modify the application of this tower articulation requirement in instances where enhanced architectural articulation and detailing is provided on the Building or Parking Structure facade(s) to break the massing of the Building or Parking Structure.

* * *

Section 3. Village Code Amended - Chapter 21, Article V. That Chapter 21 "Zoning," Article V "Off-Street Parking" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:

CHAPTER 21. - ZONING

* * *

ARTICLE V. - OFF-STREET PARKING.

* * *

Sec. 21-381. - Generally.

(a) Except as otherwise provided in this chapter, when any Building or Structure is erected or structurally altered, off-street parking spaces shall be provided in accordance with the regulations set out in this article.

(b) In the Ocean Front (OF) District, 100 percent of required parking spaces shall be contained in a fully enclosed Parking Structure.

(c) In all other zoning districts, off-street parking spaces may be located in surface parking facilities open to the sky, or within enclosed parking garages.

(d) For development pursuant to the Live Local Act in the B Business District, 100% of required parking spaces for residential uses shall be fully enclosed, designated for residential use only, and integrated into the Building containing the residential units served by that parking. Parking spaces serving any nonresidential uses in the Building open to the public shall be in accordance with the requirements of the B Business District.

Sec. 21-382. - Interpretation of requirements.

(a) *Alterations and change in use.* Whenever a Building, Structure or use is enlarged by the addition of floor area, number of units, employees, seating capacity or otherwise, which

creates a requirement for increased off-street parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(b) *Change in use.* When the use of any Structure or premises is changed, in total or part, to a different use, parking spaces shall be provided on the basis of the change in use.

(c) *Mixed uses.* In the case of mixed uses within a Building or Structure, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, unless otherwise approved by the Village Council, based on a traffic study, or parking study or both submitted by the applicant meeting the technical specifications required by the Village Manager. For development pursuant to the Live Local Act in the B Business District, the Village Manager shall require the same studies and may approve any parking variations based on the internalization of uses or sharing of parking based on his reasonable determination of whether the study findings are professionally acceptable.

* * *

(m) *Tandem parking.* Tandem parking is a parking layout in which one or more automobiles must be moved in order to retrieve another automobile. Where tandem parking is employed, full-time parking attendants are required, and no self-parking shall be permitted, and tandem parking must not be more than two stalls in depth. The restrictions of this paragraph, requiring parking attendants and prohibiting self-parking, shall not apply if the tandem parking spaces which restrict access to one another are assigned to the same occupancy or dwelling unit, in accordance with a restrictive covenant filed in the official records of Miami-Dade County, Florida, and approved as to legal form and sufficiency by the Village Attorney. Where tandem parking is employed in a Special Business Improvement District, spaces shall not be limited to a two-stall depth but shall meet all other requirements for the Special Business Improvement Area. However, if residential uses are provided pursuant to the Live Local Act, tandem stalls shall not be used for the parking constructed to serve the residential components since tandem parking is not allowed for any residential uses.

* * *

(q) *Special Business Improvement Area.* These provisions shall supersede any other provisions in this section which may be in conflict, except as provided for herein.

(1) *Number of spaces.*

a. *Permanent Parking Ratio.* 2.1 permanent parking spaces for each 1,000 square feet of 90 percent of gross floor area. For residential development proposed under the Live Local Act, the off-street parking requirements for Multiple-Family residential uses in Section 21-384(2) of the OF Oceanfront District shall apply to the parking constructed to serve the residential components. The flex parking ratio and the potential reductions in parking ratios in b. and c. below shall not apply to such residential development, but will apply to the nonresidential uses.

b. *Flex Parking Ratio.* Recognizing the seasonal nature of population, tourism, business activity and parking demand in the Village of Bal Harbour, parking plans whereby spaces designed and normally used for self-parking may be converted to valet parking layout and operations to increase the parking ratio to 2.9 parking spaces for each 1,000 square feet of 90 percent of the gross floor area and higher. The capacity of the parking facility in the valet parking layout shall be used in determining the adequacy of the parking supply. The valet layout need not be striped or have bumper guards or wheel stops. In the event the property owner intends to utilize flex parking for more than six continuous months, the property owner shall provide written notice to the Village Manager of the scope of its intended use.

c. *Reductions in Permanent and Flex Parking Ratios.* The permanent parking ratio may be reduced below 2.1 but no lower than 1.8 permanent parking spaces, and the flex parking ratio may be reduced below 2.9 but no lower than 2.3 flex parking spaces, upon presentation of a professionally acceptable parking report by a parking expert demonstrating that over the immediate prior twenty-four consecutive months, parking utilization in the facility remained below the proposed reductions in the permanent and flex parking ratios 85 percent of the time. The analysis of the permanent parking ratio shall exclude peak season (peak season is defined as November 1 to April 1, excluding the week of Thanksgiving, December 16 to January 2, and the week of Art Basel).

* * *

(6) *Minimum dimensions.* Parking layouts shall conform to the minimum requirements of this section. For any residential development proposed under the Live Local Act, the minimum parking lot design criteria listed in Section 21-385(a)-(p) for Multiple-Family residential uses shall apply to the parking constructed to serve the residential components.

* * *

(8) *Mechanical Parking:* Mechanical parking, including mechanical lifts and stackers, shall be permitted and shall count towards permanent or flex parking ratios. Mechanical parking may not be placed in surface parking lots located along Collins Avenue or 96th Street. Mechanical parking structures shall not be interpreted to be structures as defined by this Chapter, and shall be subject to the screening requirements of Section 21-386. For any residential development proposed under the Live Local Act, mechanical parking facilities are prohibited for the parking constructed to serve the residential components to assist in reduced construction costs, living costs, and safety concerns for those residents.

* * *

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. That 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 become effective upon adoption on second reading. This Ordinance shall apply only to building permits for which a process number is issued after the effective date of this Ordinance.

PASSED AND ADOPTED on first reading this 20th day of February, 2024.

PASSED AND ADOPTED on second reading this ___ day of _____, 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 10 "OF OCEAN FRONT DISTRICT" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

Issue:

Should the Village Council adopt the Ordinance amending Chapter 21 "Zoning" regulations pertaining to the OF District?

The Bal Harbour Experience:

- Beautiful Environment Safety Modernized Public Facilities/Infrastructure
 Destination & Amenities Unique & Elegant Resiliency & Sustainable Community
 Other: _____

Item Summary / Recommendation:

Early last year, the Village began to address Code provisions that were outdated, required updating or addressed matters of concern to the quality of life of our residents.

These additional Code revisions are being recommended to continue to update "outdated" Code provisions. These initial Code amendment proposals are general Code updates to the definition of Floor Area Ratio (FAR), and PD Planned Development District.

In light of the growing trend of further state preemption laws, it is advisable to continue to review our zoning code and make the necessary amendments to bring them up to standards, address resiliency where needed and implement protections to the character of our community and the quality of life of our residents.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Director Title	Building Official	Village Manager
Director Name	Eliezer Palacio	Jorge M. Gonzalez



BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: February 20, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 10 "OF OCEAN FRONT DISTRICT" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance.

BACKGROUND

Early last year, the Village began to address Code provisions that were outdated, required updating or addressed matters of concern to the quality of life or our residents. Certain amendments were approved to the "Noise" ordinance, construction site standards, underground parking provisions and certain elements of the Ocean Front district development standards and uses. These amendments were a result of feedback from our residents, concerns over safety and unsightliness of construction sites, resiliency and climate change concerns with underground parking facilities, as well as the overall character of our community. In light of the growing trend of further state preemption of local laws, it is advisable to continue to review our zoning code and make the necessary amendments to bring them up to current standards, address resiliency where needed and implement protections to the character of our community and the quality of life of our residents.

These additional Code revisions are being recommended to continue to update "outdated" Code provisions. These initial Code amendment proposals are general Code updates to the definition of Floor Area Ratio (FAR), Site Plan submittal requirements, and off-street parking and driveway designs. As you know, many of the existing Code provisions date back to the Village's original 1974 Zoning Code with only a few targeted updates over the years. It is appropriate to continue to review and amend our Code to ensure that we are current and able to address the development climate that exists today and into the future. It is through the Village Code that the Village can best nurture the character of our built-out community as well as ensure the highest quality of life for our residents. Further revisions may be necessary and we will

bring those recommendations to you as warranted. In the meantime, the proposed amendments in this agenda item are ready for your consideration.

As you will recall, on September 19, 2023, the Village Council approved two ordinances amending Chapter 21, "Zoning" and Underground Parking Regulations in the OF Oceanfront District. Since the adoption of these regulations, administration and staff has continued to review our code and have identified further amendments to Chapter 21 "Zoning" Article III "District Regulations" Division 10 "OF Oceanfront District" as related to Floor Area Ratio that are advisable.

ANALYSIS

The Village was completely master-planned and is essentially built-out as an exclusive high-end community, with distinct segregated land use areas (known as Euclidian Zoning). This includes high-rise residential / hotel / resort development along the Atlantic Ocean east of Collins Avenue, low-rise (2-4 story) multifamily development located along the west side on Collins Avenue and at a few other locations within the gated area along Park Drive at the south end of the community or near the Haulover Inlet, single-family homes within the gated area between Park Drive and the Indian Creek Waterway, the Bal Harbour Shops (BHS) Mall located west of Collins Avenue and north of 96th Street, a small commercial site north of 96th Street between Collins Avenue and Harding Avenue, various municipal facilities (Village Hall / Parks / beach / etc.) and various private open spaces and recreational facilities (passive parks / marina).

The community can be best described as a suburban neighborhood to the City of Miami - clearly not Urban in character. Along Collins Avenue large setbacks have always been required originally by plat and later by zoning. The beachfront sites are a minimum of 200 feet in width and extend hundreds of feet toward the oceanfront. Shorter buildings / structures like parking garages on the Ocean Front (OF) sites are limited to 22 feet / 2-stories in height and have a 100-foot minimum setback. Towers must have at least a 150' setback from Collins Avenue. The low-rise multiple-family development along the west side of Collins Avenue is limited to 4-stories in height and has a minimum 50-foot building setback. The Village was designed specifically to avoid the appearance of a high-rise "concrete canyon" along its roadways.

The BHS site is generally limited to 3-stories / 56 feet in height with an exception for 5-stories for parking garages (same overall height). A slightly taller (69') carve-out area is allowed within a small portion of the site. All of the single-family homes are limited to 2-stories. Following established urban design guidelines, similar types of land development should follow the same pattern of setbacks, scale, building height, and bulk. The Charter and Code reinforce the above via various land development regulations.

The OF District is mapped on the east side of Collins Avenue. The properties are zoned OF unless they have gone through the process of Planned Development PD review and rezoning, which is only available for larger properties and is a negotiated process that requires approval of a development agreement. The proposed ordinance does not change the PD standards, but it does clarify that the FAR applicable to a PD is that approved by the plan and the development agreement for the PD. The OF district allows multi-family residential and hotel uses, and specifically provides for and regulates a number of limited accessory and commercial uses. All Village zoning districts, including the OF District, are also regulated by supplemental regulations and requirements for off-street parking and loading. The proposed amendments in this agenda item will not impact existing buildings in the OF District all of which are "grandfathered" in, as provided in the effective date clause.

The amended language has been drafted to protect and maintain the character of the Village as initially planned, as described below:

Definitions (Sec 21-280)

The Florida Statutes do not contain a definition for Floor Area Ratio (FAR) to our knowledge; the Community Planning Act does use the concept in defining urban infill in Section 163.3164(49). However, a common definition is readily available by dictionary and most local government codes include a similar definition. The Village Code has had an overall definition of FAR for many years in Sec. 21-1 (Gross Floor Area (GFA), as defined by the Code¹, less any listed exception areas). Within each Zoning District the individual allowances of what GFA allows (compare max. 22' hgt. above grade / 2-story parking garages in OF District with max. 56' hgt. / 5-story parking garages in the Business District above grade). The companion Ordinance revising Chapter 21 makes reference to each zoning district's specific FAR regulations as follows:

Sec. 21-1. Definitions and rules of construction.

Floor Area Ratio (FAR) means the Gross Floor Area, not including Parking Structures unless otherwise defined or required by the applicable regulations for the Zoning District, on a Lot or Project Site, divided by the Lot area or Project Site area. (For example, a Building containing 20,000 square feet of floor area on the zoning Lot of 10,000 square feet has a Floor Area Ratio of 2.0).

This Ordinance clarifies how FAR applies for development using the OF development standards, by incorporating reference to the OF height limit for parking garages.

¹ *Gross Floor Area* means the area of all Structures, including all floors but excluding mezzanines, elevator shafts, emergency stairwells, trash chutes, other vertical mechanical spaces and open balcony areas, measured to the outside of the Structure at each floor.

“Floor Area Ratio (FAR)” means the Gross Floor Area, not including Parking Structures up to 22 feet in height per Section 21-288(4), on a Lot or Project Site, divided by the area of the Lot or Project Site. (For example, a Building containing 20,000 square feet of floor area on a Lot or Project Site of 10,000 square feet, with a Parking Structure that is 22 feet in height, has a Floor Area Ratio of 2.0).

Maximum Floor Area Ratio (Sec 21-286)

The current Village Code section now allows a FAR of 2.80. In earlier years, that ratio was different, as reflected by some older buildings that still exist. The OF District has long established setbacks, from the 1946 Subdivision Plat and later in the Zoning Code Regulations. These setbacks are essential to the pedestrian and driver experience one enjoys when traveling along our major thoroughfare and residing in our community. That open and natural feeling created by these setbacks are a critical design/planning element that distinguishes Bal Harbour Village from many other communities.

The proposed amendment establishes a new FAR of 1.30. The amendment, however, creates a mechanism for a developer to acquire additional “bonus” density as an incentive for development to help guide the design toward the desired outcomes. The bonus mechanism proposes two bonus opportunities should a prospective developer meet the required guidelines. These bonuses are not mutually exclusive and a prospective developer can choose to meet either or both of the bonus opportunities, with the resulting development limited to a maximum FAR of 2.8. A review of existing OF development reveals that most current buildings comply with this design/planning element; however, any existing building that does not meet the bonus established will be considered legal-nonconforming, and no further action would be required of them.

Sec. 21-286. - Maximum Floor Area Ratio.

The Floor Area Ratio in the OF Ocean Front District shall not exceed ~~2.8~~ 1.3 to one, exclusive of floor area within enclosed Parking Structures devoted entirely to off-street parking and those floor areas listed in section 21-1 that are excluded in the definition of Floor Area Ratio. The Floor Area Ratio calculation in the OF Ocean Front district may include the area of the Project Site located east of the platted Lot and west of the erosion control line.

OF development may achieve additional FAR if it complies with additional incentives for development to be compatible with adjacent development(s) and the surrounding neighborhood, and to mitigate any adverse impacts from the proposed development. The OF Development

may qualify for one or both of the incentives, but in no event shall the maximum FAR exceed 2.8:

(a) A bonus of 0.50 FAR applies if nonresidential uses, excluding amenities exclusively for the use of the residents of the OF development, are limited to a maximum of 20% of the FAR of the OF Development.

(b) A bonus of 1.0 FAR applies if all Buildings are at the maximum front setback provided by Section 21-291(1).

PD Planned Development District (Sec. 21-299)

The current minimum size of a PD Development is 5 acres was intended for larger sites, (typically 2 or more standard lots in the Oceanfront Plat). A typical oceanfront lot is 200' in width and about 2.5 acres in size. Some of the existing oceanfront development was built on 1.5 platted lots (300 +/- street frontage and over four (4) acres in size).

There are 3 existing PD Developments; St. Regis, Oceana, One Bal Harbour. The proposed is to lower the 5 acre minimum lot size to 4 acres. This would allow 3 additional sites to potentially apply for PD if redeveloped and obtain more flexibility in the regulations (FAR and setbacks).

(a) Applicability. Owners of properties located within the OF Ocean Front District which contain ~~five~~ four or more contiguous acres may apply to the Village Council to approve a rezoning to a PD Planned Development district applicable to their properties, in accordance with the following provisions and in the discretion of the Village Council.

(f) Maximum Density and FAR.

(1) Density: The maximum densities applicable to the OF Ocean Front District, at section 21-285, are also applicable to a PD Planned Development District. Where an application for site plan in a PD Planned Development District includes multiple Lots or phases, and any one or more of those Lots or phases contains legal non-conforming use as to Density, the existence of such legal non-conforming use shall not reduce the number of units per acre permitted in this section for any other Lot or phase. However, Density may be transferred within PD phases, provided that a final PD site plan for a particular phase shall not be approved unless:

~~(1)~~ a. The cumulative Density of the final PD phase site plan to be approved and all prior approved final PD phase site plans does not exceed the Density of the OF Ocean Front District; or

~~(2)~~ b. The Density of future phase site plans is restricted such that the total Density of the final PD site plan to be approved, all prior approved PD phase site plans, and all future PD phase site plans do not exceed the Density requirements of the OF Ocean Front District.

(2) FAR. The maximum FAR of PD development shall be as approved by the PD zoning and development agreement, and all PD site plans shall not exceed the approved FAR.

THE BAL HARBOUR EXPERIENCE

By amending the Village Code, the Village would continue to “implement smart policies and strategic solutions to address the challenges of today and to ensure that we remain a Resilient and Sustainable community able to protect our future.”

CONCLUSION

This Ordinance seeks to amend Chapter 21 by revising the OF Oceanfront District to clarify and further regulate the Floor Area Ratio of such development. This will assure uniformity, clarity and predictability to the Village’s interpretation and application of these standards.

It is recommended that the Village Council adopt the proposed Ordinance on First Reading. It is also recommended that the proposed Ordinance be scheduled for Local Planning Agency review and recommendation and for Second Reading on March 5, 2024.

ORDINANCE NO. 2024____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 10 "OF OCEAN FRONT DISTRICT" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

WHEREAS, the Bal Harbour Village (the "Village") Council finds it periodically necessary to amend its Code of Ordinances (the "Village Code") in order to update regulations and procedures to implement municipal goals and objectives; and

WHEREAS, the Village seeks to amend Chapter 21 regulations related to development in the OF Oceanfront District of the Village; and

WHEREAS, the Village Administration recommended approval of this Ordinance in its report for the February 20, 2024 Village Council meeting; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed public hearing in accordance with law on _____, 2024, determined that this Ordinance is consistent with the Village's Comprehensive Plan, and recommended approval; and

WHEREAS, the Village Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Village Council has determined that this Ordinance is consistent with the Village's Comprehensive Plan and in the best interest of the public health, safety and welfare.

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

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended - Chapter 21. That Chapter 21 "Zoning," Article III "District Regulations," Division 10 "OF Oceanfront District" of the Code of Bal

Harbour Village, Florida, is hereby amended to read as follows:¹

CHAPTER 21. - ZONING

* * *

ARTICLE III. - DISTRICT REGULATIONS.

* * *

DIVISION 10. - OF OCEAN FRONT DISTRICT.

* * *

Sec. 21-280. - Definitions.

The definitions in Section 21-1 apply to all of chapter 21. For purposes of this division, the following terms are defined:

“Floor Area Ratio (FAR)” means the Gross Floor Area, not including Parking Structures up to 22 feet in height per Section 21-288(4), on a Lot or Project Site, divided by the area of the Lot or Project Site. (For example, a Building containing 20,000 square feet of floor area on a Lot or Project Site of 10,000 square feet, with a Parking Structure that is 22 feet in height, has a Floor Area Ratio of 2.0).

* * *

Sec. 21-286. - Maximum Floor Area Ratio.

The Floor Area Ratio in the OF Ocean Front District shall not exceed ~~2.8~~ 1.3 to one, exclusive of floor area within enclosed Parking Structures devoted entirely to off-street parking and those floor areas listed in section 21-1 that are excluded in the definition of Floor Area Ratio. The Floor Area Ratio calculation in the OF Ocean Front district may include the area of the Project Site located east of the platted Lot and west of the erosion control line.

OF development may achieve additional bonus FAR if it complies with additional incentives for development to be compatible with adjacent development(s) and the surrounding neighborhood, and to mitigate any adverse impacts from the proposed development. The OF Development may qualify for one or both of the incentives, but in no event shall the maximum FAR exceed 2.8:

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

(a) A bonus of 0.50 FAR applies if nonresidential uses, excluding amenities exclusively for the use of the residents of the OF development, are limited to a maximum of 20% of the FAR of the OF Development.

(b) A bonus of 1.0 FAR applies if all Buildings are at the maximum front setback provided by Section 21-291(1).

* * *

Sec. 21-299. - PD Planned Development District.

(a) *Applicability.* Owners of properties located within the OF Ocean Front District which contain ~~five~~ four or more contiguous acres may apply to the Village Council to approve a rezoning to a PD Planned Development district applicable to their properties, in accordance with the following provisions and in the discretion of the Village Council.

* * *

(f) *Maximum Density and FAR.*

(1) Density: The maximum densities applicable to the OF Ocean Front District, at section 21-285, are also applicable to a PD Planned Development District. Where an application for site plan in a PD Planned Development District includes multiple Lots or phases, and any one or more of those Lots or phases contains legal non-conforming use as to Density, the existence of such legal non-conforming use shall not reduce the number of units per acre permitted in this section for any other Lot or phase. However, Density may be transferred within PD phases, provided that a final PD site plan for a particular phase shall not be approved unless:

(1) a. The cumulative Density of the final PD phase site plan to be approved and all prior approved final PD phase site plans does not exceed the Density of the OF Ocean Front District; or

(2) b. The Density of future phase site plans is restricted such that the total Density of the final PD site plan to be approved, all prior approved PD phase site plans, and all future PD phase site plans do not exceed the Density requirements of the OF Ocean Front District.

(2) FAR. The maximum FAR of PD development shall be as approved by the PD zoning and development agreement, and all PD site plans shall not exceed the FAR approved by those documents.

* * *

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. That 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 become effective upon adoption on second reading. This Ordinance shall apply only to building permits for which a process number is issued after the effective date of this Ordinance.

PASSED AND ADOPTED on first reading this 20th day of February, 2024.

PASSED AND ADOPTED on second reading this ___ day of _____, 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," ARTICLE II "ADMINISTRATION," AND ARTICLE V "OFF-STREET PARKING FACILITIES" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

Issue:

Should the Village Council adopt the Ordinance amending Chapter 21 "Zoning" regulations?

The Bal Harbour Experience:

- Beautiful Environment Safety Modernized Public Facilities/Infrastructure
 Destination & Amenities Unique & Elegant Resiliency & Sustainable Community
 Other: _____

Item Summary / Recommendation:

Early last year, the Village began to address Code provisions that were outdated, required updating or addressed matters of concern to the quality of life of our residents.

These additional Code revisions are being recommended to continue to update "outdated" Code provisions. These initial Code amendment proposals are general Code updates to the definition of Floor Area Ratio (FAR), Site Plan submittal requirements and off-street parking and driveway designs.

In light of the growing trend of further state preemption laws, it is advisable to continue to review our zoning code and make the necessary amendments to bring them up to standards, address resiliency where needed and implement protections to the character of our community and the quality of life of our residents.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Director Title	Building Official	Village Manager
Director Name	Eliezer Palacio	Jorge M. Gonzalez



BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: February 20, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," ARTICLE II "ADMINISTRATION," AND ARTICLE V "OFF-STREET PARKING FACILITIES" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance.

BACKGROUND

Early last year, the Village began to address Code provisions that were outdated, required updating or addressed matters of concern to the quality of life or our residents. Certain amendments were approved to the "Noise" ordinance, construction site standards, underground parking provisions and certain elements of the Ocean Front district development standards and uses. These amendments were a result of feedback from our residents, concerns over safety and unsightliness of construction sites, resiliency and climate change concerns with underground parking facilities, as well as the overall character of our community. In light of the growing trend of further state preemption of local laws, it is advisable to continue to review our zoning code and make the necessary amendments to bring them up to current standards, address resiliency where needed and implement protections to the character of our community and the quality of life of our residents.

These additional Code revisions are being recommended to continue to update "outdated" Code provisions. These initial Code amendment proposals are general Code updates to the definition of Floor Area Ratio (FAR), Site Plan submittal requirements, and off-street parking and driveway designs. As you know, many of the existing Code provisions date back to the Village's original 1974 Zoning Code with only a few targeted updates over the years. It is appropriate to continue to review and amend our Code to ensure that we are current and able to address the development climate that exists today and into the future. It is through the Village Code that the Village can best nurture the character of our built-out community as well as ensure the

highest quality of life for our residents. Further revisions may be necessary and we will bring those recommendations to you as warranted. In the meantime, the proposed amendments in this agenda item are ready for your consideration.

As you will recall, on September 19, 2023, the Village Council approved two ordinances amending Chapter 21, "Zoning" and Underground Parking Regulations in the OF Oceanfront District. Since the adoption of these regulations, administration and staff has continued to review our code and have identified further amendments to Chapter 21 "Zoning" Article I "Administration" and Article V "Off-Street Parking Facilities" that are advisable.

The proposed amendments in this agenda item will not impact existing buildings in the OF District all of which are "grandfathered" in, as provided in the effective date clause.

ANALYSIS

The Village was completely master-planned and is essentially built-out as an exclusive high-end community, with distinct land use areas (known as Euclidian Zoning). This includes high-rise residential / hotel / resort development along the Atlantic Ocean east of Collins Avenue, low-rise (2-4 story) multifamily development located along the west side on Collins Avenue and at a few other locations within the gated area along Park Drive at the south end of the community or near the Haulover Inlet, single-family homes within the gated area between Park Drive and the Indian Creek Waterway, the Bal Harbour Shops (BHS) Mall located west of Collins Avenue and north of 96th Street, a small commercial site north of 96th Street between Collins Avenue and Harding Avenue, various municipal facilities (Village Hall / Parks / beach / etc.) and various private open spaces and recreational facilities (passive parks / marina).

The community can be best described as a suburban neighborhood to the City of Miami - clearly not Urban in character in the context of Miami-Dade County. Along Collins Avenue large setbacks have always been required originally by plat and later by zoning. The beachfront sites are a minimum of 200 feet in width and extend hundreds of feet toward the oceanfront. Shorter buildings / structures like parking garages on the Ocean Front (OF) sites are limited to 22 feet / 2-stories in height and have a 100-foot minimum setback. Towers must have at least a 150' setback from Collins Avenue. The low-rise multiple-family development along the west side of Collins Avenue is limited to 4-stories in height and has a minimum 50-foot building setback. The Village was designed specifically to avoid the appearance of a high-rise "concrete canyon" along its roadways.

The BHS site is generally limited to 3-stories / 56 feet in height with an exception for 5-stories for parking garages (same overall height). A slightly taller (69') carve-out area is allowed within a small portion of the site. All of the single-family homes are limited

to 2-stories. Following established urban design guidelines, similar types of land development should follow the same pattern of setbacks, scale, building height, and bulk. The Charter and Code reinforce the above via various land development regulations.

The amended language as described below has been drafted to protect and maintain the character of the Village as initially planned:

Definitions - The Florida Statutes do not contain a definition for Floor Area Ratio (FAR) to our knowledge; the Community Planning Act does use the concept in defining urban infill in Section 163.3164(49). However, a common definition is readily available by dictionary and most local government codes include a similar definition. The Village Code has had an overall definition of FAR for many years in Sec. 21-1 (Gross Floor Area (GFA), as defined by Section 21-1 of the Code¹, less any listed exception areas). Within each Zoning District the individual allowances of what GFA allows (compare max. 22' hgt. above grade / 2-story parking garages in OF District with max. 56' hgt. / 5-story parking garages in the Business District above grade). The proposed modification simply intends to make reference to each zoning district's specific FAR regulations.

The definitions in Section 21-1 apply to all of chapter 21. For purposes of this division, the following terms are defined:

Floor Area Ratio (FAR) means the Gross Floor Area, not including Parking Structures unless otherwise defined or required by the applicable regulations for the Zoning District, on a Lot or Project Site, divided by the Lot area or Project Site area. (For example, a Building containing 20,000 square feet of floor area on the zoning Lot of 10,000 square feet has a Floor Area Ratio of 2.0).

Public Hearing Procedures - This Code provision has existed for many decades. The proposed new provision will clarify that all property owners seeking approvals from the Village address the interests of those with long-term lease rights, and requires that the application include a written sworn-to consent from the long-term leaseholder.

All applications for nonuse variances or for other public hearings or approvals required under this Code shall be initiated by the filing of an application with the Village Building Official on a form prescribed by the Village Manager, executed and sworn to by the Owners of at least 80 percent of the Property described in the application, by Tenants with the Owner's Written, sworn-to consent, or by duly authorized agents, such agent to be evidenced by a Written power of attorney if not a member of

¹ *Gross Floor Area* means the area of all Structures, including all floors but excluding mezzanines, elevator shafts, emergency stairwells, trash chutes, other vertical mechanical spaces and open balcony areas, measured to the outside of the Structure at each floor.

the Florida Bar. If the application proposes changes to any portion of a Property subject to a lease with a term of at least 20 years, the application must be accompanied by the Written, sworn-to consent of the leaseholder.

Parking Spaces - The Village has had some form of off-street parking requirements since its original Zoning Code was adopted in 1974. As can be expected, several modifications were made over the years as the use of motor vehicles has changed.

As related to multiple-family developments, the same basic quantity of parking spaces has been required (1.5 spaces per DU + 1 space for each 10 DU). The Village Code requires this formula regardless of the size of a dwelling unit or number of bedrooms. Most modern Codes and professional engineering studies recommend a sliding scale based on the number of bedrooms (studio / 1 BR / 2 BR / etc.). Complaints have been made in the Village about the lack of adequate parking in some instances. After researching this (see comparison table), the staff recommends updates based on the number of bedrooms in a dwelling unit, with additional parking for employees, guests and deliveries and maintenance / service / construction workers.

Sec. 21-384. - Number of spaces

The schedule of off-street parking requirements shall be as follows:

(1) *Single-family detached dwellings*: Two parking spaces for each dwelling unit, with not less than one space provided within a garage or Carport.

(2) *Multiple-Family Dwellings*:

a. Per unit: One parking space for each studio dwelling unit. One and one-half parking spaces for each dwelling unit with one or two bedrooms. For each additional bedroom, one additional parking space is required, plus one additional space for each ten dwelling units in the total apartment multifamily complex, plus the required spaces for any business establishments contained within the complex.

b. Per employee: For each employee of the Multiple-Family complex, one additional parking space shall be provided.

c. Guest, Deliveries and Loading: Each Multiple-Family residential complex, including any residential developments located in mixed-use complexes, shall provide at least one parking space for guests, deliveries and temporary loading, and overall shall provide at least one parking space for each 15 dwelling units in the complex for these purposes. All such parking spaces shall be located in the front yard areas of a site near the lobby entrance, unless otherwise approved by the Village. All such parking spaces and drop off areas shall be noted by the use of signage and pavement marking, and shall not be located on remote public or private parking lots or garages without prior approval of the Village

d. Maintenance/Service Workers and Construction Contractors. Each Multiple-Family residential complex, including any residential developments located in mixed-use complexes, shall provide at least one parking space for Maintenance/Service Workers and Construction Contractors, and overall shall provide at least one parking space for each 15 dwelling units in the complex for these purposes. All such parking spaces shall be accessible for oversized vehicles. All such parking spaces and drop off areas shall be noted by the use of signage and pavement markings, and shall not be located on remote public or private parking lots or garages without prior approval of the Village Manager.

Driveway Design - The Village Code in Sec. 21-385 includes basic design guidelines for driveway widths. However, the Code only has provisions for the OF Oceanfront District and B Business District - none for single-family or the various RM Districts. Often architects / owners request permission to pave large driveway areas along the streets, which looks poor and can create safety issues. The existing driveway widths noted are very typical in local zoning codes and provide flexibility. Along all roadways, landscaped swales are required for drainage / vehicle recovery from swerving maneuvers and Miami-Dade Codes require Street Trees. Staff recommends that the Village revise the Code to include the same driveway criteria Village-wide.

- (i) *Driveway width.* In the ~~Ocean Front (OF) and Business (B)~~ all Districts, access driveway widths shall have the following minimum dimensions:

THE BAL HARBOUR EXPERIENCE

By amending the Village Code, the Village would continue to “implement smart policies and strategic solutions to address the challenges of today and to ensure that we remain a Resilient and Sustainable community able to protect our future.”

CONCLUSION

This Ordinance seeks to amend Chapter 21 by defining terms and revising regulations and procedures to assure that the parking standards for residential development adequately address the needs of modern development, and to provide uniformity, clarity and predictability to the Village’s interpretation and applicability. In addition, the proposed Ordinance streamlines the overarching policy and criteria for maintaining consistency.

It is recommended that the Village Council adopt the proposed Ordinance on First Reading. It is also recommended that the proposed Ordinance be scheduled for Local Planning Agency review and recommendation and for Second Reading on March 5, 2024.

ORDINANCE NO. 2024____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," ARTICLE II "ADMINISTRATION," AND ARTICLE V "OFF-STREET PARKING FACILITIES" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

WHEREAS, the Bal Harbour Village (the "Village") Council finds it periodically necessary to amend its Code of Ordinances (the "Village Code") in order to update regulations and procedures to implement municipal goals and objectives; and

WHEREAS, the Village seeks to amend Chapter 21 by defining terms, by providing for application requirements, and by regulating parking standards for residential development in the Village; and

WHEREAS, the Village Administration recommended approval of this Ordinance in its report for the February 20, 2024 Village Council meeting; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed public hearing in accordance with law on _____, 2024, determined that this Ordinance is consistent with the Village's Comprehensive Plan, and recommended approval; and

WHEREAS, the Village Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Village Council has determined that this Ordinance is consistent with the Village's Comprehensive Plan and in the best interest of the public health, safety and welfare.

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

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended - Chapter 21, Article I. That Chapter 21 "Zoning," Article I "In General" of the Code of Bal Harbour Village, Florida, is hereby

amended to read as follows:¹

CHAPTER 21. - ZONING

ARTICLE I. - IN GENERAL.

Sec. 21-1. Definitions and rules of construction.

Floor Area Ratio (FAR) means the Gross Floor Area, not including Parking Structures unless otherwise defined or required by the applicable regulations for the Zoning District, on a Lot or Project Site, divided by the Lot area or Project Site area. (For example, a Building containing 20,000 square feet of floor area on the zoning Lot of 10,000 square feet has a Floor Area Ratio of 2.0).

* * *

Section 3. Village Code Amended - Chapter 21, Article II. That Chapter 21 "Zoning," Article II "Administration," Division 2 "Amendments; Zoning Changes; Variances" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows

CHAPTER 21. - ZONING

* * *

ARTICLE II. - ADMINISTRATION

* * *

DIVISION 2. - AMENDMENTS; ZONING CHANGES; VARIANCES

**Sec. 21-51. - Procedure for nonuse variances and for other public hearings or approvals—
Application; fees.**

(a) All applications for nonuse variances or for other public hearings or approvals required under this Code shall be initiated by the filing of an application with the Village Building Official on a form prescribed by the Village Manager, executed and sworn to by the Owners of at least 80 percent of the Property described in the application, by Tenants with the Owner's Written, sworn-to consent, or by duly authorized agents, such agent to be evidenced by a Written power of attorney if not a member of the Florida Bar. If the

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

application proposes changes to any portion of a Property subject to a lease with a term of at least 20 years, the application must be accompanied by the Written, sworn-to consent of the leaseholder.

* * *

Section 4. Village Code Amended - Chapter 21, Article V. That Chapter 21 "Zoning," Article V "Off-Street Parking Facilities" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:

CHAPTER 21. - ZONING

* * *

ARTICLE V. - OFF-STREET PARKING FACILITIES

* * *

Sec. 21-384. - Number of spaces.

The schedule of off-street parking requirements shall be as follows:

(1) *Single-family detached dwellings:* Two parking spaces for each dwelling unit, with not less than one space provided within a garage or Carport.

(2) *Multiple-Family Dwellings:*

a. Per unit: One parking space for each studio dwelling unit. One and one-half parking spaces for each dwelling unit with one or two bedrooms. For each additional bedroom, one additional parking space is required, plus one additional space for each ten dwelling units in the total apartment multifamily complex, plus the required spaces for any business establishments contained within the complex.

b. Per employee: For each employee of the Multiple-Family complex, one additional parking space shall be provided.

c. Guest, Deliveries and Loading: Each Multiple-Family residential complex, including any residential developments located in mixed-use complexes, shall provide at least one parking space for guests, deliveries and temporary loading, and overall shall provide at least one parking space for each 15 dwelling units in the complex for these purposes. All such parking spaces shall be located in the front yard areas of a site near the lobby entrance, unless otherwise approved by the Village Manager. All such parking spaces and

drop off areas shall be noted by the use of signage and pavement markings, and shall not be located on remote public or private parking lots or garages without prior approval of the Village Manager.

d. Maintenance/Service Workers and Construction Contractors. Each Multiple-Family residential complex, including any residential developments located in mixed-use complexes, shall provide at least one parking space for Maintenance/Service Workers and Construction Contractors, and overall shall provide at least one parking space for each 15 dwelling units in the complex for these purposes. All such parking spaces shall be accessible for oversized vehicles. All such parking spaces and drop off areas shall be noted by the use of signage and pavement markings, and shall not be located on remote public or private parking lots or garages without prior approval of the Village Manager.

Sec. 21-385. - Design and maintenance.

* * *

(i) *Driveway width.* In the ~~Ocean Front (OF) and Business (B)~~ all Districts, access driveway widths shall have the following minimum dimensions:

(1) A minimum of 12 feet for all one-way driveways; one-way driveways shall not exceed 15 feet in width.

(2) A minimum of 20 feet for all two-way driveways; two-way driveways shall not exceed 30 feet in width.

* * *

Section 5. 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 6. 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 7. Conflict. That 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 8. Effective Date. That this Ordinance shall become effective upon adoption on second reading. This Ordinance shall apply only to building permits for which a process number is issued after the effective date of this Ordinance.

PASSED AND ADOPTED on first reading this 20th day of February, 2024.

PASSED AND ADOPTED on second reading this ___ day of _____, 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES.

Issue:

Shall the Village Council amend Chapter 11 "Nuisance," Article II "Noise" of the Code to align the regulations for the B District with the rest of the Village to address quality of life concerns?

The Bal Harbour Experience:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

On December 18, 2018, at the Regular Council Meeting, the Village Council approved amendments to Section 11-32 which regulates construction noise in the Business District.

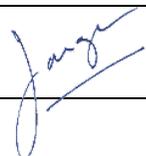
On June 20, 2023, the Village Council approved amendments to Chapter 11 of the Village Code, which regulates nuisances such as construction noises, and prohibited exterior construction noises on Saturdays. Additionally, the proposed amendments only applied to the residential areas of the Village. The regulation of these activities in the "B" Business District listed in Section 11-32 of the Village Code were not affected by these amendments.

The proposed amendments to Section 11-32 of the Village Code seek to bring the Business District into alignment with the rest of the Village. This action is based on feedback from the community, who have expressed a desire not to have construction noise during the weekends or during hours which affect the overall quality of life. This is also more relevant to the Business District now, as the construction activity associated with the Bal Harbour Shops expansion has shifted from 96th Street to the north in much closer proximity to the residential community. The proposed amendments for the Business District seek to bring the noise regulations in line with the rest of the Village. The desire is to provide a respite from noisy work, which affects the overall quality of life for residents.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.

Sign off:

Chief of Police		Village Manager
Raleigh M. Flowers, Jr.		Jorge M. Gonzalez



BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: February 20, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance on First Reading.

BACKGROUND

On June 20, 2017, at the Regular Village Council meeting, the Village Council approved an amendment to the Code of Ordinances by adopting regulations for construction noise in the Business District. This initial ordinance placed the onus strictly on the property owner for all violations related to construction noise. The ordinance provided for specific decibel levels and times during which construction noise is prohibited. However, the ordinance also allows for construction activities that occur "completely within the exterior walls of a building" to occur within those prohibited times as long as the activities do not exceed 55 decibels. This allows construction noise to occur continuously.

On December 18, 2018, at the Regular Council Meeting, the Village Council approved amendments to Section 11-32 which regulates construction noise in the Business District. The amendments are highlighted in the bullets below:

- Created relevant definitions
 - The amendment created definitions so that regulatory distinctions can be drawn between the property owner, the Permit Applicant, and the Violator.
 - The Permit Applicant is defined as the person who hired or will serve as the contractor or company to perform the construction activities.
 - The Violator is the general contractor, subcontractor, company, or person performing the construction activities in violation of the provisions of the noise ordinance.

- Provided for mitigation to address community complaints through coordination of meetings between the owner and the affected residents. The Village Manager may also impose reasonable conditions or request further noise mitigation. The owner

may appeal to the Village Manager's imposed conditions or noise mitigation requests to the Village Council.

- The amendment added the Permit Applicant and/or Violator to the meeting process as well, and to allow the Owner's representative to attend.
- Established a procedure for applicants to request permission from the Village Manager to exceed the permitted decibel levels after demonstrating a need.

At the Village Council Retreat last year, the Village Council expressed concerns about construction noises being a nuisance on Saturdays. These concerns were shared with the Council by their constituents, and they are reflective of the impact of construction noise on the everyday lives of residents. The Council provided direction to explore amending the current ordinance which allows for exterior construction from Monday through Saturday from 8:30 a.m. through 5:30 p.m., excluding certain holidays. The work being conducted on Saturdays, while permitted by the code, was still affecting the overall quality of life for residents who generally utilize the weekend to enjoy time with their families and for religious observances. The desire to provide a respite from noisy work was addressed through the following amendments to the Village Council.

On June 20, 2023, the Village Council approved amendments to Chapter 11 of the Village Code, which regulates nuisances such as construction noises, and prohibited exterior construction noises on Saturdays. The approved amendment allowed for landscaping work and activities of similar intensity to landscaping to continue to occur on Saturdays. Additionally, the proposed amendments only applied to the residential areas of the Village. The regulation of these activities in the "B" Business District listed in Section 11-32 of the Village Code were not affected by these amendments.

Unfortunately, this created an inconsistent and ambiguous condition. In addition, the concern about construction noise on Saturdays remains partially unresolved. The proposed amendments to Section 11-32 of the Village Code seek to bring the Business District into alignment with the rest of the Village. This action is based on feedback from the community, who have expressed a desire not to have construction noise during the weekends or during hours which affect the overall quality of life. This is also more relevant to the Business District now, as the construction activity associated with the Bal Harbour Shops expansion has shifted from 96th Street to the north in much closer proximity to the residential community. As a result, the Village has recently received complaints associated with construction noise from the community. Moreover, as we strive to provide an enhanced quality of life for all residents during the weekend, the utilization of two different construction noise standards throughout the Village makes the attainment of this goal untenable and hard to manage.

ANALYSIS

Section 11-32, as adopted, deems violations as irreparable in nature as a matter of law, delineates enhanced enforcement penalties within the Business District, and incorporates procedures and standards to address any violation.

The proposed amendments to Section 11-32 are as follows:

The first amendment seeks to update the prohibited hours of construction to eliminate work currently allowed on Saturdays and provide for an end time of 9 p.m. for activities that occur completely within the exterior walls of a building. The 9 p.m. time is consistent with the hours allowed for interior work for the rest of the Village. The amendments do not seek to alter the allowable decibel levels for the Business District.

(b) *Regulations.* Construction Noise in the "B" Business District shall conform to the following regulations:

- (1) *Prohibited Hours of Construction:* Construction Noise is prohibited from ~~6~~4:00 p.m. ~~Friday Saturday~~ through 8:30 a.m. Monday, and all day on New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, Rosh Hashanah, and Christmas Day. Construction activities that occur completely within the exterior walls of a Building may occur ~~within the prohibited hours of construction from 6:00 p.m. through 9:00 p.m. Monday through Friday,~~ so long as Construction Noise does not exceed 55 decibels when measured from a Noise Receptor Site.
- (2) *Permitted Decibel Levels:* The Permitted Decibel Level of Construction Noise shall not exceed the following limits during the specified times, when measured from a Noise Receptor Site:
 - a. *Night:* 55 decibels ~~for all hours outside of those defined as Day in subsection b. from 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday, and~~
 - b. *Day:* 80 decibels from 8:30 a.m. to 6:00 p.m., Monday through Friday, ~~and from 10:00 a.m. to 4:00 p.m. Saturday.~~

The second proposed amendment pertains to the enforcement section of this code. The amendment does not seek to change the schedule of civil penalties within the Business District. The amendment does add the Property Owner to every step of the civil penalties. The Code currently only provides for the Violator and Permit Applicant to be cited and only provides for the Property Owner to have a penalty imposed after continued or recurring violations. The addition of the Property Owner to the violation is consistent with how noise violations are handled throughout the rest of the Village. This provides for a mechanism through which the Village may assess liens if penalties are not complied. This amendment also increases the amount of time needed for the civil penalties to reset for recurring violations from six (6) months to twelve (12) months.

(e) *Enforcement.* This section shall be enforced by the Village Manager in accordance with the following procedures and standards. The Village finds that Construction Noise violations are irreparable or irreversible in nature as a matter of law, and the penalties for such violations are established as follows in accordance with F.S. § 162.09(2).

(1) *Verbal warning.* If the Village Manager finds a violation of this section, he or she shall issue a verbal warning to the Violator, Permit Applicant, and Property Owner requiring immediate correction of the violation.

(2) *Civil penalties.*

a. *First citation.* If the violation is not corrected immediately after issuance of the verbal warning, the Village Manager shall issue a citation requiring immediate correction of the violation, shall impose fines in the amount of \$500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~

b. *Second citation.* If the violation is not corrected immediately after issuance of the first citation, or the violation recurs within a 60-day period, the Village Manager shall issue a second citation requiring immediate correction of the violation, shall impose fines in the amount of \$1,000.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~

c. *Third citation.* If the violation is not corrected immediately after issuance of the second citation, or the violation recurs within a 60-day period, the Village Manager shall issue a third citation requiring immediate correction of the violation, shall impose fines in the amount of \$2,500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~

d. *Continuing or recurring violations.* In the event that the violation continues after or recurs within 60 days of issuance of the third citation, the Village Manager ~~shall revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for seven consecutive days, and may impose an additional penalty of \$5,000.00 against both the Violator, and Permit Applicant, and Property Owner. The Village Manager may revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for periods of time in excess of seven consecutive days, in the event that the Violator or Permit Applicant has more than three violations in a six-month period of time and the Violator or Permit Applicant has failed to address and resolve the violations. In such event, the Village Manager may also impose a penalty of \$5,000.00 against the Property Owner if the Property Owner is not the Permit Applicant.~~

e. *Future violations.* If no other violation occurs for ~~six~~ twelve consecutive months after a violation is complied, the enforcement procedures of this subsection shall

reset as to all parties and any future violations will again result first in a verbal warning, followed by the escalating progression of citations and penalties as set forth in subsections a–e.

- (3) *Criminal penalties.* In addition to or in lieu of the civil penalties set forth above, with respect to any of the provisions of this section, the Violator may be arrested and punished by imprisonment in the county jail for a period not to exceed 60 days.

The third and final amendment allows for noises associated with landscaping to continue as is allowed in the residential districts of the Village.

(3) The regulations of this subsection shall not be interpreted to apply to noise arising from landscaping activities.

THE BAL HARBOUR EXPERIENCE

The approval of these amendments would meet *The Bal Harbour Experience* by enhancing *the Beautiful Environment of the Village* by allowing for additional days during which noisy work is restricted, thereby increasing the quality of life.

CONCLUSION

The proposed amendments were already adopted by Village Council action for the residential districts on June 20, 2023. The proposed amendments for the Business District seek to bring the noise regulations in line with the rest of the Village. The desire is to provide a respite from noisy work, which affects the overall quality of life for residents.

ORDINANCE NO. 2024____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of Bal Harbour Village ("Village") seeks to amend regulations related to certain noises on in the "B" Business district; and

WHEREAS, with the transition of construction activity from the 96th Street parking garage to the north, the noise impacts of construction are now much closer to the neighboring single family residential neighborhood to the north for the first time, and the Village has received an increase in noise complaints related to this construction; and

WHEREAS, in 2023, the Village amended the noise regulations applicable everywhere other than the B Business District to prohibit construction noise on Saturdays, and the Village desires to bring the noise regulations in the B Business District into alignment with those of the rest of the Village; and

WHEREAS, the Village further seeks to more closely align the process for enforcement of noise requirements with that followed in the remainder of the Village; and

WHEREAS, the Village finds that these changes will improve the quality of life for its residents and further the public health, safety and welfare.

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

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended - Chapter 11. That Chapter 11 "Nuisances", Article II "Noise" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:¹

CHAPTER 11 - NUISANCES

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strikethrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double strikethrough~~ font.

* * *

ARTICLE II. - NOISE

* * *

Sec. 11-32. Construction Noise in the "B" Business District.

- (a) *Definitions.* For the purposes of this section, the following terms will have the following prescribed meaning unless the context indicates otherwise:
- (1) *Permit Applicant* means the person who hired or will serve as the contractor or company to perform the construction activities.
 - (2) *Noise Receptor Site* means a Lot which is the recipient of Construction Noise emanating from outside of the Lot's property line or, in the event that the Lot is part of an approved site plan, outside of the boundary of the site plan, regardless of whether that Lot is located in the Village.
 - (3) *Permitted Decibel Level* means the maximum decibel level permitted for Construction Noise.
 - (4) *Violator* means the general contractor, subcontractor, company, or person performing the construction activities in violation of the provisions of this Section.
- (b) *Regulations.* Construction Noise in the "B" Business District shall conform to the following regulations:
- (1) *Prohibited Hours of Construction:* Construction Noise is prohibited from 6:00 p.m. ~~Friday Saturday~~ through 8:30 a.m. Monday, and all day on New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, Rosh Hashanah, and Christmas Day. Construction activities that occur completely within the exterior walls of a Building may occur ~~within the prohibited hours of construction from 6:00 pm. through 9:00 p.m. Monday through Friday,~~ so long as Construction Noise does not exceed 55 decibels when measured from a Noise Receptor Site.
 - (2) *Permitted Decibel Levels:* The Permitted Decibel Level of Construction Noise shall not exceed the following limits during the specified times, when measured from a Noise Receptor Site:
 - a. *Night:* 55 decibels for all hours outside of those defined as Day in subsection b. ~~from 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday,~~ and
 - b. *Day:* 80 decibels from 8:30 a.m. to 6:00 p.m., Monday through Friday, ~~and from 10:00 a.m. to 4:00 p.m. Saturday.~~
 - (3) The regulations of this subsection shall not be interpreted to apply to noise arising from landscaping activities.

* * *

(e) *Enforcement.* This section shall be enforced by the Village Manager in accordance with the following procedures and standards. The Village finds that Construction Noise violations are irreparable or irreversible in nature as a matter of law, and the penalties for such violations are established as follows in accordance with F.S. § 162.09(2).

(1) *Verbal warning.* If the Village Manager finds a violation of this section, he or she shall issue a verbal warning to the Violator, Permit Applicant, and Property Owner requiring immediate correction of the violation.

(2) *Civil penalties.*

- a. *First citation.* If the violation is not corrected immediately after issuance of the verbal warning, the Village Manager shall issue a citation requiring immediate correction of the violation, shall impose fines in the amount of \$500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
- b. *Second citation.* If the violation is not corrected immediately after issuance of the first citation, or the violation recurs within a 60-day period, the Village Manager shall issue a second citation requiring immediate correction of the violation, shall impose fines in the amount of \$1,000.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
- c. *Third citation.* If the violation is not corrected immediately after issuance of the second citation, or the violation recurs within a 60-day period, the Village Manger shall issue a third citation requiring immediate correction of the violation, shall impose fines in the amount of \$2,500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
- d. *Continuing or recurring violations.* In the event that the violation continues after or recurs within 60 days of issuance of the third citation, the Village Manager ~~shall revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for seven consecutive days, and may impose an additional penalty of \$5,000.00 against both the Violator, and Permit Applicant, and Property Owner. The Village Manager may revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for periods of time in excess of seven consecutive days, in the event that the Violator or Permit Applicant has more than three violations in a six-month period of time and the Violator or Permit Applicant has failed to address and resolve the violations.~~ In such event, the Village Manager may also impose a penalty of \$5,000.00 against the Property Owner if the Property Owner is not the Permit Applicant.

- e. *Future violations.* If no other violation occurs for ~~six~~ twelve consecutive months after a violation is complied, the enforcement procedures of this subsection shall reset as to all parties and any future violations will again result first in a verbal warning, followed by the escalating progression of citations and penalties as set forth in subsections a–e.
- (3) *Criminal penalties.* In addition to or in lieu of the civil penalties set forth above, with respect to any of the provisions of this section, the Violator may be arrested and punished by imprisonment in the county jail for a period not to exceed 60 days.

* * *

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.** That 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 upon adoption on second reading.

PASSED AND ADOPTED on first reading this 20th day of February, 2024.

PASSED AND ADOPTED on second reading this ___ day of _____, 2024.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- V I L L A G E -

DISCUSSION ITEM

TO: Mayor Jeffrey P. Freimark and Members of the Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: February 20, 2024

SUBJECT: **Update On Negotiations Regarding the Oceana Development Agreement**

At the November 21, 2023 Village Council meeting, the Council discussed this matter and formally requested Oceana make adjustments to their proposed voluntary proffer. These adjustments include a commitment to a full \$1 million contribution to Bal Harbour Village aimed at supporting local community initiatives such as, but not limited to, the jetty enhancements. This contribution will be in addition to the redesign and enhancement of the front crescent along Collins Avenue to emphasize landscaping and functional improvements, and whatever improvements to the beach access pathway can be accommodated given its dual purpose as a fire lane. The Council also requested that Oceana consider a program whereby Bal Harbour Village residents could have access to the beach chair and umbrella amenities provided by Oceana.

Oceana's representatives indicate that they are willing to satisfy most of the Council's additional requests. However, they have evaluated the proposed beach chair access program, and indicated that the association's board cannot support it given the sentiment of the unit owners. The representatives of the Oceana will attend the Council meeting should you wish to discuss further.

The previously provided background material is included again below, for ease of reference. Oceana's attorney Mickey Marrero will again be at the Council meeting to answer questions and explain the proposed improvements.

Background

The Oceana was approved in 2013, pursuant to a planned development approval and development agreement. That agreement called for the Oceana to make its restaurant available to Village residents as follows:

Section 17. Use Restrictions. Residential units shall be prohibited from being leased or otherwise rented for a period of less than six (6) consecutive months, with a limitation of a maximum of two leases per year. Non-residential or recreational uses that are not accessory to the residential uses and are not operated as part of a club where membership is required shall be open to Village residents. Any members-only club shall open

membership to Village residents according to the same general membership terms afforded to the regular members.

The Village recently became aware that the Oceana had not made its restaurant open to Village residents in accordance with the DA requirement. This was confirmed by the attorney for the developer during the process of reviewing the recent Carlton Terrace redevelopment. The Village Attorney reached out to the condo association attorney to inform them of the issue and seek a resolution. They had no knowledge of the issue and needed additional expertise, and therefore hired Mickey Marrero with the Law Firm of Bercow, Radell, Larkin, Fernandez & Tapanes to assist them in reviewing all the documentation and analyzing the options.

After the building was built, it was turned over to the condo association. The condo association representatives have advised that they were never told of this requirement, and it was never implemented. They have also indicated that many of their residents bought in the building specifically on the understanding that none of the facilities were open to anyone other than building residents and are concerned about any proposal to change that understanding.

Therefore, the Village Manager, Village Attorney, and condo association representatives have engaged in a process of documenting and understanding the DA requirement and seeking options for compliance. Depending on what is agreed to, that option will likely need to be returned to the Council for a development agreement amendment.

This issue was discussed at the Council retreat in February, including the association's proposal to provide alternative improvements for the benefit of the Village. Originally under discussion were the following improvements:

- Substantially improve the beach walk from Collins Ave. with additional landscaping and other amenities for the benefit of Village residents using this path to get to the beach.
- Substantially improve the front public easement area with additional landscaping and other amenities to make the space more usable and pleasant for village residents.
- Design and construct a high-quality playground at the south-east rear corner of the development, accessible via the residents' key fob.

The Oceana retained Enea to work on these changes, and indicated they are willing to design and construct high quality improvements for these areas serving Village residents.

While the Council inquired about the possibility of Village residents using Oceana's tennis courts, the association considered and rejected the proposal because according to Oceana representatives, the courts are continually in use by building residents and because of their concern over allowing outsiders into the private property.

In the course of meeting with Oceana representatives and discussing these matters, the Village inquired whether Section 17 of the Development Agreement was necessary to

support the use of underground parking for this building. More specifically, were any of the Oceana amenities required to be open to the public in order to allow the underground parking, as discussed in relation to recent redevelopment in the Village? After fleshing out the issues with the Village, Oceana hired special counsel in Washington, DC who specializes in FEMA matters to provide additional information. Oceana was ultimately able to provide historical documentation that its structure is located in Zone X, and therefore the FEMA rules regarding the ability to use underground parking do **not** apply to this site. That conclusively resolves any question as to the propriety of the existing underground parking.

Therefore, an amendment to Section 17 of the Development Agreement can be considered by the Village. Oceana proposes to amend Section 17 to remove the condition regarding amenities being open to Village residents, and instead voluntarily proffer the following benefits to the Village, via a Development Agreement amendment. Oceana is proposing to commit sufficient funding in the amount of \$1 million to accomplish the following:

- Beach walk: In studying the options for improvements, Enea identified severe constraints on enhancing the beach walk from Collins Ave. with amenities for the benefit of Village residents using this path to get to the beach. While the landscaping can be refreshed and improved to a degree, a 25-foot wide fire lane easement prevents all but the most minimal improvements to the vast majority of the path. Enea has designed improvements that comply with the fire lane restrictions.
- Front crescent: Enea has developed concepts for enhancing the front public easement area with additional landscaping and other amenities to make the space more usable and pleasant for Village residents. These include seating and an enhanced pad on which the Village can continue to display public art.
- Playground: Enea's studies demonstrated that there is not enough space for a playground to be placed where originally contemplated, on the southeast corner of its property, due to DERM requirements for the dune system there. However, Oceana remains committed to funding a high-quality playground to be located on Village property nearby, and Enea has developed concepts for it.

Attachments:

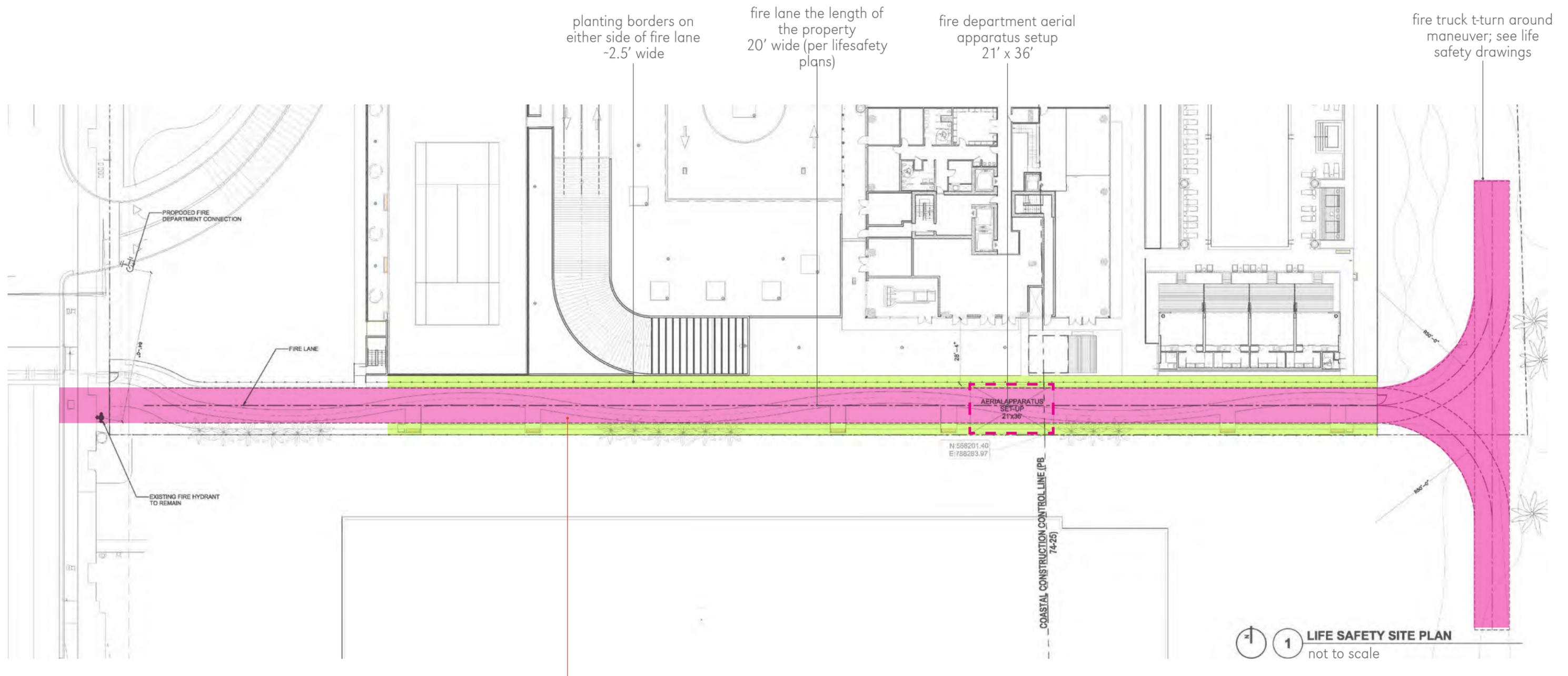
1. Enea presentation re Oceana improvements

oceana

concept presentation - 09.08.2023
bal harbour, florida



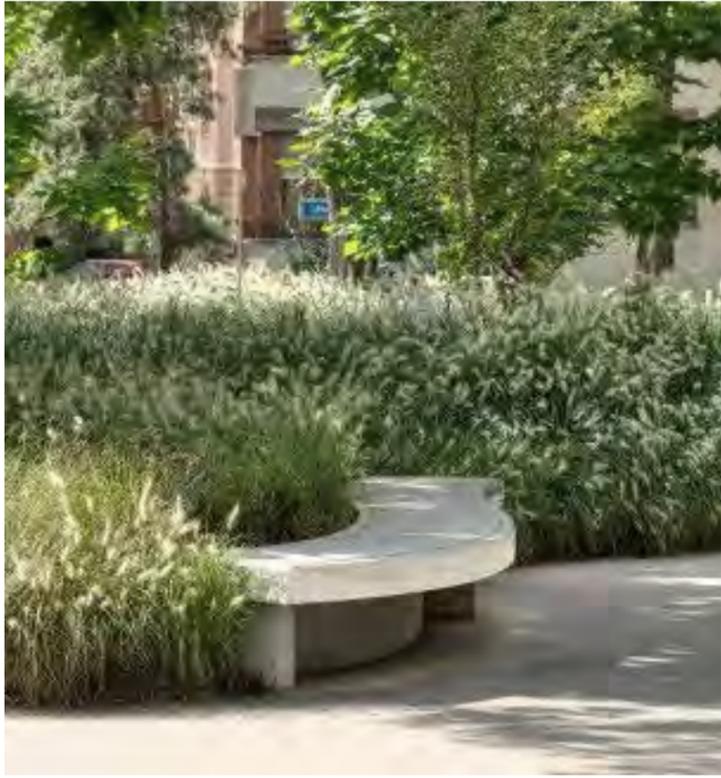




20' wide fire lane must be maintained unobstructed of any vertical elements (per the Florida Fire Prevention Code NFPA 1: 18.2.3.4.1.2), fixtures, or structures to allow passage by the fire department; refer to life safety drawings. Any modifications to be coordinated and approved with Fire Department.



entry sculpture garden beach garden - west beach garden - east 50' 



beach garden







20' wide fire lane must be maintained unobstructed of any vertical elements, fixtures, or structures to allow passage by the fire department (per the Florida Fire Prevention Code NFPA 1: 18.2.3.4.1.2); refer to life safety drawings. Any modifications to be coordinated and approved with Fire Department.





taller hedge planting

fire department aerial apparatus staging area

meandering path varies 6' to 12' wide

beach shower

privacy wood panels

play structure with safety barrier (within existing dune planting*)

play structure -66' x 55'

CCCL

CCCL



coastal construction control line (CCCL). significant development east of the CCCL requires permitting and approval with the Florida Department of Environmental Protection



fire truck t-turn; must remain unobstructed. refer to life safety drawings.

*any modification to existing beach dune planting and beach promenade must be coordinated with and approved by the Florida Department of Environmental Protection (FDEP) and the Village of Bal Harbour



Bal Harbour's former Waterfront Park playground. Image from Google Earth.



The under-construction playground at Waterfront Park, west of Bal Harbour Shops on Bal Bay Drive. Play components include multiple climbing towers (3-4), slides, and bridges.

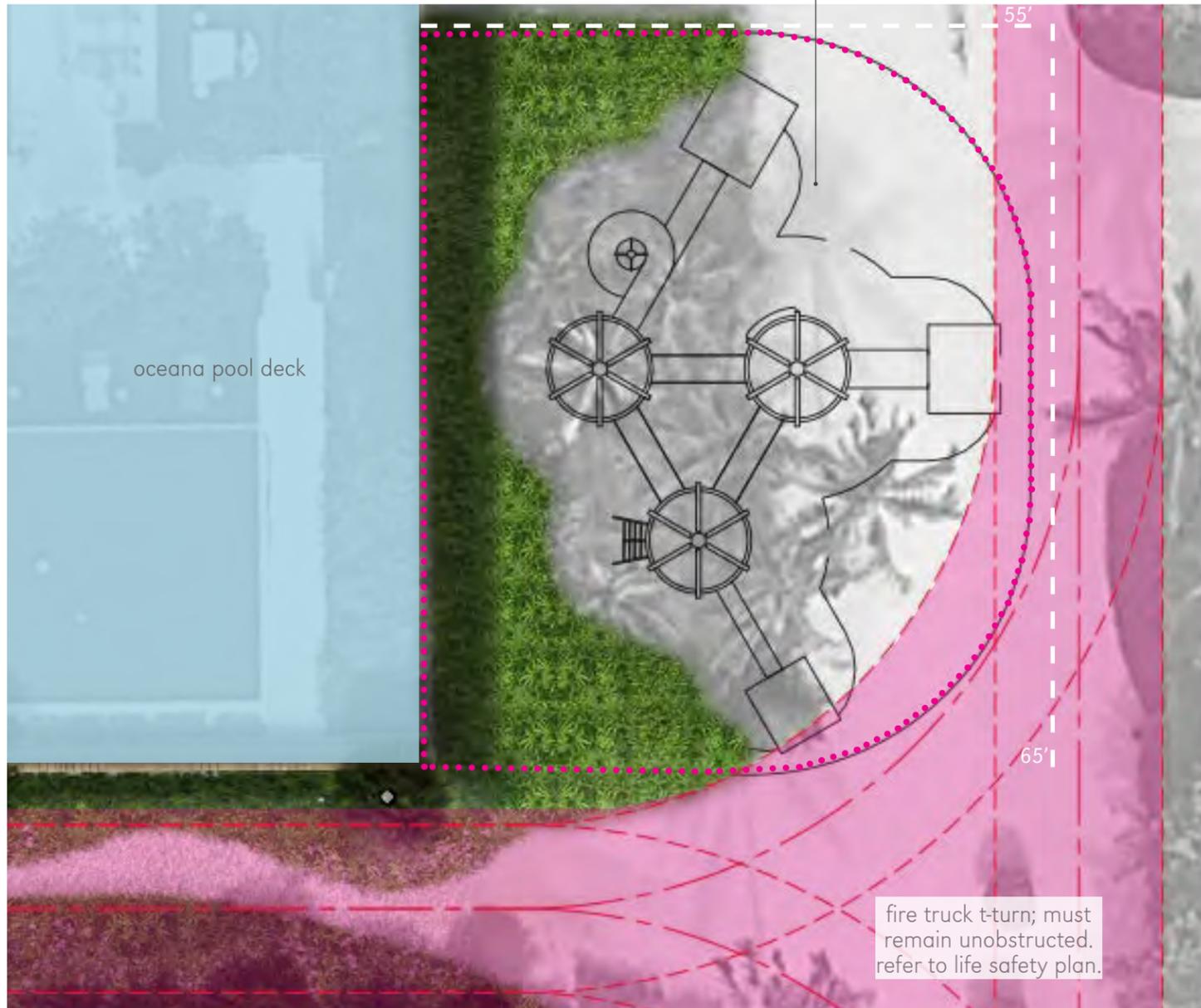


*any modification to existing beach dune planting and beach promenade must be coordinated with and approved by the Florida Department of Environmental Protection (FDEP) and the Village of Bal Harbour



Size comparison of Bal Harbour's former Waterfront Park playground with the Oceana site. Image from Google Earth.

play structure with safety barrier
(within existing dune planting* and
Bal Harbour beach promenade;
interferes with fire lane)



*any modification to existing beach dune planting and beach promenade must be coordinated with and approved by the Florida Department of Environmental Protection (FDEP) and the Village of Bal Harbour



example
play structure



example
play elements



example
safety barrier

Proposed play structure, including components seen at the new Waterfront Park playground: multiple climbing towers (3-4), slides, and bridges.

entry sculpture garden





specimen flowering trees
 public sculpture in gravel
 layers of grasses and shrubs



note: the sculpture image indicated on this sheet is for demonstrative purposes only. sculpture selections are by others.





20' wide fire lane must be maintained unobstructed of any vertical elements (per the Florida Fire Prevention Code NFPA 1: 18.2.3.4.1.2), fixtures, or structures to allow passage by the fire department; refer to life safety drawings. Any modifications to be coordinated and approved with Fire Department.

TREES + PALMS

Pitch Apple
(*Clusia rosea*)



Seagrape
(*Coccoloba uvifera*)



Pink Trumpet Tree
(*Tabebuia heterophylla*)



Cabbage Palm
(*Sabal palmetto*)



Coconut Palm
(*Cocos nucifera*)



LEGEND

- light range
- florida native
 - full sun
 - partial shade
 - shade

yearly blooming chart

- jan
- feb
- mar
- apr
- may
- jun
- jul
- aug
- sep
- oct
- nov
- dec

SHRUBS + GROUNDCOVERS

Small Leaf Clusia
(*Clusia guttifera*)



Petite Pink Oleander
(*Nerium oleander 'Petite Pink'*)



Green Island Ficus
(*Ficus microcarpa*)



Muhly Grass
(*Muhlenbergia capillaris*)



Spider Lily
(*Hymenocallis latifolia*)



Railroad Vine
(*Ipomoea pes-caprae*)



Powderpuff Mimosa
(*Mimosa strigillosa*)



thank you



BAL HARBOUR

- V I L L A G E -

DISCUSSION ITEM

TO: Jorge M. Gonzalez, Village Manager

FROM: Buzzy Sklar, Councilman

DATE: February 20, 2024

SUBJECT: **Discussion Regarding Electric Bikes**

Please place an item on the February 20, 2024, Village Council Meeting Agenda for a discussion regarding electric bikes.

BAL HARBOUR

- V I L L A G E -

DISCUSSION ITEM

TO: Jorge M. Gonzalez, Village Manager

FROM: Buzzy Sklar, Councilman

DATE: February 20, 2024

SUBJECT: **Discussion Regarding Filming on the Jetty**

Please place an item on the February 20, 2024, Village Council Meeting Agenda for a discussion regarding filming on the Jetty.

BAL HARBOUR

- VILLAGE -

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Dwight S. Danie, Village Clerk *OSD*

DATE: February 13, 2024

RE: Lobbyist Registration Report

Name of Lobbyist	Principal Represented	Date Registered
John Shubin	Mathew Whitman Lazenby	01/09/24
Ian DeMello	Mathew Whitman Lazenby	01/09/24
Darrell Payne	Saks Fifth Avenue LLC	01/16/24
Maria A. Gralia	Saks Fifth Avenue LLC	01/16/24
Seth P. Robert	Saks Fifth Avenue LLC	01/16/24
Previn R. Patel	Saks Fifth Avenue LLC	01/16/24
Mathew Lazenby	Bal Harbour Shops LLC	01/16/24
Benjamin Elias	Bal Harbour Shops LLC	01/16/24
Ivor Nicholas Massey	Bal Harbour Shops LLC	01/16/24
Caroline Travis	Bal Harbour Shops LLC	01/16/24
Nicholas Noto	LK Hotel, LLC	01/19/24
Carter McDowell	LK Hotel, LLC	01/19/24

BAL HARBOUR

- VILLAGE -

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Susan L. Trevarthen *SLT*

DATE: February 12, 2024

RE: Monthly Report of Village Attorney for January 2024 Activities

Here is the monthly report on the Village Attorney's activities. While we attend to Village business and confer with Village officials continuously, this report highlights specific tasks and projects for the month. Please contact me or Robert Meyers if you have any questions about this report.

Retainer Services

Within the fixed fee retainer in January, we reviewed, advised and prepared documents for all agenda items for and attended the January Council meeting. We conferred with staff on various matters, and we attended the weekly staff meetings, the January ARB meeting, and the monthly agenda review and after action meetings. We began preparation for the February Council meeting and Council retreat.

Specific additional matters included:

- We conferred with Village Manager and attended meetings and site visit related to design and construction issues on Waterfront Park. We conferred with staff, reviewed correspondence and drafted letter to contractor on gate malfunctions.
- We reviewed state law related to expedited building permit requirements to ensure compliance.
- We reviewed and analyzed proposed amendments to state vacation rental statute to determine impact on Village.
- We examined a proposed bill on flood damage regulation and enforcement to determine impact to Village, in relation to existing statutes.
- We worked extensively with staff on the development of proposed ordinances for the February Council meeting.
- We conferred with staff and reviewed mutual aid agreements with several other municipalities.
- We reviewed correspondence and Code provisions concerning the Code's criminal penalties for municipal ordinance violations and prepared memorandum

concerning this topic for the 11th Judicial County Court's administrative judge for the criminal division, at her request.

- We conferred with Rivage's counsel and with staff, and reviewed correspondence concerning Code provisions governing restaurants.
- We conferred with Oceana's counsel in preparation for a Council item regarding a proposed resolution of the DA issue.
- We conferred with staff and reviewed Waterfront Park facilities usage agreement and participant waiver form.
- We prepared for, attended, and facilitated ethics training for Village Manager's office.
- We drafted a request to FDOT for Right of Way maps and other documents related to Village roads and reviewed FDOT response.
- We analyzed issues and reviewed subpoena for trial related to building records.
- We conferred with the Building Official, reviewed correspondence, and analyzed Village Code concerning various building inquiries.

Additional Services

For the Bellini Condominium Association federal challenge, we drafted correspondence and reviewed and analyzed court orders, including the orders dismissing the case and entering judgment.

For the Bal Harbour Shops Submission, we comprehensively reviewed various inquiries related to the proposal, including ones related to the Live Local Act and its potential amendments, attended multiple meetings with Village staff, briefed Council members, conducted extensive research and analysis, met with the litigators multiple times, prepared for and attended an executive session, and worked with staff to implement the Council direction to protect the Village's interests.

For the Dade County PBA - Collective Bargaining, we reviewed and analyzed issues and met with staff and with the PBA concerning police off-duty detail policy.

For the Security/Landscape Assessment, we reviewed the propriety of expenses and attended a meeting with the Civic Association re concerns with the gates.

For Zyscovich Architects re Waterfront Park design, we met with staff, reviewed documents, viewed the Park issues onsite, drafted and reviewed correspondence, analyzed and researched issues, and developed strategy concerning design errors and omissions.