

**Proposed Amendments to the Bal Harbour Village  
Zoning Code – Chapter 21  
Site Plan Process**

**FLORIDA LIVE LOCAL ACT STATUTORY PROVISIONS**

**166.04151 Affordable housing.**

(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.

**Bal Harbour Village Zoning Code Requirements**

**ARTICLE III. –DISTRICT REGULATIONS**

**DIVISION 11. - B BUSINESS 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 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.

(3) Site plan review and approval shall not be required for the following activities:

a. A change in use to a Permitted Use listed in [Section 21-316\(a\)](#); or

b. Proposed work which is limited to any interior improvement, remodeling or renovation which is not visible from the ground level, or from the first three floors, of a residential property: or

c. Construction or improvement of Municipal Buildings.

(4) A 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 \$1,000.00. A major site plan application shall be accompanied by a nonrefundable application fee of \$3,500.00. The Village shall maintain a record of all costs of review of a major site plan application including, but not limited to, fees of Village staff and consultants and out of pocket costs. Prior to scheduling a major site plan application for a public hearing, the applicant shall pay the Village for all actual costs over \$3,500.00. The application fee does not include the costs of advertising and public notice; all such advertising and public notice costs shall be borne by the applicant.

(c) *Review of Minor Site Plan 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 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 \$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. Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the Village Council and Architectural Review Board are prohibited from a mandatory review and approval of a site plan application. This shall not prohibit the Village Manager from seeking advisory comments from the Architectural Review Board to assist the Village administration in design comments for Multiple-Family residential uses.
- (1) *Criteria for ARB Review and Administrative Review for any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.).* The Board and Village administrative staff 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. Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the Village's Administrative staff, including the Village Manager, Building Official, or other authorized staff or professional consultants functioning as Administrative staff, including but not limited to Planning & Zoning, Civil Engineering, Traffic Engineering, Landscaping, or others deemed necessary, may suggest or require specific site plan changes or conditions to address Code compliance, and 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. Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the Village's Administrative staff initial and all subsequent application completeness and technical reviews are mandatory until full Code compliance is achieved and all development impacts are addressed per Section 21-322(d)(2) above.

(4) *Response to ARB Review and Administrative Review* for any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.). If the Board or Administrative staff does not recommend approval of the site plan and the applicant elects not to pursue further review by the Board or Administrative staff, the Board's or Administrative staff's position on the site plan and any comments discussed at the meeting or listed in a Village staff report 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. Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the applicant may elect to appeal the Village's Administrative staff decision to the Village Council or seek legal actions, but must demonstrate why the project will not be revised to meet minimum Code requirements or recommended conditions of approval.

(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. The staff report shall include a recommendation for approval, approval with conditions, or denial of the site plan. Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the Village's Administrative staff shall review the application when complete and shall prepare either a staff report or letter of approval or denial of the application, which shall be transmitted to the applicant within the timeframes set forth in the Florida Statutes or Village Code. The staff report or letter 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.

Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the Village's Administrative staff shall review the application when complete and make a determination on the site plan application utilizing the criteria set forth herein above.

(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 or Village Manager for any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.). 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. Notwithstanding the above, as related to any residential development proposed under the Florida "Live Local Act" (Section 166.04151(7), F.S.), the Village Manager (Administrative Staff Executive) shall follow the above procedures.

(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.