



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

OFFICIAL AGENDA

NORTH BAY VILLAGE PLANNING & ZONING BOARD MEETING

**VILLAGE HALL
1666 KENNEDY CAUSEWAY, #101
NORTH BAY VILLAGE, FL 33141**

**TUESDAY
SEPTEMBER 2, 2014 – 7:30 P.M.**

NOTICE IS HEREWITH GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE PLANNING & ZONING BOARD. SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL 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. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZES CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

-
1. **CALL TO ORDER**
 2. **PLEDGE OF ALLEGIANCE, ROLL CALL**
 3. **ELECTION OF VICE CHAIR**
 4. **(PUBLIC HEARINGS) ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN.**
 - A. **AN APPLICATION BY MR. AND MRS. OCARIZ CONCERNING PROPERTY LOCATED AT 1460 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**
 1. **A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.**

B. AN APPLICATION BY BAY VILLAGE VENTURE, LLC CONCERNING PROPERTY LOCATED AT 1725 KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- 1. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.030(C)(3) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A MIXED-USE COMMERCIAL STRUCTURE IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT.**
- 2. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.042(E) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW UP TO TWENTY (20) PERCENT OF THE DEVELOPMENT'S REQUIRED PARKING SPACES TO BE DESIGNED SPECIFICALLY FOR COMPACT VEHICLES.**
- 3. BONUS DENSITY APPROVAL, PURSUANT TO SECTION 152.029(C)(8)H OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.**
- 4. BONUS HEIGHT APPROVAL, PURSUANT TO SECTION 152.029(C)(8)A-F OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.**
- 5. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW 5 STORIES OF PARKING, WHERE SECTION 152.029(C) ALLOWS A MAXIMUM OF FOUR STORIES OF PARKING.**
- 6. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A STRUCTURE TO BE 25 FEET FROM THE WEST SIDE PROPERTY LINE WHERE SECTION 152.029(C)(2) REQUIRES A 43.5 FOOT SIDE SETBACK.**
- 7. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A 43-UNIT, 18-STORY MIXED USE CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.**

- 1.) Board Recommendation**

5. **WORKSHOP**
 - A. **DRAFT LAND DEVELOPMENT CODE REVISIONS**
6. **APPROVAL OF MINUTES**
 - A. **JULY 15, 2014 PLANNING & ZONING BOARD MEETING**
 - 1.) **Board Recommendation**
7. **ADJOURNMENT**



Staff Report Variance Request

Prepared for: North Bay Village
Planning & Zoning Board

Applicant: Humberto & Rebecca Ocariz

Site Address: 1460 South Treasure Drive

Request: Variance to Maximum Building Height



Serving Florida Local Governments Since 1988

General Information

Owner/Applicant	Humberto & Rebecca Ocariz
Site Address	1460 S. Treasure Dr.
Contact Person	Callum Gibb
Contact Phone Number	305-785-3798
E-mail Address	Not given
Zoning District	RS-2
Use of Property	Single Family Home

Legal Description of Subject Property

LOT 28, BLOCK 1, TREASURE ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 50 AT PAGE 67, OF THE PUBLIC RECORDS OF MIAMI DADE COUNTY, FLORIDA

SAID LANDS LYING AND BEING IN THE CITY OF NORTH BAY VILLAGE, MIAMI-DADE COUNTY, FLORIDA CONTAINING 9,000 SQUARE FEET (0.20 ACRES), MORE OR LESS.

Requested Variance

The applicant is requesting a 2 foot variance to the 35 foot maximum building height allowed for a 3 story structure in the RS-2 Zoning District, thereby allowing the average height of the roof to be 37 feet above grade.

Project Description

In October of 2013, the zoning department approved single family residence plans that were submitted for a building permit at this property. Those plans depicted a structure that was 35 feet above grade, which is the maximum allowed for a three story structure in the RS-2 Zoning District. Now the applicant has requested a variance "to raise the ridgeline of roof from 35 feet to 37 feet". The applicant states that the reason for this request is that "the change allows for a better design and construction solution as it completes the sloped roof".



Required Findings

Sec. 152.097(B) sets forth the findings that are required for the reviewing body(ies) to authorize any variance request. Sec. 152.097(C) requires that the reviewing body(ies) must make an affirmative finding with respect to the criteria listed below. For ease of review, each of the criteria contained in subparagraphs (B)(1) through (B)(3) have been separated into their component parts.

- (1)a. That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district;

Staff Comments: The Applicant has provided no evidence of special circumstances and/or conditions that are unique to the land or proposed structure. The property is a rectangular shaped lot of 9,000 square feet, in excess of the 6,000 square foot minimum lot size required in the RS-2 Zoning District. Architectural considerations are not valid reasons for granting a variance.

- (1)b. that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property;

Staff Comments: There are no special circumstances and/or conditions. The request for more height is a matter of choice necessitated only by the preference of the Applicant for a building size that results in the need for the variance.

- (1)c. and that the strict application of the provisions of this chapter would (or would not) deprive the Applicant of the reasonable use of the land, structure, or building for which the variance is sought;

Staff Comments: The Applicant has already received a building permit to build a structure that conforms to the Village Code and the parameters of the front setback variance that was already granted by the Commission. The Applicant has the right to build a structure that has already been permitted and the strict application of the maximum building height will not deny the Applicant the reasonable use of the property.



- (1)d. and would (or would not) involve an unnecessary hardship for the Applicant.

Staff Comments: The definition of an unnecessary hardship in Chapter 152 is as follows:

“(2) *Hardship, unnecessary.* Arduous restrictions upon the uses of a particular property, which are unique and distinct from that of adjoining property owners. Granting of relief from an unnecessary hardship should not violate sound zoning principles, including considerations that: adjacent properties will not be substantially reduced in value, it is not granting a special privilege not to be enjoyed by others in similar circumstances, and the public interest is maintained, including following the spirit of this chapter and the comprehensive master plan. Invalid and nonjustifiable bases for pleading unnecessary hardship include but are not limited to:

- (a) Loss of the "best" use of the land, and business competition.
- (b) Self-created hardships by the applicant's own acts.
- (c) Neighboring violations and nonconformities.
- (d) Claims of inability to sell the property.
- (e) General restrictions of this chapter.”

There is no unique characteristic about the lot that requires a variance to the maximum building height. If the Applicant should choose to build a new home of such a size that it requires that the structure exceed the maximum building height, any perceived hardship is one that is self-created.

Allowing the Applicant to build the structure that has already received a building permit does not deprive the Applicant of reasonable use of the land.

- (2)a. That granting the variance requested will not (or will) confer on the Applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district;

Staff Comments: It is our opinion that granting the requested building height variance would confer on the Applicant a special privilege that is denied to other lands in the RS-2 zoning district.

- (2)b. and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.

Staff Comments: Strict application of the maximum building height will not deny the Applicant the reasonable use of his property. Consequently, we are of the opinion that no variance to the maximum building height is necessary; especially since the applicant has the right to build a structure according to the plans that were submitted and approved in October 2013, which do meet the Code.



- (3) That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Applicant Comments: It is in harmony with the general appearance and character of the community. It will not be in injurious to the area involved or otherwise detrimental to the public welfare. It is an improvement to the design and is located in the center of the building, which maximizes the visual impact on the adjacent residences.

Staff Comments: While we do not feel that the granting of the variance would be particularly injurious to the neighborhood or otherwise detrimental to the public welfare, nevertheless, the granting of the variance will not be in harmony with the general intent of Chapter 152. Most importantly, the request does not meet the very specific requirements for granting a variance.

The City's LDC contains the same criteria in Sec. 2.7.6 as discussed above except they are numbered (1) through (6). The LDC also includes a seventh criterion which reads as follows:

7. The variance request is not based exclusively upon a desire to reduce the cost of development.

Staff Comments: We do not believe that the Applicant has based this variance request exclusively to reduce the cost of development.



Recommendations

Staff recommends **denial** of the requested variance to allow the structure to exceed the North Bay Village maximum building height.

Staff finds that the requested variance does not meet all of the requirements of Sec. 152.097(C) in that the materials submitted do not adequately allow for an affirmative finding on all of the criteria contained in 152.097(B) as specifically identified by the foregoing Staff Comments.

Submitted by:

James G. LaRue
James G. LaRue, AICP
Planning Consultant

August 19, 2014

Hearing: Planning & Zoning Board, September 2, 2014





North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

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VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 1 of 3

Site Address 1460 SOUTH TREASURE DRIVE

Owner Name MR & MRS. OCARIZ Owner Phone # 305-785-3798

Owner Mailing Address _____

Applicant Name _____ Applicant Phone # _____

(if different from Owner)

Applicant Mailing Address _____

Contact Person CAROLYN GIBBS, Architect Contact Phone # _____

Contact Email Address _____

Legal Description of Property LOT 28 BLK 1 TREASURE ISLAND P.B. 50, PAGE 67

Existing Zoning RS-2 Lot Size 9000 SF Folio Number _____

Project Description CONSTRUCTION OF NEW HOME

Section of North Bay Village Code from which the Applicant is Seeking Relief _____

Variance Requested TO RAISE RIDGELINE OF ROOF FROM 35' TO 37'0"

Reason for Request THE CHANGE ALLOWS FOR A BETTER DESIGN AND

CONSTRUCTION SOLUTION AS IT COMPLETES THE SLOPED ROOF

Mandatory Submittals (Applicant must check that each item is included with this application.)

Plans depicting work to be completed

Property survey

Application fees

Optional Submittals:

Response to required findings

Signed consent letters from neighboring property owners

Optional plan versions for consideration by Village Commission

GFH

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 2 of 3

Applications are incomplete until all mandatory submittals have been received by the Village Clerk.

All requests for variances from the North Bay Village Code shall be considered at Public Hearings before the Planning & Zoning Board and/or the Village Commission. Notice of Hearing shall be given by publishing and posting on the property (which is the subject of the request), the time, the place and the nature of the hearing at least 10 days before the hearing. The Village Clerk shall certify that the petition is complete before the hearing is legally advertised. All applications shall be submitted to the Village Clerk on or before the deadline implemented by the Village.

All persons, firms, or corporations requesting a variance from the Village Commission necessitating the publication of notices in the newspaper, and all relative thereto, the payment of such money in advance to the Village Clerk shall be deemed a condition precedent to the consideration of such a variance request, pursuant to Section 152.110 of the Village Code.

All new and substantial improvements must comply with the Florida Building Code, Department of Environmental Resource Management (DERM), and FEMA regulations.

I (We) the undersigned, am (are) the (owner, tenant, agent, attorney) (designate one) of the subject property herein described. I (We) acknowledge and agree that during the consideration of the application before the Planning & Zoning Board and staff of North Bay Village, no rights shall vest on behalf of the applicant, which would be enforceable against the Village until after a Public Meeting is held by the Planning & Zoning Board and the Village Commission has voted favorable on the proposed request.

I (We) further acknowledge that I (We) have read and understand the conditions for appearance before the Planning and Zoning Board and the Village Commission pursuant to the Village Code Section 152.096. Any person submitting false information or misrepresenting in their presentation shall have all privileges granted to them by the Planning & Zoning Board and the Village Commission revoked.

Authorized Signature Rebecca Ocariz Humberto Ocariz

Print Name REBECCA OCARIZ HUMBERTO OCARIZ

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA
COUNTY OF Miami-Dade

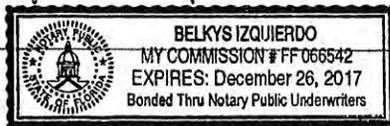
Sworn to and subscribed to before me this 30th day of July, 2014.

by Rebecca A. Ocariz and Humberto H. Ocariz

who is personally known to me or who has produced _____ as identification.

Notary Public Signature Belkys Izquierdo

Commission Number/Expiration _____



- Mayor: Connie Leon-Kreps; Vice Mayor: Eddie Lim; Commissioner: Dr. Richard Chervony; Commissioner: Wendy Duvall; Commissioner: Jorge Gonzalez

VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 3 of 3

Office Use Only:

Date Submitted: 7/31/14

Tentative Meeting Date: 9/2/14

Fee Paid: \$ 100.00

Cash or Check # 5612

Date Paid: 7/31/14

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

CALLUM GIBB ARCHITECT PA
ARCHITECTURE • PLANNING • INTERIORS

North Bay Village
1666 Kennedy Causeway
Suite 300
North Bay Village
Florida 33141

Re: Non-Hardship Variance Request

To whom it may concern,

This request is being made by Humberto and Rebecca Ocariz. They are currently building a new home at 1460 S. Treasure Drive.

The home as designed meets the height requirements as per the zoning regulations. The request is for an additional two feet in overall height.

This request, if granted does not provide any additional area to the home, it would only allow the roof shape to be changed. It would allow us to complete the top of the sloped tile roof so that we have a tradition ridgeline. Currently we have a small flat area at the ridge of the roof to maintain the 35'-0" height limit.

We believe that this change meets the criteria of the non-hardship variance section in that:

- 1) It is in harmony with the general appearance and character of the community.
- 2) It will not be injurious to the area involved or otherwise detrimental to the public welfare.
- 3) It is an improvement to the design and is located in the center of the building which minimizes the visual impact on the adjacent residences.

Please do not hesitate to contact me should you require additional information or have any queries or comments.

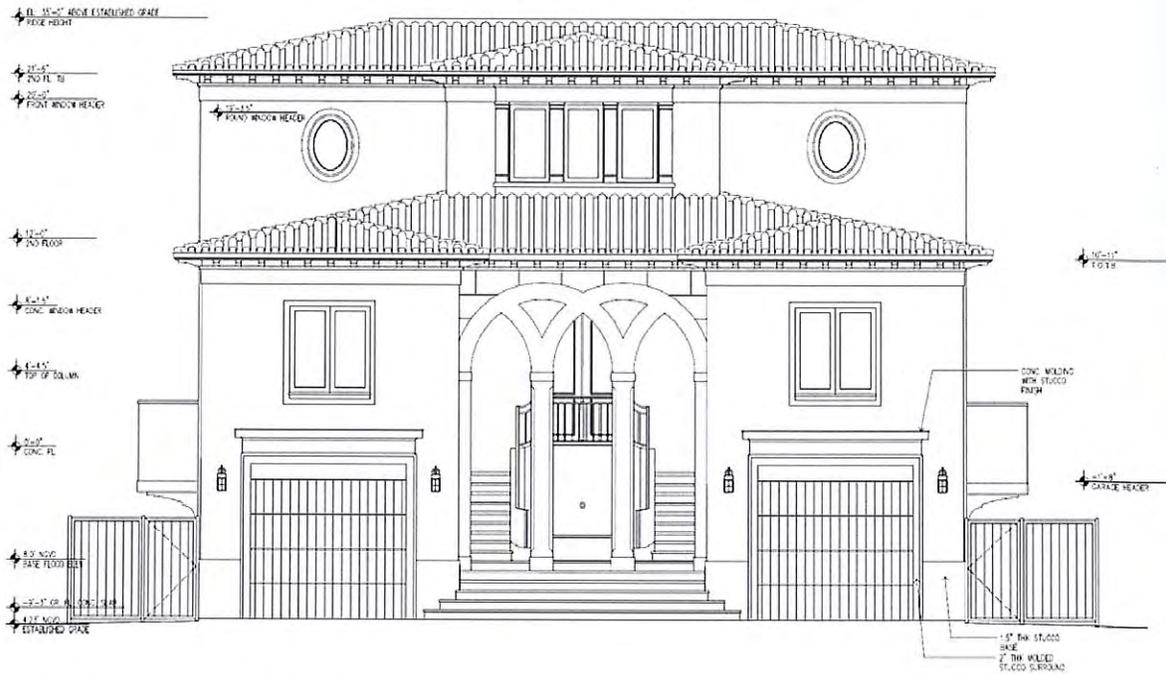
Yours sincerely,

Callum Gibb

Callum Gibb Architect.



Plans Approved October 2013



FRONT ELEVATION

1/4"

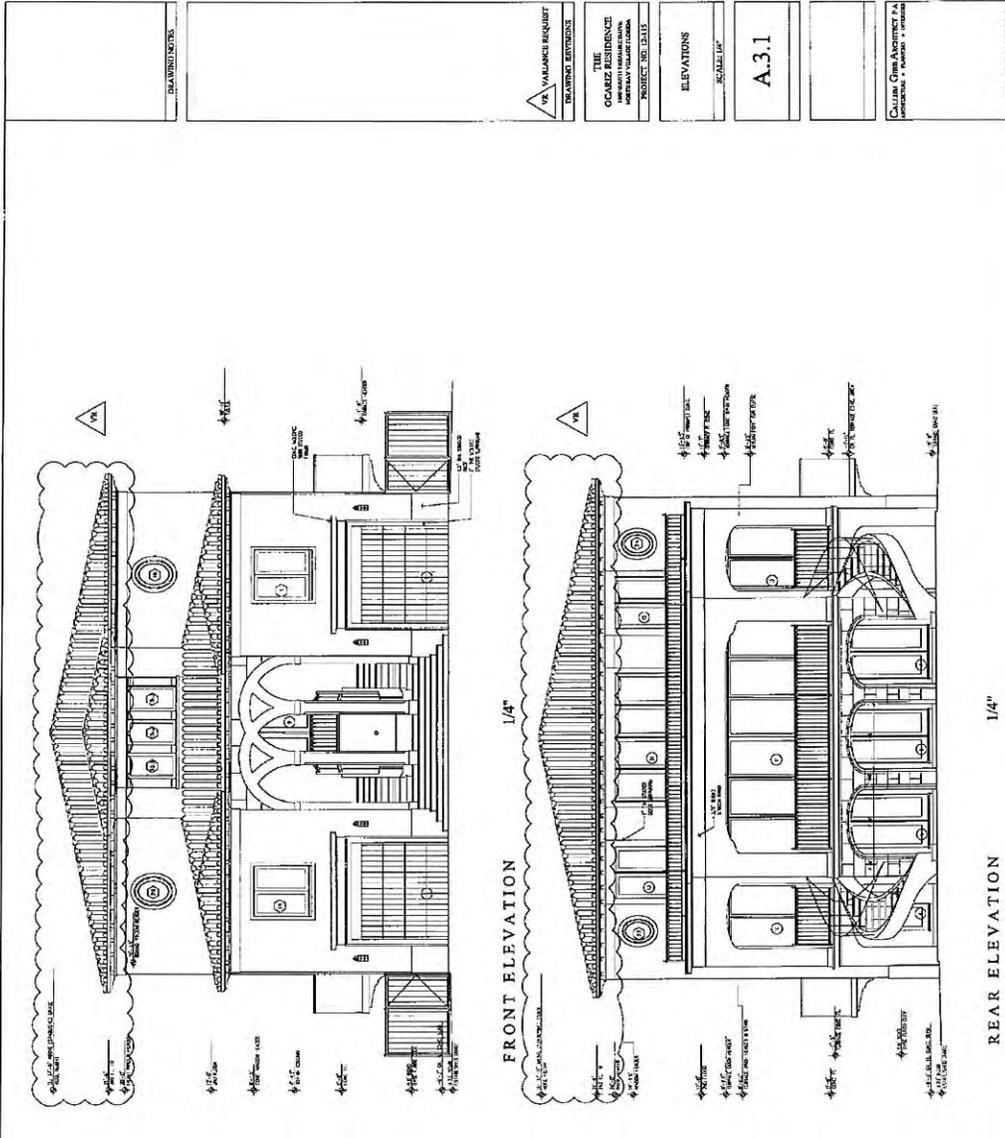


REAR ELEVATION

1/4"

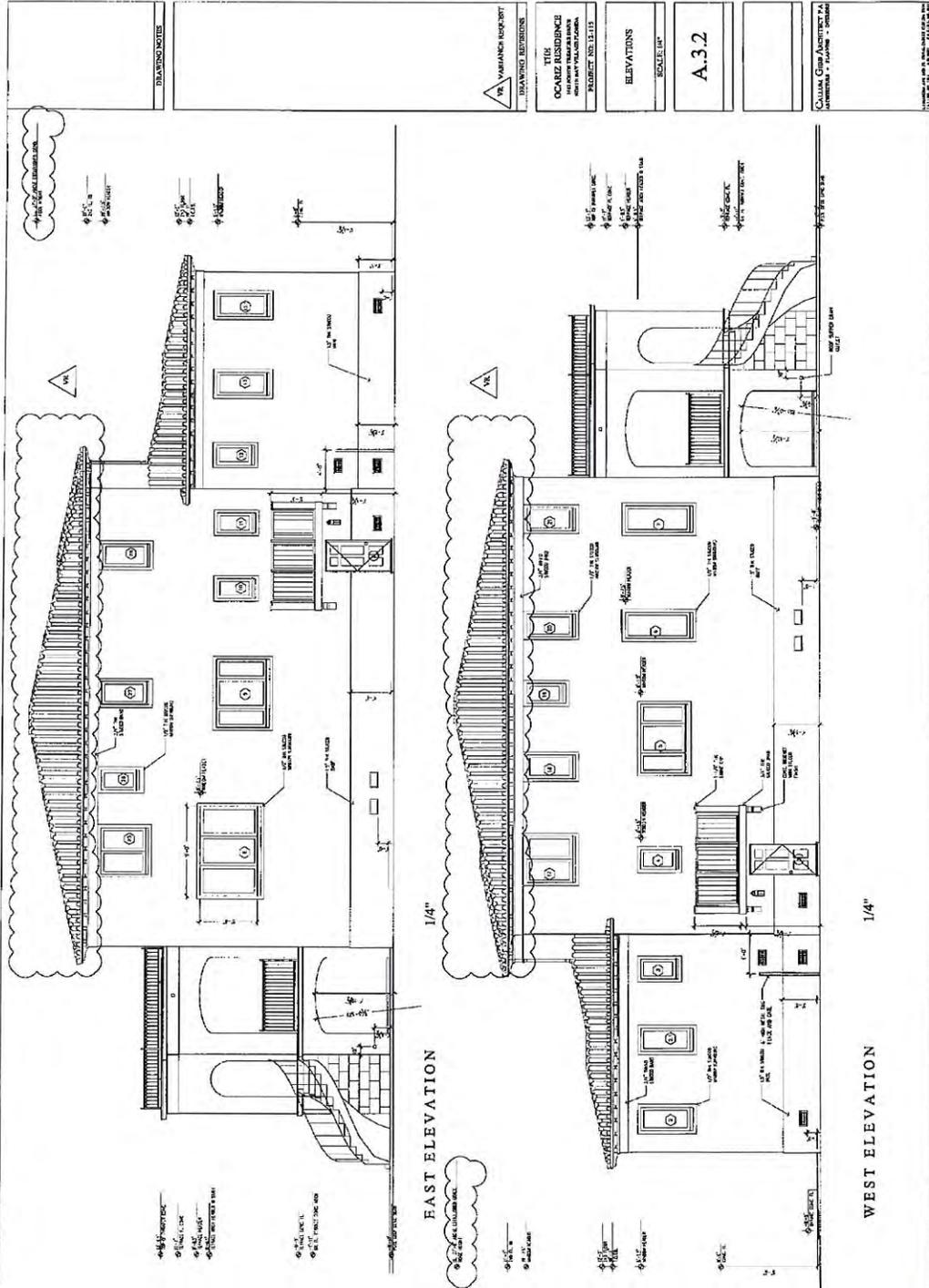


Plans Submitted for Height Variance Request



Serving Florida Local Governments Since 1988

Plans Submitted for Height Variance Request





North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

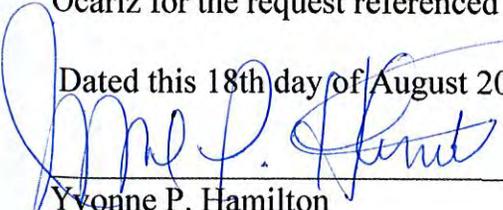
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

RE. AN APPLICATION BY MR AND MRS OCARIZ CONCERNING PROPERTY LOCATED AT 1460 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.**

I, Yvonne P. Hamilton, Village Clerk hereby certify, as per Section 152.096(A)(2) of the North Bay Village Code of Ordinances, that the petition filed by Humberto and Rebecca Ocariz for the request referenced herein is complete.

Dated this 18th day of August 2014.



Yvonne P. Hamilton
Village Clerk

(Planning & Zoning Board Meeting-9/2/2014)



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

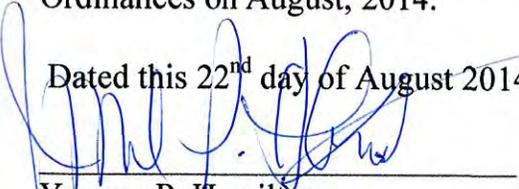
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

RE: AN APPLICATION BY MR. AND MRS. OCARIZ CONCERNING PROPERTY LOCATED AT 1460 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.**

I, Yvonne P. Hamilton, Village Clerk, hereby certify that the attached Notice of Public Hearing was mailed to property owners and residents within 300 feet of the property of the subject request pursuant to Section 152.096(A)(2) of the North Bay Village Code of Ordinances on August, 2014.

Dated this 22nd day of August 2014.



Yvonne P. Hamilton
Village Clerk

(Planning & Zoning Board Meeting-9-2-2014)



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

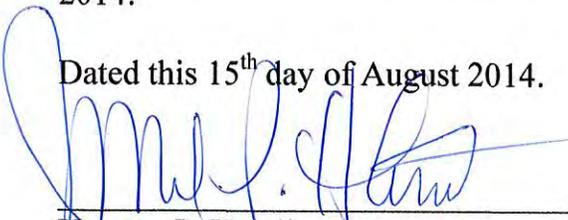
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

RE: AN APPLICATION BY MR AND MRS OCARIZ CONCERNING PROPERTY LOCATED AT 1460 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.**

I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on September 2, 2014 was posted at the above-referenced property on August 15, 2014.

Dated this 15th day of August 2014.


Yvonne P. Hamilton
Village Clerk

(Commission Meeting-7-29-2014)



**NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING**

PUBLIC NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD ITS REGULAR MEETING ON **SEPTEMBER 2, 2014 AT 7:30 P.M. OR AS SOON AS POSSIBLE THEREAFTER, AT VILLAGE HALL, 1666 KENNEDY CAUSEWAY #101,** NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING, THE BOARD WILL CONSIDER THE FOLLOWING REQUEST AND SUBMIT A RECOMMENDATION TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY MR AND MRS OCARIZ CONCERNING PROPERTY LOCATED AT 1460 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**
 - A. **A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.**

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE PLANNING & ZONING BOARD C/O THE BUILDING & ZONING CLERK, 1666 KENNEDY CAUSEWAY, #300, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE VILLAGE CLERK DURING REGULAR WORKING HOURS AT 1666 KENNEDY CAUSEWAY, #300. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE VILLAGE COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST 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.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
VILLAGE CLERK
(August 18, 2014)

Owner/Occupant
1440 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1450 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1460 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1470 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1480 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1500 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1510 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1520 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1540 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1441 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1471 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1471 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1521 S. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7500 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7504 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7508 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7512 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7516 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7517 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7513 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7509 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7505 W. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7504 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7508 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7512 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7516 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7517 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7513 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7509 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7505 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7504 Bounty Avenue
N. Bay Village, FL 33141

Owner/Occupant
7508 Bounty Avenue
N. Bay Village, FL 33141

Owner/Occupant
7512 Bounty Avenue
N. Bay Village, FL 33141

Owner/Occupant
7516 Bounty Avenue
N. Bay Village, FL 33141



NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD ITS REGULAR MEETING ON SEPTEMBER 2, 2014 AT 7:30 PM, OR AS SOON AS POSSIBLE THEREAFTER AT VILLAGE HALL, 1666 KENNEDY CAUSEWAY #101, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING, THE BOARD WILL CONSIDER THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. AN APPLICATION BY KAKTUA SAINT CONCERNING PROPERTY LOCATED AT 7441 CENTER BAY DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A PERGOLA TO ENCROUGH 2 FEET INTO THE REQUIRED 10 FOOT SIDE INTERIOR SETBACK AREA.
 - B. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A PERGOLA TO ENCROUGH 2 FEET INTO THE REQUIRED 15 FOOT REAR SETBACK AREA.
2. AN APPLICATION BY MR AND MRS OCARIZ CONCERNING PROPERTY LOCATED AT 1460 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.
3. AN APPLICATION BY BAY VILLAGE VENTURE, LLC CONCERNING PROPERTY LOCATED AT 1725 KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.030(C)(3) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A MIXED-USE COMMERCIAL STRUCTURE IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT.
 - B. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.042(E) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW UP TO TWENTY (20) PERCENT OF THE DEVELOPMENT'S REQUIRED PARKING SPACES TO BE DESIGNED SPECIFICALLY FOR COMPACT VEHICLES.
 - C. BONUS DENSITY APPROVAL, PURSUANT TO SECTION 152.029(C)(8)H OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.
 - D. BONUS HEIGHT APPROVAL, PURSUANT TO SECTION 152.029(C)(8)A-F OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.
 - E. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW 5 STORIES OF PARKING, WHERE SECTION 152.029(C) ALLOWS A MAXIMUM OF FOUR STORIES OF PARKING.
 - F. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A STRUCTURE TO BE 25 FEET FROM THE WEST SIDE PROPERTY LINE WHERE SECTION 152.029(C)(2) REQUIRES A 43.5 FOOT SIDE SETBACK.
 - G. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A 43-UNIT, 18-STORY MIXED USE CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE PLANNING & ZONING BOARD C/O THE BUILDING & ZONING CLERK, 1666 KENNEDY CAUSEWAY, #300, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE VILLAGE CLERK DURING REGULAR WORKING HOURS AT 1666 KENNEDY CAUSEWAY, #300. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE VILLAGE COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST 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.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSONS WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
VILLAGE CLERK
(August 12, 2014)



Staff Report Special Use Exception

Prepared for: North Bay Village
Planning & Zoning Board

Applicant: Bay Village Venture, LLC

Site Address: 1725 Kennedy Causeway

Request: Special Exception for Development of a
Mixed Use Commercial Structure in the
CG Zoning District



1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366

Serving Florida Local Governments Since 1988

General Information

Owner/Applicant:	Bay Village Venture, LLC
Applicant Address:	3137 NE 163 rd St. N. Miami, FL 33160
Site Address:	1725 Kennedy Causeway
Contact Person:	Jose Saal
Contact Phone Number:	305-944-5900
E-mail Address:	saaltrust@aol.com

Future Land Use	Commercial
Zoning District	CG
Use of Property	Vacant
Acreage	0.62 acres

Legal Description of Subject Property

9 53 42 E150FT OF W 1500FT OF TREA IS LYING N OF 79 ST CSWY PER DB 3409-93

Adjacent Land Use Map Classifications and Zoning District

North	Future Land Use	Water
	Zoning District	Water
	Existing Land Use	Biscayne Bay
East	Future Land Use	Commercial
	Zoning District	CL
	Existing Land Use	Vacant (approved for mixed use condo/hotel)
South	Future Land Use	Commercial
	Zoning District	CG
	Existing Land Use	Lexi Mixed Use Condo
West	Future Land Use	Commercial
	Zoning District	CG
	Existing Land Use	Atlantic Broadband



Request

The applicant is requesting a special use exception pursuant to Sections 152.030(C)(3) and 152.098 of the North Bay Village Code of Ordinances for development of a mixed-use commercial structure in the CG (General Commercial) zoning district.

General Description

The submitted plans depict the proposed development as an 19-story, mixed-use residential and commercial development with 43 multi-family units. Additionally, the tabular project summary shows 2,700 square feet of restaurant space, of which 1,650 square feet will be customer service area.

Consistency with Comprehensive Plan

While the Comprehensive Plan is silent as to mixed-use in the Commercial Future Land Use category, it does allow for restaurant and residential uses which are proposed. We believe that a mix of multi-family units and the proposed restaurant use is consistent with the intent of the Commercial Future Land Use category.

Consistency with Special Use Exception Standards

Section 152.098 provides for Village Commission approval of a special use exception if there are clear indications that such an exception will not substantially adversely affect the uses of adjacent property.

Other Requirements and Considerations

The property to the west is a commercial office. The property to the east is currently vacant but has been approved for a mixed use condo/hotel. To the south, across Kennedy Causeway, is the Lexi, a mixed use condo with commercial on the ground floor, including a restaurant. The Applicant's proposal to develop the subject property as a mixed use structure encompassing multi-family residential units and a restaurant on the subject property is compatible with, and will have no adverse effect upon, the existing or proposed uses of the adjacent properties.



Findings and Recommendations

Staff finds that the request is consistent with Sections 152.030(C)(3) and 152.098 in that this modification of a special use exception will not adversely affect the uses permitted in the regulations of adjacent properties.

Based on the foregoing analysis, Staff recommends **approval** of the request for the special use exception for a mixed-use residential and commercial structure.

Submitted by:

James G. LaRue
James G. LaRue, AICP
Planning Consultant

August 19, 2014

Hearing: North Bay Village Planning & Zoning Board, September 2, 2014





Staff Report Special Use Exception

*Prepared for: North Bay Village
Planning & Zoning Board*

Applicant: Bay Village Venture LLC

Site Address: 1725 Kennedy Causeway

*Request: Special Exception for up to twenty percent
of the required parking spaces to be
designated for compact vehicles*



Serving Florida Local Governments Since 1988

General Information

Owner/Applicant:	Bay Village Venture, LLC
Applicant Address:	3137 NE 163 rd St. N. Miami, FL 33160
Site Address:	1725 Kennedy Causeway
Contact Person:	Jose Saal
Contact Phone Number:	305-944-5900
E-mail Address:	saaltrust@aol.com

Future Land Use:	Commercial
Zoning District:	CG
Use of Property:	Vacant
Acreage:	0.62 acres

Legal Description of Subject Property

9 53 42 E150FT OF W 1500FT OF TREA IS LYING N OF 79 ST CSWY PER DB 3409-93

Request

The applicant is requesting a special use exception pursuant to Sections 152.042(e) and 152.098 of the North Bay Village Code of Ordinances to allow up to twenty (20) percent of the development's required parking spaces to be designed specifically for compact vehicles.



General Description

The site plan for this mixed use condominium shows 40 two bedroom dwelling units, 3 three bedroom units, and 1,650 square feet of restaurant customer service area. This will require at least 120 total parking spaces. The minimum standard parking space dimensions are 9 feet by 18 feet. The applicant is requesting permission to make up to 20% (24 spaces) of those required spaces compact spaces, reducing the size to a minimum of 8 feet by 16 feet.

Consistency with Comprehensive Plan

The request for compact spaces, if approved for this site plan, is consistent with the Village's Comprehensive Plan, and the provision of safe on-site traffic flow as per Transportation Policy 3.2.7.

Consistency with Special Use Exception Standards

The granting of no more than 24 compact parking spaces, for this site plan, would not "substantially affect adversely the uses permitted in these regulations of adjacent property".

Findings and Recommendations

Staff finds that this request is consistent with Sections 152.042(e) and 152.098 in that this special use exception will not adversely affect the uses permitted in the regulations of adjacent properties.

Staff recommends **approval** of this request for the parking spaces designated for compact vehicles contingent upon a positive approval of a site plan for this development.

Submitted by:

James G. LaRue
James G. LaRue, AICP
Planning Consultant

August 19, 2014

Hearing: Planning & Zoning Board, September 2, 2014





Staff Report Variance

Prepared for: North Bay Village
Planning & Zoning Board

Applicant: Bay Village Venture, LLC

Site Address: 1725 Kennedy Causeway

Request Variance to allow five levels of parking garage where the Code allows not more than four.

General Information

Owner/Applicant:	Bay Village Venture, LLC
Applicant Address:	3137 NE 163 rd St. N. Miami, FL 33160
Site Address:	1725 Kennedy Causeway
Contact Person:	Jose Saal
Contact Phone Number:	305-944-5900
E-mail Address	saaltrust@aol.com

Future Land Use	Commercial
Zoning District	CC
Use of Property	Vacant
Acreage	1.12 acres

Legal Description of Subject Property

9 53 42 E150FT OF W 1500FT OF TREA IS LYING N OF 79 ST CSWY PER DB 3409-93

Request

The Applicant is requesting a variance pursuant to Section 152.097 of the North Bay Village Code of Ordinances in connection with the development of a mixed use condominium to allow 5 stories of parking garage where Section 152.029(C)(4) allows not more than 4.



Required Findings

The Sec. 152.097(B) and (C) requires that in order to authorize, recommend or grant any variance, the reviewing body(ies) must make an affirmative finding with respect to the criteria listed below. For ease of review, each of the criteria contained in subparagraphs (B)(1) through (B)(3) have been separated into their component parts, as follows:

- (1)a. That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district;

Applicant Comments: Given the limited size of the property, which is only 150 feet across and 180 feet deep, there is insufficient space to accommodate meaningful ground level parking outside of the structure itself. Additionally, a minimum requisite ramp slope and layout is required for both efficiency and safety within the parking garage. Finally, the location of structural columns further limits the run of the ramp and placement of the actual spaces.

Staff Comments: It is difficult to see the special circumstances or conditions to this property which are not applicable to other properties along Kennedy Causeway or in the CG District. However, it must be stated that other developments along the Causeway have requested and received relief from this parking level limitation after objecting to its restrictiveness.

- (1)b. that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property;

Staff Comments: The applicant's current design for this development seems to have artificially created the need for this variance request. It is up to the applicant to explain the necessity to exceed the parking level limitation.

- (1)c. and that the strict application of the provisions of this chapter would (or would not) deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought and would (or would not) involve an unnecessary hardship for the applicant.

Applicant Response: The Village Code limits the parking garage to a maximum of four stories of the structure and requires the structure above ground to set back a certain distance from the side property lines. However, based on the size of the lot and requisite garage functionality and efficiency, a minimum width of the parking garage is required. Further, in order to accommodate the required loading bays and turnaround, there is insufficient area to provide more than 2 outside surface parking spaces. Therefore, the



building has been designed with a 5-story parking deck that measures 108' 5" across, and is set back 25 feet from the west property line and 16' 7" feet from the east property line. However, at ground level, with the exception of the support columns for the structure, the east setback is 35' 1" feet and the west setback is at 25'.

Staff Comments: There seems to be ample development potential and reasonable use of this property without granting a variance. There is no hardship just because the applicant doesn't wish to meet the District requirements. However, staff feels this is an unnecessary requirement that is ripe for revision

- (2)a. That granting the variance requested will not (or will) confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district;

Staff Comments: If approved, the variance would not be so substantial as to confer a special privilege to this property holder. Additionally, since this requirement is slated for deletion in the coming Village initiated land development revisions, it seems that denying this request would be denying the applicant an ability to build what will be a matter of right for future developers.

- (2)b. and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.

Staff Comments: The variance requested is probably the minimum that would make possible the reasonable use of this property. The request is also minor in that only one extra level of parking has been requested.

- (3) That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Comments: The variance, if granted, is not injurious to the neighborhood or otherwise detrimental to the public welfare.



The City's LDC contains the same criteria in Sec. 2.7.6 as discussed above except they are numbered (1) through (6). The LDC also includes a seventh criterion which reads as follows:

7. The variance request is not based exclusively upon a desire to reduce the cost of development.

Staff Comments: The applicant has not stated and staff does not believe that reducing the cost of development was a reason for this request.

Recommendations

Staff finds that the requested variance generally meets the requirements of Sections 152.097(B) and 152.097(C). Consequently, staff recommends **approval** of the requested variance to allow up to 5 stories of parking garage.

It should also be noted that staff is currently working on a list of suggested revisions to North Bay Village's Land Development Regulations, and that removal of this requirement (the limitation of 4 stories of parking garage levels in the RM-70 District Regulations) is one of the suggested revisions, because the limitation may be unduly restrictive.

Submitted by:

James G. LaRue
James G. LaRue, AICP
Planning Consultant

August 19, 2014

Hearing: Planning & Zoning Board, September 2, 2014





Staff Report Variance

Prepared for: North Bay Village
Planning & Zoning Board

Applicant: Bay Village Venture, LLC

Site Address: 1725 Kennedy Causeway

Request Variance to allow encroachment into the
required side-yard setback



**LaRue Planning
& Management Services, Inc.**
1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366

Serving Florida Local Governments Since 1988

General Information

Owner/Applicant:	Bay Village Venture, LLC
Applicant Address:	3137 NE 163 rd St. N. Miami, FL 33160
Site Address:	1725 Kennedy Causeway
Contact Person:	Jose Saal
Contact Phone Number:	305-944-5900
E-mail Address:	saaltrust@aol.com

Future Land Use:	Commercial
Future Zoning:	CG
Use of Property:	Vacant
Area:	0.62 acres

Legal Description of Subject Property

9 53 42 E150FT OF W 1500FT OF TREA IS LYING N OF 79 ST CSWY PER DB 3409-93

Request

The Applicant is requesting a variance pursuant to Section 152.097 of the North Bay Village Code of Ordinances in connection with the development of a mixed use condominium structure to allow less side-yard setback than what is required by Section 152.029(C)(2).

This section specifies several requirements for side yard setbacks on properties developing under the RM-70 District Regulations:

- One side must be at least 15 feet.
- The other side must be at least 20% of the lot width.
- When combined, both sides must equal at least 60 feet.

The subject property is 150 feet wide. The plans depict an east side setback of 16 feet 7 inches and a west side setback of 25 feet. The east side setback fulfills the 15 foot minimum requirement but the west side setback is 5 feet short of the 30 feet that is required to be 20% of the lot width. Additionally, the combination of these setbacks is equal to 41 feet 7 inches, which is approximately 18.5 feet short of the combined 60 feet required. If the plans are to be built as submitted, the Village Commission must grant approval of an 18.5 foot variance to the side setback requirements.



Required Findings

The Sec. 152.097(B) and (C) requires that in order to authorize, recommend or grant any variance, the reviewing body(ies) must make an affirmative finding with respect to the criteria listed below. For ease of review, each of the criteria contained in subparagraphs (B)(1) through (B)(3) have been separated into their component parts, as follows:

- (1)a. That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district;

Applicant Response: The Village Code requires a minimum of 15 feet setback on one side, and a setback of 20% on the other side (or 30 feet based on the Property's width), but with a combined minimum setback of 60 feet. This same setback applies to a structure on a property that measures 75 feet across (the minimum frontage under the code, but which would thus allow only a 15 foot wide building), or 225 feet across, which would require the same 60 feet combined setback.

Staff Comments: There are no special circumstances or conditions to this property which are not applicable to other properties in the CG District. This property is not unusually shaped and has twice the minimum required frontage for developing under the RM-70 district regulations. Additionally, the acreage of 0.62 is not a small area and it meets the minimum lot size requirements.

- (1)b. that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property;

Applicant Response: No specific comments.

Staff Comments: The applicant's current design for this development has artificially or self-created the need for this variance request.

- (1)c. and that the strict application of the provisions of this chapter would (or would not) deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought and would (or would not) involve an unnecessary hardship for the applicant.

Applicant Response: The Applicant has stated the proposed setbacks are necessary to accommodate the ramp length for the garage.

Staff Comments: There could be ample development and reasonable use of this property without the Village granting a setback variance. There is no hardship just because the applicant doesn't wish to meet the District requirements.



- (2)a. That granting the variance requested will not (or will) confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district;

Applicant Response: No specific comments.

Staff Comments: Staff is of the opinion that the granting of this variance would confer a special privilege upon the Applicant.

- (2)b. and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.

Applicant Response: No specific comments.

Staff Comments: The variance requested is not the minimum that would make possible the reasonable use of this property. The Applicant can make reasonable use of the property without receiving a variance.

- (3) That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Applicant Response: Our development team has worked to comply with spirit of the regulations by meeting the 60 feet of combined setback free of structures with the exception of the support columns underneath the parking decks. As depicted on the site plan, because the columns that support the parking garage are structurally required, they are located within the setback area and thus technically, require a variance. The columns have been tastefully incorporated into the ground level to create a vista that naturally draws the eyes toward the water on both sides of the columns and give the appearance of not one but two visual corridors, allowing for the expression of an attractive covered and uncovered outdoor space.

Additionally, the immediately prior use of a gasoline and automobile service station as evidenced by the aerial photograph contained no visual corridor to the water. Further as the property is zoned CG, Commercial, if the Property was developed solely for commercial purposes, the required Village setback for up to a 3 story building would be 15 feet on each side, with a total setback of 30 feet, rather than the 60 feet (except for the columns) would be required if the development far exceeds the setback what would otherwise be required in the commercial district.



Staff Comments: The variance, if granted, would set an example for other setback variance requests. It is injurious to the community to allow the Applicant to provide less scenic viewing area to Biscayne Bay than what is required by the RM-70 regulations.

The City's LDC contains the same criteria in Sec. 2.7.6 as discussed above except they are numbered (1) through (6). The LDC also includes a seventh criterion which reads as follows:

7. The variance request is not based exclusively upon a desire to reduce the cost of development.

Staff Comments: The applicant has not stated and Staff does not feel that cost reduction was a reason for this request.

Recommendations

Staff finds that the requested variance **does not** meet all of the requirements of Section 152.097(C) in that the materials submitted do not adequately allow for an affirmative finding on all of the criteria contained in Section 152.097(B) as specifically identified by the foregoing Staff Comments. Consequently, Staff recommends **denial** of the requested variance to allow less than the side-yard setback required by the RM-70 District Regulations.

Submitted by:

James G. LaRue
James G. LaRue, AICP
Planning Consultant

August 19, 2014

Hearing: Planning & Zoning Board, September 2, 2014





Staff Report Site Plan

*Prepared for: North Bay Village
Planning and Zoning Board*

Applicant: Bay Village Venture LLC

Site Address: 1725 Kennedy Causeway

*Request: Site Plan Approval for a Mixed-Use
Condominium Building*



LaRue Planning
& Management Services, Inc.

1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366

Serving Florida Local Governments Since 1988

General Information

Owner/Applicant:	Bay Village Venture, LLC
Applicant Address:	3137 NE 163 rd St. N. Miami, FL 33160
Site Address:	1725 Kennedy Causeway
Contact Person:	Jose Saal
Contact Phone Number:	305-944-5900
E-mail Address:	saaltrust@aol.com

Future Land Use	Commercial
Zoning District	CG
Use of Property	Vacant
Acreage	0.62 acres

Legal Description of Subject Property

9 53 42 E150FT OF W 1500FT OF TREA IS LYING N OF 79 ST CSWY PER DB 3409-93

Request

The applicant is requesting:

1. Height bonus review in conjunction with site plan approval pursuant to Section 152.029(C)(8)(A-F) of the North Bay Village Code of Ordinances.
2. Density bonus review in conjunction with site plan approval pursuant to Section 152.029(C)(8)(H) of the North Bay Village Code of Ordinances.
3. Site plan approval pursuant to Section 152.105(C)(9) of the North Bay Village Code of Ordinances for development of a 43 dwelling unit, 19 story mixed-use condominium structure in the CG zoning district.



General Description

The site plan request for this development is for a 43 dwelling unit, 19 story, mixed use condominium. The applicant is requesting approval for bonus density, bonus height, compact parking, a variance to allow 5 stories of parking garage, and a variance to the required side setbacks.

The tabular project summary shows 2,700 square foot restaurant area with 1,575 square feet of customer service area.

Consistency with Comprehensive Plan

The multifamily mixed-use is consistent with the description of the Commercial Future Land Use category under Policy 2.1.1a of the Future Land Use Element.

Adjacent Land Use Map Classifications and Zoning District

North	Future Land Use	Water
	Zoning District	Water
	Existing Land Use	Biscayne Bay
East	Future Land Use	Commercial
	Zoning District	CL
	Existing Land Use	Vacant (approved for mixed use condo/hotel)
South	Future Land Use	Commercial
	Zoning District	CG
	Existing Land Use	Lexi Mixed Use Condo
West	Future Land Use	Commercial
	Zoning District	CG
	Existing Land Use	Atlantic Broadband



Adequacy of Public Facilities

Traffic Analysis

The applicant has provided evidence that the existing facilities have sufficient capacity or that capacity will be expanded to accommodate the proposed development.

Water and Sewer Analysis

The applicant has provided evidence that the existing facilities have sufficient capacity or that capacity will be expanded to accommodate the proposed development.

Environmental Assessment

It should be noted that this site was previously used as an automobile service station with gasoline pumps. Staff has verified that Miami-Dade County issued a letter to Concord Development Group on March 28, 2012 stating that the soil and/or groundwater analysis does not exceed the cleanup target levels. Staff had a phone conversation with FDEP and verified that this letter indicates that the site is suitable for residential development. Additionally, this site does not show on the FDEP Contaminant Locator Map site. This indicates that FDEP is not currently monitoring the site for contamination/pollution.



Comparison of Submitted Site Plan With Land Development Regulations

Section	Regulation	Required	Provided										
North Bay Village LDC													
152.029(C)(1)	Minimum lot area	27,000 sq ft	27,000 sq ft (0.62 acres)										
152.029(C)(1)	Minimum frontage	75 ft	150 ft										
152.029(C)(2)	Minimum front setback	40 ft	40 ft										
152.029(C)(2)	Minimum side setback	15 ft on one side. 20% of lot width on the other side <u>20% of 150 = 30</u> Combination of both side setbacks to be at least 60 ft <u>West side setback should be at least 43'5"</u>	16 ft 7 in on east side Only 25 ft on west side Combination of both side setbacks is only 41 ft 7 in Applicant has requested a Variance to the side setback requirements										
152.029(C)(2)	Minimum rear setback	25 ft	25 ft										
152.029(C)(3)	Required lot area per dwelling unit	<table border="1"> <thead> <tr> <th>Unit type</th> <th>Lot area/unit</th> </tr> </thead> <tbody> <tr> <td>Efficiency</td> <td>620</td> </tr> <tr> <td>1-BR</td> <td>620</td> </tr> <tr> <td>2-BR</td> <td>685</td> </tr> <tr> <td>3-BR</td> <td>750</td> </tr> </tbody> </table> <u>40 x 685 = 27,400</u> <u>3 x 750 = 2,250</u> <u>24,660 + 2,250 = 29,650sq ft of required lot area</u>	Unit type	Lot area/unit	Efficiency	620	1-BR	620	2-BR	685	3-BR	750	29,650 > 27,000 Applicant has requested approval to purchase 4 units of bonus density for \$160,000
Unit type	Lot area/unit												
Efficiency	620												
1-BR	620												
2-BR	685												
3-BR	750												
Comprehensive Plan Future Land Use Policy 2.1.1a	Maximum density	70 dwelling units per acre	69.4 dwelling units per acre										
152.029(C)(4)	Maximum building height	150 ft or 15 stories, whichever is less	208 ft 1.5in Applicant has requested approval to purchase 60 feet of bonus height for \$193,500										



Section	Regulation	Required	Provided	
152.029(C)(4)	Maximum parking levels	4 stories	5 stories of parking garage. Applicant has requested a Variance to maximum parking level restriction	
152.029(C)(5)	Minimum pervious area	20% of total parcel <u>20% of 27,000 = 5,400</u> sq ft	5,402 sq ft	
152.029(C)(6)	Minimum dwelling unit floor area	Unit type	The smallest unit size is 1,567 square feet	
		Floor area		
		Efficiency		600
		1-BR		900
		2-BR		1,200
3-BR	1,350			
152.029(C)(7)	Baywalk/boardwalk requirement	A public access boardwalk must be provided along shoreline and access to that boardwalk must be provided with a walkway from the ROW. Dedicated easements shall be recorded for the boardwalk and access corridors.	Provided	
152.029(C)(8)	Building height bonus	Additional height may be purchased	Applicant has requested approval to purchase 60 feet of bonus height for \$193,500	
152.029(C)(8)	Building density bonus	Additional density may be purchased, not to exceed 70 units per acre	Applicant has requested approval to purchase 4 units of bonus density for \$160,000	
152.029(C)(9)2	Paving surfaces	Except for covered garages, all exterior paving surfaces shall be constructed of brick pavers	Pavers provided throughout	
152.029(C)(9)3	Required water feature	A water feature shall be provided in the front	Provided	



Section	Regulation	Required	Provided
152.029(C)(9)6	Screening of parking garages	Parking garages shall be constructed with architectural features that obscure it from public view	Provided
152.029(C)(9)7	Street tree lighting	Lighting shall be provided in all areas in front where trees are planted	This will be reviewed with landscape plan
5.2.2(a)(1)	Minimum standard parking space dimensions	9 ft by 18 ft	Provided
5.2.2(a)(2)	Minimum compact parking space dimensions	8 ft by 16 ft	N/A
5.2.2(a)(3)	Minimum handicapped parking space dimensions	Must comply with all applicable accessibility standards	Provided
152.042(D)	Minimum number of handicapped spaces	2% of total required spaces. <u>2% of 106 = 3 handicapped spaces required</u>	5 handicapped parking spaces
Florida ADA Req Section 208	Minimum number of handicapped spaces	4	
152.042(E)	Maximum number of compact parking spaces	20% of required parking spaces	N/A
152.042(K)	Minimum setback of ROW from parking spaces	20 ft	In compliance
152.042(M)	Minimum separation of parking from walkways and streets	Parking spaces shall be separated from walkways, sidewalks, streets, or alleys by an approved wall, fence, curbing, or other protective device	Provided
152.042(P)	Back-out parking prohibition	Parking spaces shall be designed so that no vehicle shall be required to back into a public ROW to obtain egress	Provided



Section	Regulation	Required		Provided
		Unit Type	Spaces Req	
152.044(A)(2)	Minimum number of parking spaces per dwelling unit	Efficiency	1.5	
		1BR&2BR	2	
		3BR	3	
		Plus 10% for Guests		
		$40 \times 2 = 80$ $3 \times 3 = 9$ $10\% = 8.9$ <u>98 spaces required</u>		
152.044(B)(7)	Minimum number of parking spaces for restaurant	1 space per 75 sq ft of customer svc area $1,575 / 75 = 21$ spaces required		119 parking spaces provided
Total spaces required		$98 + 21 = 119$ spaces		
152.045(B)	Minimum loading space dimensions	12 ft by 30 ft, and at least 14.5 ft of vertical clearance		Provided
152.045(C)	Loading space joint usage	Loading spaces for two or more uses may be collectively provided if so located as to be usable by all.		N/A
152.045(E)	Loading and standard parking space restriction	No areas supplied to meet required off-street parking facilities may be utilized to meet the requirements for loading spaces.		In compliance
152.045(F)(1)	Minimum number of loading spaces for retail, office and restaurant	Gross floor area	Spaces	N/A
		<10,000	0	
		10,000-20,000	1	
		20,000-40,000	2	
		40,000-60,000	3	
		>60,000	4	
		$2,700$ sq ft of restaurant requires 0 loading spaces		



Section	Regulation	Required		Provided
		Gross floor area	Spaces	
152.045(F)(2)	Minimum number of loading spaces for multi-family	<25,000	0	Only 2 loading spaces provided
		25,000-50,000	1	
		50,000-100,000	2	
		>100,000	3	
		<u>Gross floor area is over 100,000 sq ft.</u> 3 load spaces required		
152.056	Maximum balcony encroachment into required yard	4 ft	Balconies are shown encroaching as much as 8 feet 7 inches into required setback areas	
155.17	Minimum width of maneuvering aisle	23 ft	Provided	
155.17	Minimum width of 2-way access aisle	23 ft	Some aisles are shown at only 20 feet	
155.18(A)3	Dumpster screening	Dumpster enclosures shall be designed in a manner as to visually screen the dumpster from adjacent view and shall be located in visually obscure areas of the site.	Provided	
155.18(A)4	Dumpster placement	Dumpster enclosures shall be placed in such a manner as to allow front end loader sanitation trucks to pick up garbage in a forward motion. Backing out the sanitation truck is prohibited	Provided	



Section	Regulation	Required	Provided
155.18(A)5	Mechanical equipment screening	Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grilles, and shall be painted in muted colors or match the building and shall not be visible from the street.	Provided
155.18(A)7	Mechanical equipment screening	Service bays, ground mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.	In compliance
Appendix D	Required benches along bay walk	Benches shall be provided at a minimum of 2.5 ft sections of bench per 100 ft of linear shoreline	Provided
Miami-Dade Landscaping Chapter 18A			
18A-4(C)	Vegetative survey	A vegetation survey shall be provided for all sites at the same scale as the landscape plan.	Provided
18A-4(D)	Irrigation plan	An Irrigation Plan shall be submitted. Where a landscape plan is required, an irrigation plan shall be submitted concurrently.	This will be reviewed upon receipt of a compliant site plan
18A-6(A)(5)	Maximum lawn area	40% of lot area, less the area covered by buildings	This will be reviewed upon receipt of a compliant site plan



Section	Regulation	Required	Provided
18A-6(C)(1)	Tree height	Except street trees, all trees shall be a minimum of 10 ft high with a minimum of 2 inch caliper, except that 30% of the tree requirement may be met by native species with a minimum height of 8 ft.	This will be reviewed upon receipt of a compliant site plan
18A-6(C)(2)	Street trees	Street trees shall be provided along all roadways at a maximum average spacing of 35 feet on center (25' for palms). <u>With 150 linear feet of frontage, either 5 trees or 6 palms are required.</u>	This will be reviewed upon receipt of a compliant site plan
18A-6(C)(3)	Trees under power lines	Where overhead power lines require low growing trees, street trees shall have a minimum height of 8 feet and a maximum average spacing of 25 feet on center.	This will be reviewed upon receipt of a compliant site plan
18A-6(C)(4)	Palms	Palms which are spaced no more than 25 feet on center and have a 14 foot minimum height or 4 inch minimum caliper diameter may count as a required tree.	This will be reviewed upon receipt of a compliant site plan
18A-6(C)(5)	Number of required trees	28 trees per acre required in multi-family residential zoning categories <u>28 x 0.62 = 18 required trees</u>	This will be reviewed upon receipt of a compliant site plan



Section	Regulation	Required	Provided
18A-6(C)(11)	Limitations on required trees	<p>At least 30% shall be native species.</p> <p>At least 50% shall be low maintenance and drought tolerant.</p> <p>Of the required trees, no more than 30% shall be palms</p>	This will be reviewed upon receipt of a compliant site plan
18A-6(C)(12)	Limitations on required trees	80% of required trees shall be listed in the Miami-Dade Landscape Manual, the Miami-Dade Street Tree Master Plan and/or the University of Florida's Low Maintenance Landscape Plants for South Florida list.	This will be reviewed upon receipt of a compliant site plan



Section	Regulation	Required	Provided
18A-6(D)(1)	Shrubs	<p>All shrubs must be a minimum of 18 inches at time of planting.</p> <p>10 shrubs are required for each required tree. <u>180 shrubs required</u></p> <p>30% shall be native species</p> <p>50% shall be low maintenance and drought tolerant</p> <p>80% of required shrubs shall be listed in the Miami-Dade Landscape Manual, the Miami-Dade Street Tree Master Plan and/or the University of Florida's Low Maintenance Landscape Plants for South Florida list.</p>	This will be reviewed upon receipt of a compliant site plan



Section	Regulation	Required	Provided
18A-6(H)	Use buffers	<p>Where dissimilar land uses exist on adjacent properties, that area shall be provided with a buffer consisting of trees spaced to a maximum average of 35-feet on center with shrubs which normally grow to a height of 6 feet, or a 6 foot wall with trees, within a 5 foot wide landscape strip.</p> <p>Shrubs shall be a minimum of 30 inches high and planted at a maximum of 36 inches on center; or if planted at a minimum height of 36 inches, shall have a maximum average spacing of 48 inches on center.</p>	This will be reviewed upon receipt of a compliant site plan
18A-6(I)	Parking lot buffers	<p>All parking lots adjacent to a right of way shall be screened by a continuous planting with a 7 foot landscape strip incorporating said planting</p> <p>Shrubs shall be a minimum of 18 inches high and planted at a maximum of 30 inches on center; or if planted at a minimum height of 36 inches, shall have a maximum average spacing of 48 inches on center.</p>	This will be reviewed upon receipt of a compliant site plan



Section	Regulation	Required	Provided
18A-6(J)	Parking lot landscaping	<p>10 square feet of landscaped area per parking space shall be provided within a parking lot.</p> <p>Trees shall be planted within the parking lot at a minimum density of one tree per 80 square feet of landscaped area, exclusive of parking lot buffers.</p> <p>Each tree shall have a minimum of 5 feet of planting area width, exclusive of curb dimension.</p>	This will be reviewed upon receipt of a compliant site plan
Miami-Dade Biscayne Bay Management Plan			
33D-38(1)b	Minimum rear setback	<p>50% of building height above 35 ft (measured from mean high water line), up to 75 ft maximum.</p> <p><u>75 ft required</u></p>	Only 25 ft
33D-38(2)a	Minimum visual corridor	<p>20% of lot width on one side, with a 20 ft minimum and a 100 ft maximum. Structures not permitted in view corridor.</p> <p><u>30 ft required</u></p>	Only 25 ft on west side
33D-38(3)	Minimum side setback	Minimum of 25 ft	25 ft on west side
33D-33(4)	Waiver from County	A waiver may be obtained from the Miami-Dade Shoreline Review Committee for exemption from the above requirements	Not yet provided



Recommendations

BUILDING HEIGHT BONUS:

Staff recommends **approval** of the building height bonus based on submittal of a site plan which meets the North Bay Village Code.

BUILDING DENSITY BONUS:

Staff recommends **approval** of the building density bonus based on submittal of a site plan which meets the North Bay Village Code.

SITE PLAN:

Staff recommends **denial** of the site plan based on our analysis, as highlighted in this report and as follows:

- 1) Three loading spaces must be provided, as per Section 152.045(F)(2).
- 2) Balconies cannot encroach into the required setback areas more than 4 feet, as per Section 152.056(A)
- 3) Two-way drive aisles must be at least 23 feet wide, as per Section 155.17
- 4) Though a landscape plan has been submitted, it does not match the layout of the currently submitted site plan. Due to this fact, and the likelihood that the Applicant will need to rearrange the site plan to meet the Village Code, Staff will delay review of the landscape plan and irrigation plan until the Applicant has submitted a site plan which does meet code.

Submitted by:

James G. LaRue
James G. LaRue, AICP
Planning Consultant

August 19, 2014

Hearing: North Bay Village Planning & Zoning Board, September 2, 2014

Attachments: Tank Closure Assessment Letter
Aerial photograph
Zoning Map





Carlos A. Gimenez, Mayor

Permitting, Environment and Regulatory Affairs

Environmental Services
701 NW 1st Court, 4th Floor
Miami, Florida 33136-3912
T 305-372-6700 F 305-372-6982

miamidade.gov

March 28, 2012

Mr. Philippe Harari, Manager
Concord Development Group, LLC
411 Michigan Ave.
Miami Beach, FL 33139

CERTIFIED MAIL #7007 2680 0000 0622 3331
RETURN RECEIPT REQUESTED

Re: Tank Closure Assessment Report Addendum III (TCARA III) dated March 16, 2012 and prepared by Bluestone Environmental, LLC for the Concord Development Group, LLC (former Marathon Service Station) facility (UT-318/File-7083/DEP-13/8505052) located at, near, or in the vicinity of 1752 NE 79th St., Miami, Miami-Dade County, Florida.

Dear Mr. Harari:

The Environmental Evaluation Section (EES) of the Department of Permitting, Environment and Regulatory Affairs (PERA) has reviewed the above-referenced document received March 16, 2012 pertaining to the removal of three (3) 10,000 gallon underground storage tank (UST) systems on January 7, 2011 and has determined that this report meets the requirements of Rule 62-761.800, Florida Administrative Code (FAC). Therefore, this report has been placed on file with other pertinent material regarding the subject site.

Be advised that the soil and/or groundwater analyses reported in the April 2011 TCAR and subsequent TCAR Addenda dated September 19, 2011, January 23, 2012 and March 16, 2012 do not exceed the Cleanup Target Levels referenced in Chapter 62-777, FAC. Based on the above a "discovery" pursuant to Chapter 62-770, FAC, has not been documented at the site.

If subsequent evidence indicates that undiscovered contamination remains from a previous discharge or if a new discharge has occurred, then further action will be required to address such contamination.

If you have any questions concerning the above, please contact Stanley Edouard (edouas@miamidade.gov) of the EES at (305) 372-6700.

Sincerely,

A handwritten signature in black ink, appearing to read "Wilbur Mayorga".

Wilbur Mayorga, P.E., Chief
Pollution Control Division

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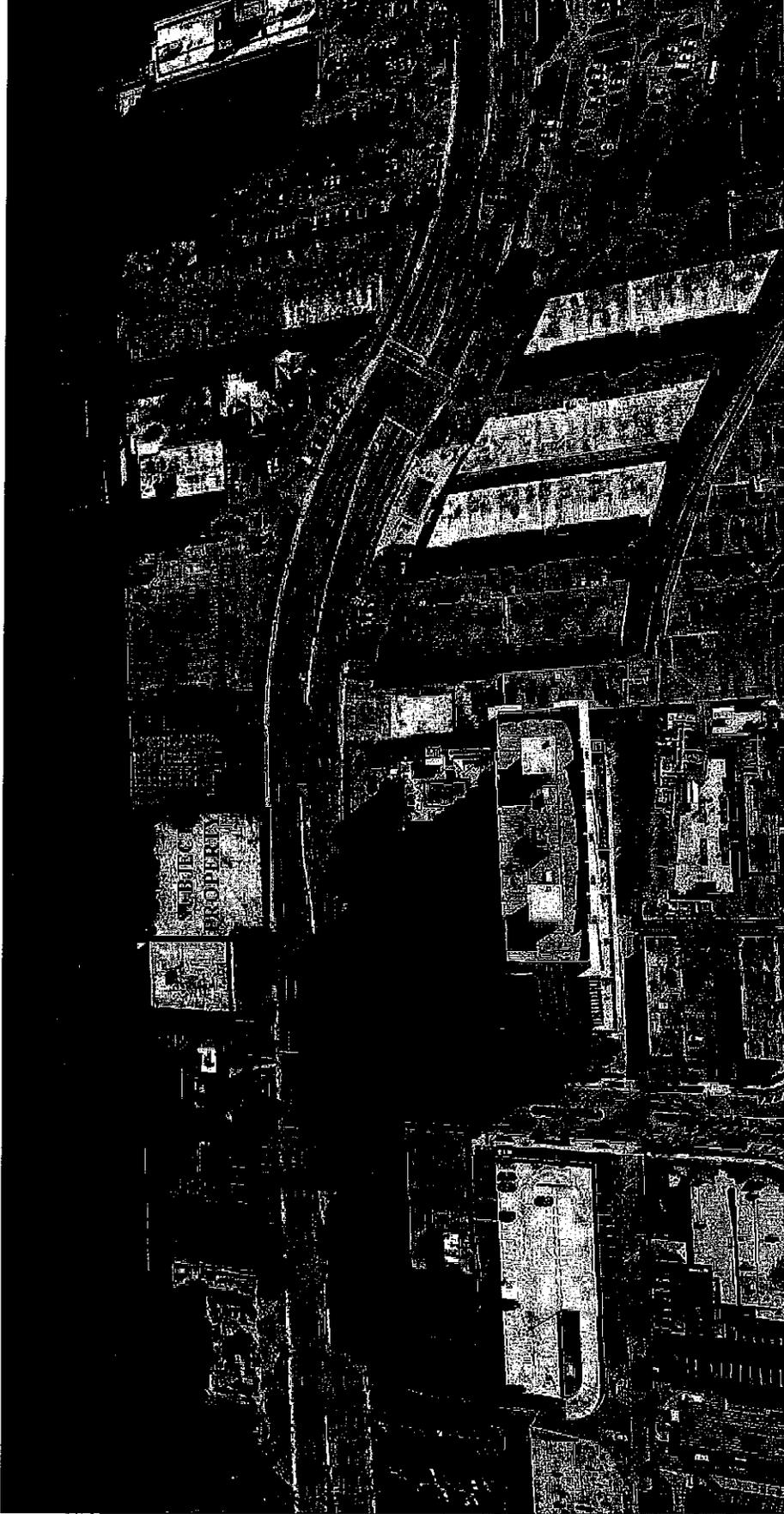
pc: FDEP file copy - 13/8505052

ec: Mr. Leo Adames, Bluestone Environmental, LLC., ladames@bluestoneenviro.com

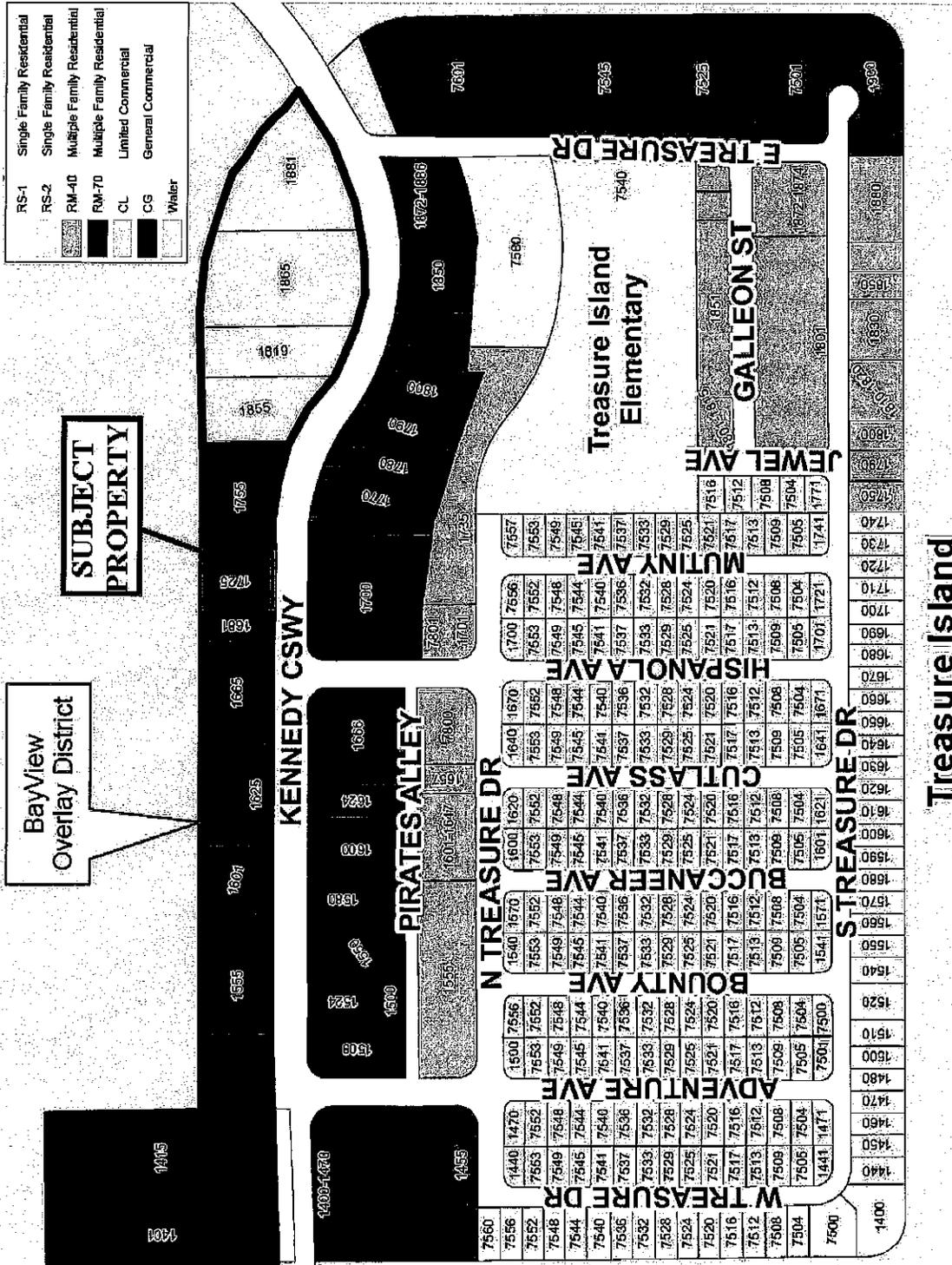
Delivering Excellence Every Day



**AERIAL
SUBJECT SITE AND ENVIRONS**



ZONING
SUBJECT SITE AND ENVIRONS



Treasure Island





North Bay Village

07-03-14P04:49 RCVD

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 1 of 3

Site Address 1725 79th Street Causeway

Owner Name Bay Village Venture, LLC Owner Phone # _____

Owner Mailing Address 3137 NE 163rd Street, North Miami Beach, FL 33160

Applicant Name Jose Noberto Saal Applicant Phone # 305-944-5900

(if different from Owner)

Applicant Mailing Address _____

Contact Person _____ Contact Phone # _____

Contact Email Address _____

Legal Description of Property _____

Existing Zoning CG Lot Size 27,000 Folio Number 23-3209-000-0100

Project Description Condo Building with restaurant on the ground floor

Section of North Bay Village Code from which the Applicant is Seeking Relief 152.029(C)(2) & 152.029(C)(4)

Variance Requested 2nd Interior Side Setback provided 25 feet out of the 30ft that is required and the additional (5th level) parking floor within the garage pedestal.

Reason for Request Due to the limited size of the property, the variance is needed to accomodate the required parking and loading requirements for the project.

Mandatory Submittals (Applicant must check that each item is included with this application.)

Plans depicting work to be completed

Property survey

Application fees

Optional Submittals:

_____ Response to required findings

_____ Signed consent letters from neighboring property owners

_____ Optional plan versions for consideration by Village Commission

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 2 of 3

Applications are incomplete until all mandatory submittals have been received by the Village Clerk.

All requests for variances from the North Bay Village Code shall be considered at Public Hearings before the Planning & Zoning Board and/or the Village Commission. Notice of Hearing shall be given by publishing and posting on the property (which is the subject of the request), the time, the place and the nature of the hearing at least 10 days before the hearing. The Village Clerk shall certify that the petition is complete before the hearing is legally advertised. All applications shall be submitted to the Village Clerk on or before the deadline implemented by the Village.

All persons, firms, or corporations requesting a variance from the Village Commission necessitating the publication of notices in the newspaper, and all relative thereto, the payment of such money in advance to the Village Clerk shall be deemed a condition precedent to the consideration of such a variance request, pursuant to Section 152.110 of the Village Code.

All new and substantial improvements must comply with the Florida Building Code, Department of Environmental Resource Management (DERM), and FEMA regulations.

I (We) the undersigned, am (are) the (owner, tenant, agent, attorney) (designate one) of the subject property herein described. I (We) acknowledge and agree that during the consideration of the application before the Planning & Zoning Board and staff of North Bay Village, no rights shall vest on behalf of the applicant, which would be enforceable against the Village until after a Public Meeting is held by the Planning & Zoning Board and the Village Commission has voted favorable on the proposed request.

I (We) further acknowledge that I (We) have read and understand the conditions for appearance before the Planning and Zoning Board and the Village Commission pursuant to the Village Code Section 152.096. Any person submitting false information or misrepresenting in their presentation shall have all privileges granted to them by the Planning & Zoning Board and the Village Commission revoked.

Authorized Signature [Handwritten Signature]

Print Name Jose Noberto Saal

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA
COUNTY OF Brevard



Sworn to and subscribed to before me this 3rd day of July, 2014

by Jose Noberto Saal

who is personally known to me or who has produced [Signature] as identification.

Notary Public Signature [Handwritten Signature]

Commission Number/Expiration 5/27/17

- Mayor: Connie Leon-Kreps; Vice Mayor: Eddie Lim; Commissioner: Dr. Richard Chervony; Commissioner: Wendy Duvall; Commissioner: Jorge Gonzalez

VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 2 of 3

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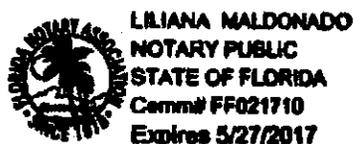
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Authorized Signature [Signature]

Print Name Jose Noberto Saal

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA
COUNTY OF Dade



Sworn to and subscribed to before me this 3rd day of July, 2014

by Jose Noberto Saal

who is personally known to me or who has produced as identification.

Notary Public Signature [Signature]

Commission Number/Expiration 5/27/17

- Mayor: Connie Leon-Kreps; Vice Mayor: Eddie Lim; Commissioner: Dr. Richard Chervony; Commissioner: Wendy Duvall; Commissioner: Jorge Gonzalez



North Bay Village

07-03-14P04:49 RCVD

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

APPLICATION FOR PUBLIC HEARINGS:

Hearings and Notices: - All petitions for amendments, changes or supplements to these regulations for variances, special use exceptions, Site Plan Approval, Extension of Approved Site Plans, for Building Height Bonus Approval, or for an amendment, change or supplement to the Comprehensive Plan; district zoning map, or petitions appealing an administrative decision shall be considered at Public Hearings before the Planning & Zoning Board and, thereafter, the Village Commission. Notice of Public Hearings before the Planning & Zoning Board and the Village Commission shall be given by publishing and posting on the property (which is the subject of the request), the time, the place and the nature of the hearing at least 10 days before the hearing. The Village Clerk shall certify that the petition is complete before the hearing is legally advertised.

Applicant's Name: Bay Village Venture, LLC Phone: 305-944-5900

Mailing Address: 3137 NE 163rd Street, North Miami Beach, FL 33160

Legal Description of Property: _____

Existing Zoning: CG Lot Size: 27,000 Folio: Folio: 23-3209-000-0100

Type of Request: Request for use of (10) compact parking spaces within garage of project.

Reason for Request: (Attach additional Pages if necessary) Due to limited size of property, several parking spaces must be reduced within the parking garage.

All applications shall be submitted to the Village Clerk on or before the deadline implemented by the Village.

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

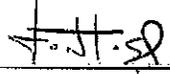
**APPLICATION FOR HEARING
BEFORE THE PLANNING & ZONING BOARD AND
VILLAGE COMMISSION
PAGE 2 OF 2**

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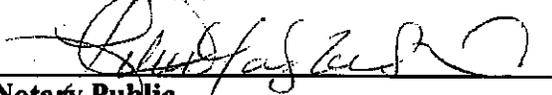

Authorized Signature

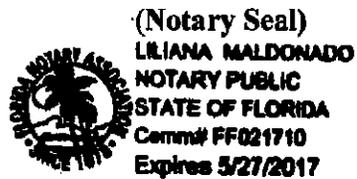
Jose Noberto Saal
Print Name

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Sworn to and subscribed to before me this 3rd day of July 20 14
by Jose Noberto Saal
who is personally known to me or who has produced _____
as identification.


Notary Public



- | | | | | |
|----------------------------|-------------------------|--------------------------------------|------------------------------|--------------------------------|
| Mayor
Connie Leon-Kreps | Vice Mayor
Eddie Lim | Commissioner
Dr. Richard Chervony | Commissioner
Wendy Duvall | Commissioner
Jorge Gonzalez |
|----------------------------|-------------------------|--------------------------------------|------------------------------|--------------------------------|

Office Use Only:

Date Submitted: _____

Fee Paid: \$ _____

Tentative Meeting Date: _____

Cash or Check # _____

Date Paid: _____

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

VARIANCE REQUEST APPLICATION FOR PUBLIC HEARING

Page 3 of 3

Office Use Only:

Date Submitted: _____

7/3/14 (Final Submitted)

Tentative Meeting Date: _____

Fee Paid: \$ _____

6,000.

Cash or Check # _____

Date Paid: _____

7/2014

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez



North Bay Village

02-17-14P05:12 RCVD

Administrative Offices

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Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

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Applicant's Name: BAY VILLAGE VENTURE LLC Phone: (305) 944-5900

Mailing Address: 3137 N.E. 163RD STREET
N. MIAMI BEACH, FL 33160

Legal Description of Property: 953 42 E150 FT OF W1500 FT OF TREA IS LYING N OF 79 ST CSEWY PER DB 3409. SEE EXHIBIT "A" FOR COMPLETE LEGAL DESCRIPTION.

Existing Zoning: CG Lot Size: 27,000 Folio: 23-3209-000-0100

Type of Request: Site plan approval for residential condominium tower with ground floor restaurant use.

Reason for Request: (Attach additional Pages if necessary) _____
See attached Letter of Intent.

1725 Kennedy Cswy.

All applications shall be submitted to the Village Clerk on or before the deadline implemented by the Village.

MIAMI 4032691.1 73190/11125

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

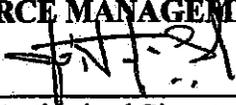
**APPLICATION FOR HEARING
BEFORE THE PLANNING & ZONING BOARD AND
VILLAGE COMMISSION
PAGE 2 OF 2**

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Authorized Signature

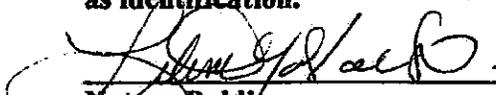
Jose N. Saal

Print Name

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Sworn to and subscribed to before me this 6th day of February 2014 by Jose Norberto Saal who is personally known to me or who has produced personally known to me as identification.



Notary Public

 **LIANA MALDONADO**
NOTARY PUBLIC
STATE OF FLORIDA (Notary Seal)
Comm# FF021710
Expires 5/27/2017

- | | | | | |
|-----------------------------|------------|----------------------|--------------|----------------|
| MIAMI 4032691.1 73190/11125 | | | | |
| Mayor | Vice Mayor | Commissioner | Commissioner | Commissioner |
| Connie Leon-Kreps | Eddie Lim | Dr. Richard Chervony | Wendy Duvall | Jorge Gonzalez |

Office Use Only:

Date Submitted: _____

Fee Paid: \$ _____

Tentative Meeting Date: _____

Cash or Check # _____

Date Paid: _____

MIAMI 4032691.1 73190/11125

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Jorge Gonzalez

July 8, 2014

Yvonne Hamilton
North Bay Village
Administrative Offices
1666 Kennedy Causeway, Suite 300
North Bay Village, FL 33141

**Re: Property Located at 1725 79th Street Causeway
Folio #23-3209-000-0100 (the "Property")**

Dear Ms. Hamilton:

LETTER OF INTENT

This firm represents Bay Village Venture LLC as the owner of the Property. Please consider this our formal letter of intent in connection with an application for site plan approval and related variances with the development of the Property.

A. THE PROPERTY

The Property is located on the north side of 79th Street/North Kennedy Causeway and consists of 27,000 square feet. The Property contains 150 feet of linear frontage along North Kennedy Causeway and the bay, and is 180 feet deep. The Property historically has been utilized as a gasoline service and automobile repair station.

B. ZONING AND LAND USE

The Property is designated Commercial under the North Bay Village Comprehensive Plan and is zoned CG, Commercial General, under North Bay Village's Land Development Regulations.

The proposed development on the Property consists of a multi-family residential development with ground floor restaurant use. Therefore, pursuant to the North Bay Village Code, development is governed by the RM-70 zoning district regulations.

C. PROPOSED DEVELOPMENT

Our client proposes to develop a 43 unit high-end residential development consisting of 40 two-bedroom and 3 three-bedroom luxury units in an 18 story, 208' 1-1/2" structure. The ground floor will house a 2,700 gross square foot restaurant activating both the interior and exterior of the building with attractive views of the bay. The first floor is characterized with at least 14 foot ceilings, a restaurant, a luxurious lobby and the entrance ramp to the five floors of parking decks that sit above the ground floor.

The parking levels are highlighted with architectural elements in the form of sleek diagonal lines that complement the architectural design of the structure both at that ground level porte-cochere and the penthouse and rooftop levels.

The residential units commence on the 7th floor of the structure and each floor contains 4 units per floor with the exception of the penthouse level which contains 3 units.

The penthouse level has been designed to not only provide a more expansive space within the unit, but to further highlight the roof line and tie in the overall design of this structure with the base elements and parking levels.

D. DENSITY AND BONUS

Pursuant to the Village Code and Comprehensive Plan, the maximum achievable density is 70 units per acre.

Based on the 27,000 square foot Property, a maximum of 43 units is permitted under the Village Comprehensive Plan.

Pursuant to Section 152.029(c)(3), the Property is entitled to a maximum of 39 units as of right based on a density of 63.6 units per acre for two bedroom units and 58.1 units per acre for three bedrooms. Section 152.029(C)(8)(h) authorizes a density bonus up to a maximum of 70 units per acre. Our client is seeking a total of 43 units. Therefore, our client is seeking a four-unit density bonus at \$40,000 per unit, pursuant to Section 152.029(c)(8)(h), totaling \$160,000.

E. HEIGHT

Pursuant to North Bay Village Code Section 152.030(C)(3), mixed-use commercial and multi-family structures are permitted under the CG District, subject to the RM-70 high-density multi-family district development standards, as set forth in Section 152.029(C). The RM-70 district regulations provide for a height of 15 stories or 150 feet as-of-right, with the ability to exceed 150 feet in exchange for certain additional impact fees based on the height. Our client is seeking a bonus of 58 1/2 feet in height, which equates to a 60 foot height bonus, which can be acquired for the payment of \$4,500 per unit in the building. Based on the number of units in the building, a bonus fee of \$193,500 is contemplated as impact payment to the Village. Therefore, please consider this our request for bonus height pursuant to Section 152.029(c)(8) of the Village Code. We will discuss with the Village the most appropriate category of height bonus to be utilized.

F. VARIANCES AND EXCEPTIONS

In connection with the proposed design of the building, our client is requesting certain variances from the North Bay Village code.

1) Setbacks and Parking Garage Stories

Given the limited size of the Property, which is only 150 feet across and 180 feet deep, there is insufficient space to accommodate meaningful ground level parking

outside of the structure itself. Therefore, the structure must incorporate the required parking within the building itself. Additionally, a minimum requisite ramp slope and layout is required for both efficiency and safety within the parking garage. Finally, the location of structural columns further limits the run of the ramp and placement of the actual spaces.

The Village Code limits the parking garage to a maximum of four stories of the structure and requires the structure above ground to set back a certain distance from the side property lines. However, based on the size of the lot and requisite garage functionality and efficiency, a minimum width of the parking garage is required. Further, in order to accommodate the required loading bays and turnaround, there is insufficient area to provide more than 2 outside surface parking spaces. Therefore, the building has been designed with a 5-story parking deck that measures 108' 5" across, and is set back 25 feet from the west property line and 16' 7" feet from the east property line. However, at ground level, with the exception of the support columns for the structure, the east setback is 35' 1" feet and the west setback is at 25'.

The Village Code requires a minimum of 15 feet setback on one side, and a setback of 20% on the other side (or 30 feet based on the Property's lot width), but with a combined minimum setback of 60 feet. This same setback applies to a structure on a property that measures 75 feet across (the minimum frontage under the code, but which would thus allow only a 15 foot wide building), or 225 feet across, which would require the same 60 feet of combined setback.

Our development team has worked to comply with spirit of the regulations by meeting the 60 feet of combined setback free of structures with the exception of the support columns underneath the parking decks. As depicted on the site plan, because the columns that support the parking garage are structurally required, they are located within the setback area and thus technically, require a variance. The columns have been tastefully incorporated into the ground level to create a vista that naturally draws the eyes toward the water on both sides of the columns and give the appearance of not one but two visual corridors, allowing for the expression of an attractive covered and uncovered outdoor space.

Additionally, the immediately prior use of a gasoline and automobile service station as evidenced by the aerial photograph contained no visual corridor to the water. Further as the Property is zoned CG, Commercial, if the Property was developed solely for commercial purposes, the required Village setback for up to a 3 story building would be 15 feet on each side, with a total setback of 30 feet, rather than the 60 feet (except for the columns) would be required if the Property is development for commercial use. Therefore, the proposed development far exceeds the setback what would otherwise be required in the commercial district.

Further, we are seeking a variance of the west setback to allow 25 feet where 30 feet is required. The combined side-yard setback for the property is 45' where our client is providing 41' 7". Again, this is in order to accommodate the ramp length for the garage.

Therefore, please consider this our request for the following variances:

- a. To have 5 stories of parking, where 4 is permitted.
- b. To have a setback of 16.67% (or 25 feet) where a 20% set back (30 feet) is required.
- c. To have a ground setback with structural columns to within the 60 foot ground setback, where no obstructions are permitted.

2) Parking Stall Widths and Length

As noted above, the size of the parcel dictates the location and efficiency of the parking garage. Pursuant to the North Bay Village Code, standard parking stalls are 10 feet by 20 feet in length, and compact stalls are 8 feet by 16 feet in length. The proposed development contains parking stalls range between 9 feet by 18 feet in length (which exceeds general standard stall spaces), and 9 feet by 19 feet in length. The Village Code contemplates up to 20% of the parking to be compact stalls at 8 feet by 16 feet. Both the compact and regular parking spaces are 9 feet in width, which is still wider than the standard typical parking space required by Miami-Dade County. In order to design a functional garage and not encroach into the setback, the parking stall lengths have been reduced slightly. However, a review of the parking stalls and locations illustrate that approximately 1/2 of the stalls have a larger back-out area based on the ramps and circulation, and the size of the parking stalls only affect the middle spaces on each parking level.

Further, as evidenced by the language of Section 152.042, the size of the parking stalls were created to relieve congestion in the streets, especially for commercially used spaces. Because the affected parking stalls are located entirely internal to the structure, the reduction in the parking dimensions will not negatively impact congestion in the streets, does not increase the permitted density or maximum number of units, and, in fact, allows for the structure to maintain property setbacks and visual corridors. Therefore, Section 152.042 supports the reduced parking stall request.

Please consider this our request for a special exception for compact and reduced parking spaces as authorized under Section 152.042 of the code.

G. ADJACENT DEVELOPMENT

The adjacent property at 1755 Kennedy Causeway recently received Village development review for a hotel. The proposed hotel property is more than double the size of the proposed development and, therefore, does not have the same setback and other constraints with regard to development parameters. Our client's proposed development contains the larger setback (except for the columns located within the setback) on the east side, which complements the large setback located along the west side of the proposed hotel development. The re-development of the 2 adjacent properties will provide a dramatic vista, upgrade the architectural features, and constitute an attractive addition to the area.

Yvonne Hamilton
North Bay Village
July 8, 2014
Page 5

Based on the foregoing, we respectfully request the City's favorable review of the attached application and related variances, and height and density bonuses totaling \$353,500.

Should you have any questions or require additional information, please do not hesitate to contact me at 305-350-2351.

Very truly yours,



Brian S. Adler

MIAMI 4033486.3 73190/10719

02-07-14 PM 7:11

February 7, 2014

Yvonne Hamilton
North Bay Village
Administrative Offices
1666 Kennedy Causeway, Suite 300
North Bay Village, FL 33141

Re: **Property Located at 1725 79th Street Causeway
Folio #23-3209-000-0100 (the "Property")**

Dear Ms. Hamilton:

LETTER OF INTENT

This firm represents Bay Village Venture LLC as the owner of the Property. Please consider this our formal letter of intent in connection with an application for site plan approval and related variances with the development of the Property.

A. THE PROPERTY

The Property is located on the north side of 79th Street/North Kennedy Causeway and consists of 27,000 square feet. The Property contains 150 feet of linear frontage along North Kennedy Causeway and the bay, and is 180 feet deep. The Property historically has been utilized as a gasoline service and automobile repair station.

B. ZONING AND LAND USE

The Property is designated Commercial under the North Bay Village Comprehensive Plan and is zoned CG, Commercial General, under North Bay Village's Land Development Regulations.

The proposed development on the Property consists of a multi-family residential development with ground floor restaurant use. Therefore, pursuant to the North Bay Village Code, development is governed by the RM-70 zoning district regulations.

C. PROPOSED DEVELOPMENT

Our client proposes to develop a 39 unit high-end residential development consisting of 37 two-bedroom luxury units and two-three bedroom luxury units in a 16-story 166'-3" inch tower. The ground floor will house a 2,700 gross square foot restaurant addressing both the interior and exterior of the building with attractive views of the bay. The first floor is characterized with 14 foot ceilings, a restaurant, a luxurious lobby and the entrance ramp to the four floors of parking decks that sit above the ground floor.

The parking levels are highlighted with architectural elements in the form of sleek diagonal lines that complement the architectural design of the structure both at that ground level porte-cochere and the penthouse and rooftop levels.

The residential units commence on the 6th floor of the structure and each floor contains 4 units per floor with the exception of the penthouse level which contains 3 units.

The penthouse level has been designed to not only provide a more expansive space within the unit, but to further highlight the roof line and tie in the overall design of this structure with the base elements and parking levels.

D. HEIGHT

Pursuant to North Bay Village Code 152.030(C)(3), mixed-use commercial and multi-family structures are permitted under the CG District, provided they conform with all site development standards, as set forth in Section 152.029(C), the RM-70 high-density, multi-family district regulations. The RM-70 district regulations provide for a height of 15 stories or 150 feet as-of-right, with the ability exceed 150 feet in exchange for certain additional impact fees based on the height. Our client is seeking a bonus of 20 feet in height, which can be acquired for the payment of \$1,500 per unit in the building. Based on the number of units in the building, a bonus fee of \$58,500 is contemplated for the Village. We will discuss with the Village the most appropriate category of height bonus to be utilized.

E. VARIANCES AND EXCEPTIONS

In connection with the proposed design of the building, our client is requesting certain variances from the North Bay Village code.

1) Setbacks

Given the limited size of the Property, which is only 150 feet across and 180 feet deep, there is insufficient space to accommodate meaningful ground level parking outside of the structure itself. Therefore, the structure must incorporate the required parking into the building. Additionally, a minimum requisite ramp slope and layout is required for both efficiency and safety within the parking garage. Our client has limited the parking garage to 4 stories of the structure. However, based on the minimum width of the parking garage, in order to accommodate the required parking, the structure where the parking deck measures 108.5 feet across, and is set back 26.5 feet setback from the west property line and 15 feet from the east property line. However, at ground level, with the exception of the support columns for the structure, the east setback is 33.5 feet and the west setback remains 26.5 feet.

The Village Code requires a minimum of 15 feet setback on one side, and a setback of 20% on the other side (or 30 feet based on the Property's lot width), but with a combined minimum setback of 60 feet. This same setback applies to a structure on a property that measures 75 feet across (the minimum frontage under the code, but which would thus allow only a 15 foot wide building), or 225 feet across, which would require the same 60 feet of combined setback.



Our development team has worked to comply with spirit of the regulations by meeting the 60 feet of combined setback free of structures with the exception of the support columns underneath the parking decks. As depicted on the site plan, because the columns that support the parking garage are structurally required, they are located within the setback area and thus technically, require a variance. The columns have been tastefully incorporated into the ground level to create a vista that naturally draws the eyes toward the water on both sides of the columns and give the appearance of not one but two visual corridors, allowing for the expression of an attractive covered and uncovered outdoor space.

Additionally, the immediately prior use of a gasoline and automobile service station as evidenced by the aerial photograph contained no visual corridor to the water. Further as the Property is zoned CG, Commercial, if the Property was developed solely for commercial purposes, the required Village setback for up to a 3 story building would be 15 feet on each side, with a total setback of 30 feet, rather than the 60 feet (except for the columns) would be required if the Property is development for commercial use. Therefore, the proposed development far exceeds the setback what would otherwise be required in the commercial district.

2) Parking Stall Widths and Length

As noted above, the size of the parcel dictates the location and efficiency of the parking garage. Pursuant to the North Bay Village Code, standard parking stalls are 10 feet by 20 feet in length, and compact stalls are 8 feet by 16 feet in length. The proposed development contains parking stalls range between 9 feet by 18 feet in length (which exceeds general standard stall spaces), and 9 feet by 19 feet in length. The Village Code contemplates up to 20% of the parking to be compact stalls at 8 feet by 16 feet. Both the compact and regular parking spaces are 9 feet in width, which is still wider than the standard typical parking space required by Miami-Dade County. In order to design a functional garage and not encroach into the setback, the parking stall lengths have been reduced slightly. However, a review of the parking stalls and locations illustrate that approximately 1/2 of the stalls have a larger back-out area based on the ramps and circulation, and the size of the parking stalls only affect the middle spaces on each parking level.

Further, as evidenced by the language of Section 152.042, the size of the parking stalls were created to relieve congestion in the streets, especially for commercially used spaces. Because the affected parking stalls are located entirely internal to the structure, the reduction in the parking dimensions will not negatively impact congestion in the streets, does not increase the permitted density or maximum number of units, and, in fact, allows for the structure to maintain property setbacks and visual corridors. Therefore, section 152.042 supports the reduced parking stall request.

3) Loading Docks

Pursuant to Section 152.045(F), buildings between 25,000 square feet and 50,000 square feet require 1 loading space, and buildings with 50,000 square feet to 100,000 square feet require 2 loading spaces. The proposed building has 66,000 square feet of residential area therefore would require 2 loading spaces. However,

as noted above, there are only 39 proposed units within the entire building, and 1 loading space should be sufficient. Section 152.044(E)(2) specifically authorizes the Village Commission to grant an exception to the minimum loading spaces where the character of the building is such that the full provision of the parking or loading facilities is unnecessary. Therefore, please consider this our request for an exception to allow for 1 loading space, where 2 would otherwise be required.

F. ADJACENT DEVELOPMENT

The adjacent property at 1755 Kennedy Causeway is currently proceeding through Village development review for a hotel. The proposed hotel property is more than double the size of the proposed development and, therefore, does not have the same setback and other constraints with regard to development parameters. Our client's proposed development contains the larger setback (except for the columns located within the setback) on the east side, which complements the large setback located along the west side of the proposed hotel development. The re-development of the 2 adjacent properties will provide a dramatic vista, upgrade the architectural features, and constitute an attractive addition to the area.

Based on the foregoing, we respectfully request the City's favorable review of the attached application. Should you have any questions or require additional information, please do not hesitate to contact me at 305-350-2351.

Very truly yours,



Brian S. Adler

MIAMI 4033486.2 73190/10719



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

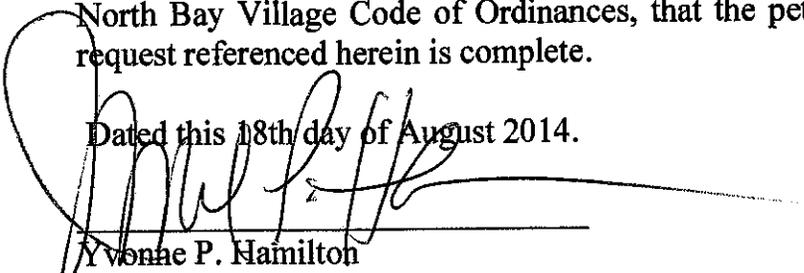
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

3. **AN APPLICATION BY BAY VILLAGE VENTURE, LLC CONCERNING PROPERTY LOCATED AT 1725 KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**
- A. **A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.030(C)(3) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A MIXED-USE COMMERCIAL STRUCTURE IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT.**
 - B. **A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.042(E) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW UP TO TWENTY (20) PERCENT OF THE DEVELOPMENT'S REQUIRED PARKING SPACES TO BE DESIGNED SPECIFICALLY FOR COMPACT VEHICLES.**
 - C. **BONUS DENSITY APPROVAL, PURSUANT TO SECTION 152.029(C)(8)H OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.**
 - D. **BONUS HEIGHT APPROVAL, PURSUANT TO SECTION 152.029(C)(8)A-F OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.**
 - E. **A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW 5 STORIES OF PARKING, WHERE SECTION 152.029(C) ALLOWS A MAXIMUM OF FOUR STORIES OF PARKING.**
 - F. **A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A STRUCTURE TO BE 25 FEET FROM THE WEST SIDE PROPERTY LINE WHERE SECTION 152.029(C)(2) REQUIRES A 43.5 FOOT SIDE SETBACK.**

**G. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9)
OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR
DEVELOPMENT OF A 43-UNIT, 18-STORY MIXED USE
CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.**

I, Yvonne P. Hamilton, Village Clerk hereby certify, as per Section 152.096(A)(2) of the North Bay Village Code of Ordinances, that the petition filed by Venture LLC for the request referenced herein is complete.

Dated this 18th day of August 2014.



Yvonne P. Hamilton
Village Clerk

(Planning & Zoning Board Meeting-9/2/2014)



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

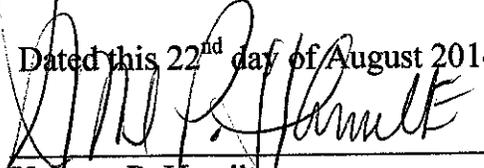
RE. AN APPLICATION BY BAY VILLAGE VENTURE, LLC CONCERNING PROPERTY LOCATED AT 1725 KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- A. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.030(C)(3) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A MIXED-USE COMMERCIAL STRUCTURE IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT.**
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DEVELOPMENT OF A 43-UNIT, 18-STORY MIXED USE
CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.**

I, Yvonne P. Hamilton, Village Clerk, hereby certify that the attached Notice of Public Hearing was mailed to property owners and residents within 300 feet of the property of the subject request pursuant to Section 152.096(A)(2) of the North Bay Village Code of Ordinances on August 22, 2014.

Dated this 22nd day of August 2014.



Yvonne P. Hamilton
Village Clerk

(Planning & Zoning Board Meeting-9-2-2014)



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

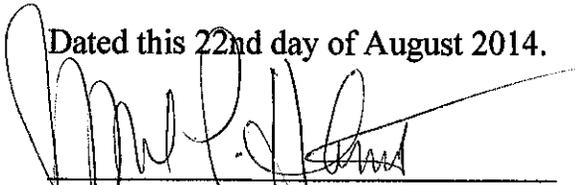
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OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR
DEVELOPMENT OF A 43-UNIT, 18-STORY MIXED USE
CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.**

I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on September 2, 2014 was posted at the above-referenced property on August 15, 2014.

Dated this 22nd day of August 2014.



Yvonne P. Hamilton
Village Clerk

(Planning & Zoning Board Meeting-9/2/2014)

CONCORD DEVELOPMENT
719 MERIDIAN AVE STE 2
MIAMI BEACH FL
33239

COLE BN NORTH BAY VILLAGE FL
1665 KENNEDY CAUSEWAY
NORTH BAY VILLAGE, FL 33141

ATLANTIC BROADBAND
1681 KENNEDY CAUSEWAY
NORTH BAY VILLAGE, FL
33141

THE INN ON THE BAY LTD
1819 KENNEDY CAUSEWAY
N. BAY VILLAGE, FL 33141

THE SHOPPES OF NORTH BAY
VILLAGE, LLC
1320 S. Dixie Highway, Suite 781
Miami, Florida 33146

THE LEXI CONDOMINIUM
7901 HISPANOLA AVENUE
N. BAY VILLAGE, FL 33141

THE WHITE HOUSE
CONDOMINIUM
1770 KENNEDY CAUSEWAY
N. BAY VILLAGE, FL 33141

BAYVIEW CONDOMINIUM
1625 KENNEDY CAUSEWAY
N. BAY VILLAGE, FL 33141

CAUSEWAY TOWER
1666 KENNEDY CSWY., #600
N. BAY VILLAGE, FL 33141

BENIHANA RESTAURANT
1665 KENNEDY CAUSEWAY
N. BAY VILLAGE, FL 33141

PRESIDENT SUPERMARKET
1600 KENNEDY CAUSEWAY
N. BAY VILLAGE, FL 33141

Benihana National of Fl. Corp.
8685 NW 53 Terr.
Miami, FL 33166

Owner / Occupant
1800 Kennedy Causeway #A307
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A308
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A309
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A310
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A311
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A312
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway #B102
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B103
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B104
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway #B105
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B106
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B107
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway #B108
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B109
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B110
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway #B111
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B112
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B201
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B202
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B203
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B204
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B205
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B206
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B207
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B208
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B209
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B210
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B211
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B212
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B207
North Bay Village, FL 33141

1800 Kennedy Causeway, #A-101
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A-102
Miami Beach, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A103
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A-104
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A105
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A106
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A107
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A108
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A109
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A110
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A111
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A112
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #201
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A202
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A203
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A204
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A205
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A206
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A207
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A208
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A209
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A210
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A211
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A212
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A301
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A302
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A303
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway #A304
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A305
North Bay Village, FL 33141

Owner / Occupant
1800 Kennedy Causeway, #A306
North Bay Village, FL 33141



Owner / Occupant
1790 Kennedy Causeway, #B208
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B209
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B210
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B211
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B212
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B301
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B302
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B303
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B304
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B305
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B306
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B307
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B308
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B309
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B310
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B311
North Bay Village, FL 33141

Owner / Occupant
1790 Kennedy Causeway, #B312
North Bay Village, FL 33141

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North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C102
North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C103
North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C104
North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C105
North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C106
North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C107
North Bay Village, FL 33141

Owner / Occupant
1780 Kennedy Causeway, #C108
North Bay Village, FL 33141

Owner / Occupant
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North Bay Village, FL 33141

Owner / Occupant
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North Bay Village, FL 33141

Owner / Occupant
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North Bay Village, FL 33141

Owner / Occupant
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North Bay Village, FL 33141

Owner / Occupant
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North Bay Village, FL 33141

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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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1770 Kennedy Causeway, #D112
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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Owner / Occupant
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North Bay Village, FL 33141

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North Bay Village, FL 33141

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Owner / Occupant
1770 Kennedy Causeway, #D302
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Owner / Occupant
1770 Kennedy Causeway, #D309
North Bay Village, FL 33141

Owner / Occupant
1770 Kennedy Causeway, #D310
North Bay Village, FL 33141

Owner / Occupant
1770 Kennedy Causeway, #D311
North Bay Village, FL 33141

Owner / Occupant
1770 Kennedy Causeway, #D312
North Bay Village, FL 33141

Owner/Occupant
1770 Kennedy Causeway, D314
N. Bay Village, FL 33141

Owner / Occupant
1770 Kennedy Causeway, #D311
North Bay Village, FL 33141

Owner / Occupant
1770 Kennedy Causeway, #D312
North Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway, #501E
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#502F
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#503F
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#504D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#505B
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#506B
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#507A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#508A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#509C
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway, #601E
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#602F
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#603F
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#604D
N. Bay Village, FL 33141

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1625 Kennedy Causeway,
#605B
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#606B
N. Bay Village, FL 33141

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#607A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#608A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#609C
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway, #701E
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#702F
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#703F
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#704D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#705D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#706B
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#707A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#708A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#709C
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway, #801E
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#802H
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#803H
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#804D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#805D
N. Bay Village, FL 33141

Owner/Occupant
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#806B
N. Bay Village, FL 33141

Owner/Occupant
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#807A
N. Bay Village, FL 33141

Owner/Occupant
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#808A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#809C
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway, #901E
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#902H
N. Bay Village, FL 33141

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#903H
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#904D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#508A
N. Bay Village, FL 33141

Owner/Occupant
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#509C
N. Bay Village, FL 33141

Owner/Occupant
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#907A
N. Bay Village, FL 33141

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1625 Kennedy Causeway,
#908A
N. Bay Village, FL 33141

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#909C
N. Bay Village, FL 33141

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#1001E
N. Bay Village, FL 33141

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#1002H
N. Bay Village, FL 33141

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#1003H
N. Bay Village, FL 33141

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#1004D
N. Bay Village, FL 33141

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#1005B
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#1007A
N. Bay Village, FL 33141

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1625 Kennedy Causeway
#1008A
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#1009C
N. Bay Village, FL 33141

Owner/Occupant
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#1102D
N. Bay Village, FL 33141

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#1103B
N. Bay Village, FL 33141

Owner/Occupant
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#1104B
N. Bay Village, FL 33141

Owner/Occupant
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#1105G
N. Bay Village, FL 33141

Owner/Occupant
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#1106G
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#1109C
N. Bay Village, FL 33141



Owner/Occupant
1625 Kennedy Causeway,
#1201E
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#1202D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway,
#1203B
N. Bay Village, FL 33141

Owner/Occupant
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#1204B
N. Bay Village, FL 33141

Owner/Occupant
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#1205G
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#1207C
N. Bay Village, FL 33141

Owner/Occupant
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#PH101E
N. Bay Village, FL 33141

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1625 Kennedy Causeway
#PH102D
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#PH103B
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#PH104B
N. Bay Village, FL 33141

Owner/Occupant
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N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#PH106G
N. Bay Village, FL 33141

Owner/Occupant
1625 Kennedy Causeway
#PH107C
N. Bay Village, FL 33141



Owner/Occupant
7901 Hispanola Avenue, #1701
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1702
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1703
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1704
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1705
North Bay Village, FL 33141

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7901 Hispanola Avenue, #1706
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7901 Hispanola Avenue, #1707
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Owner/Occupant
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Owner/Occupant
7901 Hispanola Avenue, #1711
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1712
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1801
North Bay Village, FL 33141

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North Bay Village, FL 33141



Owner/Occupant
7901 Hispanola Avenue, #1101
North Bay Village, FL 33141

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7901 Hispanola Avenue, #1102
North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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North Bay Village, FL 33141

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7901 Hispanola Avenue, #1210
North Bay Village, FL 33141

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7901 Hispanola Avenue, #1211
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #1212
North Bay Village, FL 33141

Owner/Occupant
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7901 Hispanola Avenue, #2009
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #2010
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #2011
North Bay Village, FL 33141

Owner/Occupant
7901 Hispanola Avenue, #2012
North Bay Village, FL 33141





NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD ITS REGULAR MEETING ON **SEPTEMBER 2, 2014 AT 7:00 PM OR AS SOON AS POSSIBLE THEREAFTER AT VILLAGE HALL, 1666 KENNEDY CAUSEWAY #900, NORTH BAY VILLAGE, FLORIDA.** DURING THIS MEETING, THE BOARD WILL CONSIDER THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. AN APPLICATION BY KAKITA SAINT CONCERNING PROPERTY LOCATED AT 744 CENTER BAY DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A PERGOLA TO ENCROUGH 2 FEET INTO THE REQUIRED 16 FOOT SIDE INTERIOR SETBACK AREA.
 - B. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A PERGOLA TO ENCROUGH 2 FEET INTO THE REQUIRED 15 FOOT REAR SETBACK AREA.
2. AN APPLICATION BY MR AND MRS OGARIZ CONCERNING PROPERTY LOCATED AT 1660 SOUTH TREASURE DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SINGLE FAMILY HOME STRUCTURE TO BE 37 FEET HIGH, WHERE SECTION 152.027(C)(3) ALLOWS FOR A MAXIMUM BUILDING HEIGHT OF 35 FEET.
3. AN APPLICATION BY BAY VILLAGE VENTURE, LLC CONCERNING PROPERTY LOCATED AT 1725 KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.039(C)(3) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A MIXED-USE COMMERCIAL STRUCTURE IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT.
 - B. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.042(D) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW UP TO TWENTY (20) PERCENT OF THE DEVELOPMENT'S REQUIRED PARKING SPACES TO BE DESIGNED SPECIFICALLY FOR COMPACT VEHICLES.
 - C. BONUS DENSITY APPROVAL, PURSUANT TO SECTION 152.029(C)(1) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.
 - D. BONUS HEIGHT APPROVAL, PURSUANT TO SECTION 152.029(C)(2) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.
 - E. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW 5 STORIES OF PARKING, WHERE SECTION 152.029(C) ALLOWS A MAXIMUM OF FOUR STORIES OF PARKING.
 - F. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A STRUCTURE TO BE 25 FEET FROM THE WEST SIDE PROPERTY LINE WHERE SECTION 152.029(C)(2) REQUIRES A 45 FOOT SIDE SETBACK.
 - G. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A 43 UNIT, 18-STORY MIXED USE CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE PLANNING & ZONING BOARD C/O THE BUILDING & ZONING CLERK, 1666 KENNEDY CAUSEWAY #900, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE VILLAGE CLERK DURING REGULAR WORKING HOURS AT 1666 KENNEDY CAUSEWAY, #900. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 296.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE VILLAGE COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST 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.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT SIGN LANGUAGE INTERPRETERS, INFORMATION ACCESS FOR PERSONS WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
VILLAGE CLERK
(August 12, 2014)



Memorandum

To: Planning & Zoning Board Members
From: James G. LaRue, AICP
Date: August 20, 2014
Subject: Land Development Code (LDC) Revisions

We are including back-up for our second discussion of the proposed LDC changes at the September 2nd Planning & Zoning Board meeting. The materials are in three segments:

1. A comments section (a brief explanation of the changes to be addressed in the LDC).
2. Draft of the changes (shown in the ~~strikeout~~/underline format).
3. Additional significant changes that could possibly be addressed.

If time permits we will review the proposed LDC changes after site plan and other public hearing items are heard at the meeting.

**EXPLANATION OF SIGNIFICANT CHANGES
NBV PROPOSED UPDATED LAND DEVELOPMENT CODE**

Ch. II – RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Pages 3 – 5: Text has been updated to reflect the more modern and appropriate description of the relationship between the two documents. We have modified the descriptions of the various Future Land Use Categories (FLUCs) and identified the zoning district(s) that are consistent with each and listed the types of uses that are permitted within each FLUC.

Note there are some FLUCs for which there are no zoning districts that can be considered to directly implement that FLUC. The following table identifies the relationships between the FLUC and the Zoning Code.

FLUC	ZONING	COMMENTS
Single-Family	RS-1 and RS-2	
Medium Density MF Residential	RM-40	
High Density MF Residential	RM-70	
Commercial	CG and Bayview Overlay	
Mixed Use	CL and Bayview Overlay	
Institutional	No specific District	
Public Buildings and Grounds	No specific District	Properties in this FLUC are zoned either CG or RM-40
Educational	No specific District	RS-2
Educational/Recreational	No specific District	The Future Land Use Map (FLUM) shows this category, but there is no such category in the text of the Future Land Use Element. Properties are zoned RS-2.
Recreational	No specific District	The one property in this FLUC is zoned RM-40.
Marina	No specific District	This category is mentioned in the text of the Future Land Use Element but there is no such category in the FLUM.

These inconsistencies should be rectified. For those FLUCs that have no zoning districts that are inherently consistent, we suggest the following:

For the Public Buildings and Grounds FLUC, identify the CG and RM-40 Districts as consistent

For the Educational FLUC, identify the RS-2 District as consistent

For the Recreational FLUC, identify the RM-40 District as consistent

Ch. III – DEFINITIONS [No work done as yet. This will be the last section to be revised.]

Ch. IV – ADMINISTRATION AND ENFORCEMENT:

Pages 7 & 8: We have included a more detailed purpose and intent statement and a detailed procedure for obtaining an official interpretation of the Land Development Code. At present there is no specific procedure to address a request for an official interpretation of the code.

Page 10: Change the terms “non-use exception” and “non-use variance” to “non-use variances in residential districts” in the table (which came from Sec. 2.7.5, Table 2.1 in the Land Development Regulations) to reflect the original intent of Sec. 152.-0971

Pages 17 – 19: Sec. 4.15 governing amendments to the Comprehensive Plan replace the text of Sec. 2.6 and Sec. 2.61 of the Land Development Regulations. The new text references the Community Planning Act of 2011 as subsequently amended and is consistent with its the requirements. The new text also provides for time schedules for reviews and for expiration of a property owner-initiated amendment with insufficient information.

Page 19: We suggest changing the criterion for spot zoning from “one or more” of the listed criteria under 2a – 2d, to “at least two” of the criteria. The reason is that a request involving a small amount of land in and of itself should not constitute spot zoning unless at least one of the other criteria are also present.

Ch. V – PERMITS AND DEVELOPMENT APPROVALS

Page 21: We have included a more detailed purpose and intent statement as it pertains to regulations for permits and development approvals.

Page 28: We have added a new subsection 5.14C covering the handling of permits that are erroneously issued.

Pages 30 and 31: Have added an entirely new section covering the general policy for vacation of streets, alleys, easements and public rights-of-way. City Attorney agree that such a section is needed.

Page 34: We propose to delete Subsection 5.20F, which pertains to Recreation concurrency. It now references a DCA communication dated 1990. Recreation concurrency is now optional and it appears that the Village does not include Recreation Concurrency in its Capital Improvements Element.

Ch. VI – NONCONFORMITIES:

Page 36: We propose to add “Nonconforming lots” as a subsection with the Nonconforming classifications.

Page 37: We propose to clarify the language pertaining to the ability to build a single-family home on a nonconforming lot and make it more clear what other code requirements must be met when such home is constructed.

We also propose to make it the property owner’s responsibility to demonstrate that the lot is legally nonconforming. It should not be the responsibility of the Village to make this determination.

Page 38: There are four lots in the CG District that are nonconforming as to minimum lot frontage. There is nothing in the LDC identifying how this is to be dealt with. There is currently no provision with regard to nonconforming lots in the CG or CL Districts

Page 39: In subsection 4, pertaining to a change of use – the current provision allows changing a nonconforming use to a “more restrictive category of nonconforming use” because it reduces the degree of nonconformity. However, trying to determine what is a “more restrictive category of use” will prove difficult. We believe the Village will be better served if it prohibits changing a nonconforming use to any other nonconforming use.

In subsection 6, we clarified the language relative to destruction of “more than 50%” and destruction of “50% or less”. We have also suggested new text we believe clarifies what is not allowed when a nonconforming use is destroyed and replaced.

Page 41: The changes proposed on page 39 for nonconforming uses were also applied on page 41 pertaining to nonconforming structures.

Page 42: The very first paragraph under Sec. 6.8 is probably legally correct but is difficult for the lay person to understand. We have reworded the provision so that it is more clear what one can do. The new text also requires that when the use or structure is modified resulting in an increase in required parking landscaping or buffering, then that/those characteristics of use must be brought up to code. There is nothing in the current code that would require this.

Ch. VII – VARIANCES:

Page 43: In Sec. 7.2, we have clarified the prohibition to granting a variance to allow any use that is permitted in one form or another and have added a prohibition of granting a variance to any conditions, criteria, or standards associated with any special exceptions or other approvals granted by the Village Commission.

In Sec. 7.3 we have specifically identified the hardship variance as a unique variance which is heard by both the Planning and Zoning Board and the Village Commission. In addition, we have clarified that in order to recommend or approve a request for a hardship variance, the P&Z and the Village Commission must make an affirmative finding on each of the seven criteria for approval.

Page 44: In Sec. 7.4 we have clarified that what was once referred to as a “non use variance” in residential districts is now called a “non-hardship variance” and that it is only available to single-family properties, and to what characteristics of use requirements these non-hardship variances may be granted. We suggest limiting the “non-hardship variances” only to single-family properties because these are intended to be variances with only minor changes from the norm and likely to have little or no effect upon adjoining properties. Multi-family properties are typically larger and have more flexibility of development.

Ch. VIII – ZONING:

Page 46: *It has been suggested to eliminate the CL District; rezone all CL properties to CQ and include in the CQ District uses now allowed in the CL District but not presently allowed in the CQ District. This means that hotels would be allowed on all properties fronting along Kennedy Cswy. on Treasure Island and those on the north side of Kennedy Cswy. on Harbor Island. Do we want to do this?*

Page 50: The current text in subsection 8.10,A,4,c (maximum building height in the RS-1 District) is very unclear and has caused confusion in determining the allowable maximum height. We have modified the language to simply state that the maximum height is three stories and may not exceed 35 feet above grade.

Page 51: The current text in subsection 8.10,B,4,c (maximum building height in the RS-2 District) is the same as in the RS-1 District and is equally unclear and confusing. This language has also been changed to simply state that the maximum height is three stories and may not exceed 35 feet above grade.

Page 54: We have modified the minimum require lot area per unit for efficiency and one-bedroom units slightly to ensure density does not exceed 70.0 dwelling units per acre. We have also eliminated the four-story limit for garage structures.

Page 56: The minimum lot size provision has been simplified to actual minimum area and frontage numbers. This is more clear to the reader than the original statement, which required going to another section of Chapter 152 and computing the minimum lot area and frontage required.

Page 57: In order to improve clarity and make it easier for the reader to understand the regulations, the provisions regarding maximum density and maximum building height on undersized parcels in the RM-70 District have been modified to replace references to other sections of the code with the actual numerical standards applicable to the undersized lots.

CHAPTER I, GENERAL

§ 1.1 - Title.

This code shall be entitled the North Bay Village Land Development Code and shall may also be herein referred to as the "~~code~~ LDC."

§ 1.2 - Authority.

The North Bay Village Land Development Code is enacted pursuant to F.S. ch. 163, Part II, and F.S. ch. 125.

§ 1.3 - Findings.

- A. According to Chapter 163, Florida Statutes, each local government in Florida must enact a unified land development code which is consistent with the Comprehensive Plan and implements the same.
- B. The ~~code~~ Land Development Code must contain all of the village's land development regulations.
- C. All proposed developments within North Bay Village must be reviewed to ensure compliance with the village's Comprehensive Plan and requirements of this ~~code~~ Land Development Code.

§ 1.4 - Intent.

The primary intent of this code is to achieve the following:

- A. Guiding and accomplishing coordinated, adjusted, and harmonious development in accordance with the village's existing and future needs.
- B. Protecting, promoting, and improving the public health, safety, comfort, order, convenience, and general welfare.
- C. Protecting the character and maintaining the stability of the residential areas.
- D. Directing and controlling through the establishment of performance standards, the type, density, intensity, and distribution of development.

§ 1.5 – Interpretation and conflict.

A. Interpretation.

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, order, convenience, and general welfare of the village.

B. Conflict.

It is not intended by these regulations to interfere with, abrogate, or annul any easements, covenants, or other agreement between parties; however, where these regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger open spaces, yards, lot areas than are imposed or required by other ordinances, rules, regulations, easements, covenants, or agreements, the provisions of these regulations shall govern.

§ 1.6 - Validity.

If any section, paragraph, subdivision, clause, phrase, or provision of these regulations are adjudged invalid or held unconstitutional, this shall not affect the validity of these regulations as a whole, or any part or provisions thereof, other than the part so decided to be invalid or unconstitutional.

§ 1.7 - Repeal clause.

All county ordinances, resolutions, or special laws applying only to the village; any general laws which the Village Commission is authorized by the Charter to supersede, nullify, modify, or amend; or any part of any such ordinance, resolution, or law in conflict with any provision of this ~~chapter~~ LDC is hereby repealed.

CHAPTER II, RELATIONSHIP TO THE COMPREHENSIVE PLAN

§ 2.1 - Purpose and intent.

The Future Land Use Element of the ~~1987~~ adopted Comprehensive Plan for North Bay Village describes the future land use categories within districts for the village. These land use ~~districts~~ categories are illustrated on the future land use map in the Comprehensive Plan. All future development or redevelopment of property within North Bay Village must be consistent with the goals, objectives, and policies expressed in the adopted Comprehensive Plan and with the future land use map. The Land Development Code is intended to implement the Comprehensive Plan. In the event of a conflict between the Comprehensive Plan and the Land Development Code, or any other village regulation, the provisions of the Comprehensive Plan shall take precedence. ~~The following section contains a description of the district regulations incorporating the provisions of the future land use element with the applicable parts of chapter 152 of the North Bay Village Code of Ordinances. The result becomes a single, integrated description of the city's land use districts and the uses and criteria permitted within these districts. Thus, all future development or redevelopment of property within the city shall be accomplished in compliance with the goals, objectives, and policies expressed in the adopted Comprehensive Plan.~~

§ 2.2 – Relationship between future land use categories and zoning districts.

The future land use categories districts and classifications defined in the future land use element and delineated on the future land use map 1993 and 1998 land use plans in said element shall be the determinants of permissible activities on any parcel of land within the village. ~~(See figures 3.1 and 3.2.)~~ They are established to regulate and restrict the location of commercial, public, and semi-public uses, and residences, and the location of buildings erected or altered for specific uses to regulate or limit population density, and intensity of use of lot areas. The zoning districts and associated regulatory provisions identified in the Land Development Code are intended to implement the goals, objectives and policies and Future Land Use Map in the Comprehensive Plan. In the event of a conflict between a provision in the Comprehensive Plan and any provision regulating development within a zoning district, the provisions of the Comprehensive Plan shall take precedence

A. *Residential district future land use categories.*

There are three residential future land use categories in the Village's Comprehensive Plan that are applied to lands throughout the village. Lands located within these categories are to be devoted to ~~This district encompasses all areas with dwelling units used or intended to be used for permanent housing. The residential land use category is further subdivided into three subdistricts based on density.~~

1. The single-family residential category ~~or low density district~~ allows a density of up to six dwelling units per acre. Zoning districts RS-1 and RS-2 fall under this land use category.
2. The medium density multi-family residential category ~~district~~ allows for residential density from seven (7) up to 40 dwelling units per acre. ~~(Zoning district RM-40)~~ RM 40 is the only zoning district consistent with this future land use category.
3. The high density multi-family residential category allows from 41 up to 70 dwelling units per acre. ~~(Zoning district RM-70)~~ RM-70 is the only zoning district consistent with this future land use category.

B. Commercial ~~district~~ future land use category.

This category district designates those areas in the village suitable for commercial development. Uses permitted include a broad range of general and professional office, retail, banking, hotel, and service establishments and high density residential development.

C. Mixed-use district future land use category.

The mixed-use category district permits a combination of retail, office, hotel, and/or residential, and/or institutional uses. The CL zoning district implements this future land use category. Mixed uses on a parcel may consist of up to 1/3 of the parcel developed as medium-density residential and up to 2/3 of the parcel developed as retail, office, or hotel use. Parcels may be developed as either high-density residential or retail/office use where the developer can demonstrate that such use contributes to a balanced mix of land uses within the district as a whole (See §4.1 and 4.4 of this code).

Note: [Where did this come from? It is conflict with the provisions of 152.030(C)(3) allowing for mixed commercial and residential use consistent with the provisions of RM 70. Also, if we drop the CL District, do we need to keep the M-U FLUC? Or, do we change the Commercial FLUC to Mixed Use?

D. Institutional ~~district~~ future land use category.

The purpose of this category district is to provide an area for either nonprofit or for profit institutional facilities such as religious facilities, nursing homes, and community centers or quasi-public uses, including, but not limited to religious facilities, nursing homes, community centers, public or private schools or colleges, and hospitals or clinics.

Note: There is no zoning district that specifically implements this category. But, only non-profit or quasi-public uses similar to the above should be permitted. Some of these types of uses are listed under Sec. 152.098 Use Exceptions.

E. Public buildings/grounds ~~district~~ future land use category.

This category district provides sites for public/semi-public uses such as village hall, police station, public works building, post office, and other agency facilities primarily serving the public.

Note: There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted. Some of these types of uses are listed under Sec. 152.098 Use Exceptions.

F. Educational ~~district~~ future land use category.

This category provides sites for public schools, associated facilities, and grounds-are included in this district.

Note: There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted. Some of these types of uses are listed under Sec. 152.098 Use Exceptions

G. *Recreation and open space ~~district~~ future land use category.*

This category district includes all areas designated for public parks within the city is intended to provide for permanent public parks and open spaces for recreational use, protection of natural resources, and urban buffers.

Note: *There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted. Some of these types of uses are listed under Sec. 152.098 Use Exceptions.*

H. *Marina ~~district~~ future land use category.*

This category district provides sites for the location of marinas as defined in chapter 1 of this code for areas where boat docking facilities are offered for rent including docks and dry storage facilities.

Note: *There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted.*

CHAPTER III, DEFINITIONS

CHAPTER IV, ADMINISTRATION AND ENFORCEMENT

DIVISION 1, GENERALLY

§ 4.1 - Purpose and intent.

This chapter sets forth the general application and review procedures for obtaining development orders and certain types of permits. It also specifies the requirements for appeal and legislative actions such as code and Comprehensive Plan amendments. The purpose and intent of this chapter is to establish general petition procedures, the process for obtaining an official interpretation of a regulation in the Land Development Code, public hearing and notice requirements, procedures for appealing decisions, enforcement of the code, penalties and remedies for violations, establish appropriate commissions, boards and administrative official, and amending the Land Development Code and Comprehensive Plan, for the effective and equitable implementation and enforcement of the Land Development Code.

§ 4.2 – General petition procedure.

A petition for an amendment, variance, special use exception, or supplement to these regulations, or for an amendment, change, or supplement to the Comprehensive Plan or district boundaries of the Zoning District Map shall be submitted to the Village Clerk by any person who owns the subject property or who has written permission of the present owner, public official, the Planning and Zoning Board, or by the Village Commission's own motion.

§ 4.3 – Procedure for obtaining an official interpretation of the Land Development Code.

Note: [This is an entirely new section)

When an individual wants an official interpretation of a regulation contained within the Land Development Code as defined in Chapter I, §1.4, or wants to determine how a regulation may be applicable to specific property within the village, the following procedures and provisions shall apply.

Written request. The individual shall submit, in writing, a completed preapplication conference request (available from the building department), the request shall be accompanied by payment of the fee as established and set forth in Appendix F, and shall include the following information:

1. Identification of the section or sections of the Land Development Code for which an interpretation is desired.
2. An explanation of what it is that the individual finds unclear and an explanation of what, if anything, the applicant believes the section in question means.
3. If the applicant is interested in determining how the section or sections apply to or affect specific property, the following information shall be provided:
 - a. A clear representation of the specific property(ies) that is/are the subject of the inquiry including the property address.
 - b. The land area encompassed by the property and the specific dimensions of the property including a description, map or survey showing existing improvements on the property.
 - c. If the question involves whether or not a certain improvement or use is allowed on the property, or the extent, size, or number of units that may be allowed on the property, the applicant shall include a plot plan or detailed description of what he/she wishes to do on the property sufficient to allow the Building Official to make a reasoned determination as to how

the LDC affects that specific property. It shall be the building official's decision as to what constitutes adequate information for him to make a decision or interpretation.

- d. The Planning and Zoning Official shall accept the written request or inform the applicant of any additional information that may be necessary for him to issue a reasoned interpretation. The Planning and Zoning Official may subsequently request additional information from the applicant, or provide the option of meeting with the applicant

If a meeting is scheduled requiring consultation with, or attendance by, an attorney or professional consultant (e.g., planner or engineer), a deposit in the amount set forth in Appendix F (?), shall be paid at least five days prior to said meeting. The final cost of the meeting, calculated as set forth in Appendix F (?), shall be the responsibility of the applicant and shall be paid in full prior to the issuance of the written opinion.

- e. Within two weeks of accepting the completed request, or having received any additional information requested of the applicant, the Planning and Zoning Official shall issue, in writing, his opinion, supported by citations of the pertinent sections of the Land Development Code, and shall forward said opinion by U. S. Mail to the applicant.
- f. The time for the Planning and Zoning Official's response may be extended to 60 (?) days if, in the opinion of the Planning and Zoning Official, it is necessary for him to confer with the village attorney, other village staff, or outside consultant before rendering a decision. All applicable fees shall be paid by the applicant before the Planning and Zoning Official issues his written opinion.
- g. The Planning and Zoning Official's written opinion shall be considered an official interpretation of the subject provisions of the Land Development Code.
- h. Verbal statements, interpretations, or comments made by the Planning and Zoning Official or any other representative of the village with regard to any interpretation of the Land Development Code shall not be considered official interpretations of the Land Development Code. Interested parties who make development decisions or proceed with development activity based upon such verbal information shall do so at their own risk.

§ 4.4 – Public hearing, public notice, and adoption requirements and procedures.

Note: [LDC §2.7.5(1) & (2) refer to §152.096, therefore that text is used herein.]

A. Hearings and notices.

1. Table 4.4.A.1 describes the number and type of meetings each application will require. The information in the table is presented for the purpose of assisting the village, applicants and the public in identifying public meeting and hearing requirements. In the case of conflict between the information presented in the table and the legal requirements of ~~these land development regulations~~ the Land Development Code, the Village Code of Ordinances or Florida Statutes (collectively referred to as legal requirements), the legal requirements and not the table shall control.
2. All applications involving the following shall be considered at public hearings before the Planning and Zoning Board and the Village Commission:
 - a. Amendment, change, or supplement to the Comprehensive Plan;
 - b. Amendments to the LDRs Land Development Code;
 - c. Amendments to boundaries of the Zoning District Map;

- d. Variances;
 - e. Special use exceptions and other applications for development approval;
 - f. Appeals of an administrative decision
3. Amendments to the Future Land Use Map, Zoning Map, or which change the actual list of permitted uses, conditional uses, special use exceptions, or prohibited uses in a zoning district or future land use category shall be adopted by ordinance, and the notice and hearing requirements shall be as required by F.S. §166.041(3)(a) and (c).
 4. Amendments to the Future Land Use Map or Zoning Map which change the actual map designation for a parcel or parcels of land containing ten contiguous acres or less notice shall be provided in the following manner:
 - a. Notice of the public hearing on the proposed change shall be given to property owners at least thirty (30) days prior to the date set for the public hearing as required by F.S. 166.041(3)(c)1.
 - b. As a courtesy notice, a written announcement of a public hearing shall be mailed at least ten (10) days prior to the date of the hearing to all property owners and residents abutting the subject property or within 300 feet of the perimeter of the property. Failure to mail this courtesy notice shall not affect the validity of the final action.
 - c. The list of property owners shall be certified by the Village Clerk. The Village Clerk shall certify that the petition file is complete before the hearing is legally advertised.
 5. All public hearings held before the Planning and Zoning Board and/or Village Commission shall be noticed by publishing, at least ten (10) days prior to the hearing, an advertisement showing the date, time, place, and nature of the hearing.
 6. Notice of the date, time, place and nature of the hearing shall also be posted conspicuously at least ten (10) days prior to the hearing on any property for which a petition for a variance, special use exception, zoning district or future land use boundary change has been submitted.
 7. For amendments that require two (2) public hearings by the Village Commission, the second public hearing shall be advertised at least ten (10) days before the public hearing.

**Table 4.4.A.1
Public Hearings**

Development approval	Planning and Zoning Board	Village Commission
Amendments to Comprehensive Plan		
Small scale development map amendment	H	2H
All other amendments		
Transmittal stage	H	H
Adoption stage		2H
Amendments to the Land Development Code Regulations		
Zoning district map	H	2H
Text amendment	H	2H
Others		
Minor Development 2 ⁽¹⁾		
Major Development ⁽²⁾	H	2H
Variances	H	H
Nonuse exceptions (LDC Tbl. 2-1)/Non-use variances (152.0974)		
<u>Non-hardship variance for single-family properties</u>		H
Special use exceptions	H	H
Appeals of an administrative decision	H	H
H = Public hearing ⁽¹⁾ Three through six dwelling units or from 300 to 10,000 square feet of commercial use ⁽²⁾ Seven or more dwelling units or more than 10,000 square feet of commercial use.		

Note: The above table is based on the substance of Table 2-1 in the Land Development Regulations, updated to reflect current legislative requirements.

While Sec. 152.101(A) states that it is the Planning and Zoning Board's authority and duty to review and recommend to the Village Commission on all variances, the LDC notes in Table 2-1 that for a "non-use exception" only the Village Commission holds a public hearing. However, nowhere else in the LDC is there a reference to a "non-use exception". On the other hand, Sec. 152-0971 states that the Village Commission may grant a "non-use variance" in residential districts and uses less stringent criteria for approval than are applicable to a standard variance. Recent approvals of such "non-use variances in residential districts" have gone straight to the Village Commission without a public hearing before the Planning & Zoning Board.

Rather than using the term "non-use variance", we now suggest calling this a "non-hardship variance for single-family properties" applicable to any use in a residential district. We believe this was the original intent of Sec. 152-0971.

B. Method of adoption.

1. The following shall be adopted by ordinance:
 - a. Amendment, change, or supplement to the Comprehensive Plan;
 - b. Amendments to the Land Development Code LDRs;
 - c. Amendments to the Zoning Map and to the actual list of permitted, conditions, or prohibited uses within a zoning category.
2. The following shall be adopted by resolution:
 - a. Variances;
 - b. Special use exceptions and other applications for development approval;
 - c. Appeals of an administrative decision.

C. Testimony.

Witnesses desiring to make a statement of fact at a public hearing shall be sworn and give testimony under oath; otherwise, statements shall be considered a matter of opinion only. The Planning and Zoning Board or Village Commission may require attendance of witnesses at a public hearing.

§ 4.5 Procedure for appealing an administrative decision.

- A. Any person aggrieved by an order, requirement, decision, or determination relative to these regulations by an administrative official may petition the Planning and Zoning Board for relief. The petition shall be in a form approved by the Village Attorney, and all properties described in one application must be contiguous.
- B. A grant of relief on appeals of administration decisions shall avoid spot zoning.
- C. The Village Commission may, after a public hearing, grant relief on appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation of any portion of these regulations.

§ 4.6 Exhaustion of remedies; court review.

- A. No person aggrieved by any zoning resolution order, requirement, decision, or determination of an administrative official or by any decision of the Planning and Zoning Board may apply to the court for relief unless he has first exhausted the remedies provided for herein and taken all available steps provided in this subchapter. It is the intention of the Village Commission that all steps provided by this subchapter shall be taken before any application is made to the court for relief; and no application shall be made to the court for relief except from resolution adopted by the Village Commission pursuant to this subchapter.
- B. Zoning resolutions of the Village Commission shall be reviewed by the filing of a petition for writ of certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, in accordance with the procedure and within the time provided by the Florida Appellate Rules for the review of the rulings of any commission or board. Such time shall commence to run from the date the zoning resolution sought to be reviewed is transmitted to the Village Clerk. For the purposes of a certiorari the Village Clerk shall make available for public inspection and copying, the record upon which each final decision of the Village Commission is based; however, the Village Clerk shall make

a reasonable charge commensurate with the cost in the event the village is able to and does furnish copies of all or any portion of the record. Prior to certifying a copy of any record or portion thereof, the Village Clerk or her designee shall make all necessary corrections in order that the copy is a true and correct copy of the record, or those portions requested, and shall make a charge as provided.

§ 4.7 Enforcement.

- A. It shall be the duty of the Building Official, Plan Examiner, and Code Enforcement Officer to enforce the provisions of these regulations, and to refuse to issue any permit for any building or for the use of any premises, which would violate any of the provisions of these regulations. It shall also be the duty of all officers and employees of the village and especially all members of the Police Department, to assist by reporting to the Village Manager any apparent violation in new construction, reconstruction, or land use.
- B. For the purpose of inspection, the Building Official and Code Enforcement Officer or their authorized representatives shall have free access to materials and work at all times and shall have the power to stop work pending investigation as to materials, work, grades, use, and other provisions of these regulations.
- C. The Building Official, Plan Examiner, and Code Enforcement Officer are authorized, where deemed necessary for enforcement of these regulations, to request the execution of an agreement for recording.
- D. In case any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of these regulations, the Building Official and Code Enforcement Officer is authorized and directed to institute any appropriate legal action to put an end to such violation.

§ 4.8 Penalties and remedies for violations.

Any person or corporation who violates any of the provisions of these regulations or fails to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and may be punished by the maximum penalty permitted under §10.99. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of these regulations shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith who has assisted in the commission of any such violation shall be guilty of a separate offense, and upon conviction shall be fined as hereinbefore provided and according to a schedule adopted by the Village Commission.

DIVISION 2, COMMISSIONS, BOARDS, AND ADMINISTRATIVE OFFICIALS

§ 4.9 Village Commission.

A. Powers and duties.

In addition to any authority granted to the Village Commissioners by state law or village ordinance, the Village Commissioners shall have the following powers and duties:

1. Enter into development agreements, as provided by state law.
2. Approve final plats prior to recording.
3. Adopt and/or amend the North Bay Village Comprehensive Plan.
4. Initiate, review, and adopt amendments to the ~~Consolidated Land Development Regulations~~ Land Development Code of North Bay Village and the North Bay Village Code of Ordinances.
5. Approve variances to Land Development Code of North Bay Village.
6. Take such other action as the Commissioners may deem necessary to implement the provisions of the ~~LDRs~~ Land Development Code and the Comprehensive Plan.

B. Action by Village Commission.

1. Before action is taken by the Village Commission on any petition (except a petition for a non-hardship variance for a single-family property as set forth in § 7.5) the Commission shall consider the recommendations and reports of the Planning and Zoning Board and of the Building Official and Plan Examiner.
2. If an application is before the Village Commission pursuant to this ~~subchapter~~ section, accompanied by a Planning and Zoning Board recommendation, the Commission shall have authority to consider and take final action upon any and all matters and requests contained in the application, ~~any other provisions in this subchapter to the contrary notwithstanding.~~
3. If a written protest against an amendment, supplement, change, variance, or special use exception is filed with the Village Clerk, signed by the owners of 50% or more within 500 feet of the perimeter of the property being considered; or, if the Planning and Zoning Board recommends, after a public hearing as described above, that the proposed amendment, supplement, change, variance, or special use exception be disapproved by a unanimous vote of the full Planning and Zoning Board, such amendment, supplement, change, variance, or special use exception shall not become effective except by a favorable vote of at least 4/5 of all of the members of the Village Commission.
4. In making any final decision, the Commission shall be guided by these regulations and the purposes thereof stated in ~~§ 152.107 of this subchapter~~ § 1.5, and by sound comprehensive planning and zoning principles, and may take any action within the confines of such guides and standards.
5. The action of the Commission may impose conditions or be more restrictive than any petition being considered.
6. No further variances may be granted without prior notice and hearing before the Planning and Zoning Board.

7. When any final action has been taken by the Village Commission, its record together with a certified copy of its minutes and the motion pertaining to such action shall be transmitted to the Building Official and Plan Examiner, and shall be open to the public for inspection during the normal hours of business for Village Hall.

C. *Quorum.*

A majority of the members of the Village Commission constitutes a quorum. Except in the case of an emergency ordinance, which requires four affirmative votes, an affirmative vote of a majority of a quorum present shall be necessary to enact the ordinance.

§ 4.10 Planning and Zoning Board.

A. *Establishment and purpose.*

The Planning and Zoning Board has been created to recommend to the Village Commission on all matters within the general purview of planning, zoning and development. This authority and duty includes the following:

1. Consider and recommend to the Village Commission as to all petitions for amendments, changes, or supplements to this code, ~~the zoning code~~, special exceptions, or variances thereto (except for variances to characteristics of use in a residential district).
2. Consider and recommend to the Village Commission as to all petitions for changes in the district boundaries of the land use maps in the Comprehensive Plan.
3. Prepare, or recommend, special studies on the location, adequacy, and conditions of specific facilities in North Bay Village, including, for example, studies on recreational facilities, historic buildings, etc.
4. Review and recommend to the Village Commission upon all petitions for development orders. In reviewing site plans for development, the Planning and Zoning Board must consider and abide by the provisions of Chapter 155 of the North Bay Village Code of Ordinances currently in effect.
5. Review and recommend whether specified proposed development conforms to the objectives and policies of the North Bay Village Comprehensive Plan.
6. Conduct such hearings as may be required to gather information to render decisions or make recommendations to the Village Commission.
7. At maximum intervals of five years, review the provisions of the land development code, the Comprehensive Plan and land use maps and the Zoning District Map, and forward the results of the review to the Village Commission at a public meeting.

B. *Officers.*

1. The members of the board shall elect annually, by majority vote, a chair and vice-chair from among its members. The chair shall be the presiding officer, the vice-chair shall preside in the absence or disqualification of the chair.
2. The Village Manager will provide secretarial staff to the board as needed. Professional service advisors may be utilized as determined by the Village Commission.

3. The Mayor and Village Manager shall serve as ex-officio members; however, their participation shall be limited to discussion only. They may not vote or otherwise participate in making recommendations to the Village Commission.

C. *Board membership.*

1. General requirements for membership and election of office for the Planning and Zoning Board are described below.
2. Membership of the board will consist of five members to be appointed by the Village Commission. Members shall be appointed for a term of two years, coinciding with the term of office of Village Commissioners.
3. The members shall be qualified electors of the village as defined in the Village Charter.
4. The members shall be, and shall remain during their respective terms of office, residents of the village. When a seat becomes vacant on the board, a successor shall be appointed by the Commission to fill the unexpired term.
5. The Village Commission can remove any member from the Planning and Zoning Board by majority vote of the Commission.

D. *Meetings.*

The Planning and Zoning Board shall hold regular monthly meetings and may hold special meetings at any other time. Special meetings shall be held on written request of the chairman and notices shall be mailed three days prior to the special meeting. In the event the chairman fails to call a special meeting, upon request of any board member, a special meeting shall be held upon written call of two other members of the board, notices shall be mailed three days prior to the called meeting.

E. *Quorum and voting.*

The presence of three members constitutes a quorum. A majority vote of the board shall be required on all decisions and recommendations to be made to the Village Commission.

F. *Authority, duties and decisions.*

1. The Planning and Zoning Board as established in § 32.30 through § 32.34 shall have the authority and duty to consider, act upon, and recommend to the Village Commission as to all petitions for amendments, changes, or supplements to these regulations; variances or special exceptions thereto; changes in the district boundaries of the Zoning District Map; petitions appealing an administrative decision and amendments to the Comprehensive Plan. The board shall also have the power to study and recommend to the Village Commission on all matters within the general purview of Comprehensive Planning and zoning.

2. Periodic review.

It shall also be the duty of the Planning and Zoning Board, in cooperation with the Village Attorney, to continuously review the provisions of these regulations, the Comprehensive master Plan, and the Zoning District Map to offer recommendations for the improvement thereof to the Village Commission. At maximum intervals of five years, these regulations, the Comprehensive master Plan, and the Zoning District Map shall also be subject to a comprehensive review and a

report thereof, with recommendations submitted jointly by the Planning and Zoning Board and the Village Attorney, and shall be presented to the Village Commission at a public meeting.

3. Decisions.

- a. All recommendations of the Planning and Zoning Board shall be made by motion at a public hearing of the board. Any member who has a special financial interest, direct or indirect, shall make that interest known and shall abstain from participation therein in any manner. Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the Village Commission. No action shall be taken without a quorum, and majority vote of those present shall prevail.
- b. The Village Clerk shall forward copies of all petitions to the Planning and Zoning Board, at least two weeks prior to the public hearing called for any such petition. The Planning and Zoning Board, or any of its members, may inspect the premises and area under consideration. Prior to making its recommendation the board shall consider the written recommendations thereon of the Building Official and Plan Examiner.
- c. After the public hearing, the report and recommendation of the Planning and Zoning Board shall be transmitted in writing to the Village Commission as a part of the record. The report of the Planning and Zoning Board shall include a recommendation on each and every request by the petitioner, but shall not be necessarily limited by the scope of the petition.

§ 4.11 Code Enforcement. [REFER TO CHAPTER 153]

§ 4.12 Village Manager.

The Village Manager is designated as the appointing manager of each of the village's departments and serves as an ex-officio member of the Planning and Zoning Board.

§ 4.13 Building Official.

The Building Official shall serve as head of the building department. As such, his duties shall include the following:

1. Oversee the appropriate application of the provisions of this code and county and state laws as they pertain to this code.
2. Receive all applications for development orders and development permits, review them for completeness, and initiate processing procedures.
3. Ensure that a concurrency evaluation, when necessary, is conducted as part of the processing of each request for development permit and that the results of the evaluation are made a part of the application.
4. Assist the Village Commission and Planning and Zoning Board through staff reports and recommendations regarding applications for development orders and permits.
5. Ensure appropriate interdepartmental coordination regarding the review and approval of tentative and final plats, final development orders, and final development permits.

DIVISION 3, AMENDMENTS AND CHANGES TO ~~LAND DEVELOPMENT REGULATIONS~~ LAND DEVELOPMENT CODE AND COMPREHENSIVE PLAN

Note: [LDR Sec. 2.6 limiting the number of Comp Plan Amendments to two per year is no longer applicable per HB 7207.]

§ 4.14 Amendments in general.

A. General.

The Village Commission may, from time to time, after a public hearings before the Planning and Zoning Board and the Village Commission, amend or change the Comprehensive Plan, the district boundaries of the Zoning District Map, or the regulations established herein. Such amendments or changes shall be in general accord with sound principles of planning and zoning and with the purpose of these regulations.

B. Process.

1. Any person may apply to the village to amend the Comprehensive Plan or ~~these Land Development Regulations~~ this Land Development Code.
2. When an application for an amendment is received, it shall be forwarded to the Planning and Zoning Board for its recommendation at least ten days prior to the public hearing at which it will be heard.
3. The Planning and Zoning Official will forward his comments to the Planning and Zoning Board prior to the hearing.
4. The hearing by the Planning and Zoning Board on an amendment to the Comprehensive Plan shall be held as provided in ~~§152.096~~ § 4.15.B or § 4.15.C as applicable and § 4.15.D
5. After the hearing, the report and recommendation of the Planning and Zoning Board will be transmitted to the Village Commission.

~~Amendment to the Comprehensive Plan or the land development regulations shall be by ordinance. The city commission shall hold two public hearings on the proposed amendment as required by section 163.3184(15)(b), Florida Statutes; provided, however, that only one hearing by the city commission shall be required for small scale development amendments as authorized by section 163.3187((1)(c)3., Florida Statutes. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second public hearing shall be held as provided in § 152.096 of the city code.~~

Note: [The above text is incorporated in the references to applicable Florida Statutes.]

§ 4.15 Amendments to the Comprehensive Plan.

A. Generally.

Amendments to the Village's Comprehensive Plan shall be undertaken only in accordance with the provisions for such amendments as set forth in F.S. § 163.3184 of the Community Planning Act.

B. Village initiated changes.

1. The Village Commission may initiate amendments to the Comprehensive Plan pursuant to the provisions of F.S. § 163.3184.
2. Approval of any change to the Comprehensive Plan shall require the affirmative vote of a majority of the members of the Village Commission present.

C. Property owner-initiated changes.

1. Changes involving land use boundaries or categories.

- a. A request, by a duly certified property owner or his agent, for a change in land use category or boundaries shall be considered only if owners of at least 51 percent of the property involved in the requested change submit to the village clerk a duly signed and notarized petition accompanied by the proper fee.
- b. The Planning and Zoning Official will review the application for the requested change in land use boundary or category and make a determination whether or not the requested change qualifies as a small scale development activity plan amendment under the provisions set forth in F.S. § 163.3187(1).
 - (1) If the requested change qualifies as a small scale development activity plan amendment under the provisions of F.S. § 163.3187(1), the Village Clerk will schedule the first required public hearing before the Planning and Zoning Board, acting as the Local Planning Agency, to be held not more than 60 (?) days after submission of the property owner's request. The Local Planning Agency shall make a recommendation to the Village Commission. Thereafter, the village shall conduct the amendment process as provided for under the provisions of the Community Planning Act.
 - (2) If the requested change does not qualify as a small scale development activity plan amendment under the provisions of F.S. § 163.3187(1), the Planning and Zoning Official will so notify the applicant and the Village Clerk will schedule the first required public hearing before the Planning and Zoning Board, acting as the Local Planning Agency, to be held not more than 60 (?) days after submission of the property owner's request. Thereafter, the village shall conduct the amendment process as provided for under the provisions of the Community Planning Act governing the Expedited State Review Process.
- c. Approval of any change in a land use category or boundary shall require the affirmative vote of a majority of the members of the Village Commission present.
- d. Reapplication.

No property owner application for amendment to the Comprehensive Plan involving changes of land use boundaries or categories shall be filed less than one year after the date of disapproval by the Village Commission or conclusion of an appeal, whichever is later, of an application involving the same land or any portion thereof.

2. Changes to the Comprehensive Plan not involving land use categories or boundaries.

- a. Any resident of the village may request an amendment, not involving land use categories or boundaries, to the Comprehensive Plan.
- b. Such requests shall be submitted, in writing, to the Village Clerk, accompanied by the reasoning and benefits expected to accrue to the village as a result of the proposed change.
- c. The Village Clerk shall forward the request to the Village Commission for its consideration.
- d. If the Village Commission determines that the proposal warrants further consideration, it will schedule the proposal for consideration.
- e. Approval of any change to the Comprehensive Plan shall require the affirmative vote of a majority of the members of the Village Commission present.

D. Public hearings.

Public hearings conducted to consider amendments to the Comprehensive Plan shall, at a minimum:

1. Comply with the requirements of state law.
2. Permit any person to submit written recommendations and comments before or during the hearing.
3. Permit a reasonable opportunity for interested persons to make oral statements.

E. Expiration of application.

A property owner initiated application to amend the Comprehensive Plan shall expire 180 (?) days after written notice has been served by the Planning and Zoning Official to the applicant requesting that the applicant provide additional information or that the applicant needs to undertake a specific action(s) before the application can be further considered; provided that the applicant has not supplied the village with the requested information, has not provided evidence to the village that he/she has undertaken the specific action(s) set forth in the written notice, or has not requested, in writing, an extension.

§ 4.16 ~~Land development regulations~~ amendments Amendments to the Land Development Code.

A. *Spot zoning.*

1. Prohibited.

Spot zoning shall be prohibited with regard to all amendments or changes in the district boundaries of the Zoning District Map or these regulations.

2. Defined.

Spot zoning, for the purposes of these regulations, is defined as having ~~one or more~~ **at least two (?)** of the following characteristics set forth in subsections a – d.

- a. Individuals seeking to have property rezoned for their private use, with the application showing little or no evidence of one or more of the following:

- (1) consideration of the general welfare of the public;
- (2) the effect on the surrounding property (including adequate buffers);
- (3) whether all uses permitted in the classification sought are appropriate to the location proposed;
- (4) ~~or conformity to the comprehensive master plan~~ conformity to generally accepted Comprehensive Planning and zoning principles (including alterations to the population density patterns and increase of load on utilities, schools, and traffic);

- b. The amount of land involved in the proposed change is small (one acre or less?).
- c. The proposed change is not in conformity with the Comprehensive Plan.
- d. The proposed rezoning would grant privileges not generally extended to property similarly located in the area.

B. Amendments rezoning property or substantially changing the uses permitted in zoning districts.

1. Conditions for approval. No proposed zoning amendment shall be approved unless:
 - a. The proposed amendment will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
 - b. There is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest, and not merely in the interest of an individual or small group of people.
 - c. There is a convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which an applicant states he intends to make of the property involved).
 - d. There is convincing evidence that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
 - e. The proposed change is in accord with the Comprehensive master Plan and sound Comprehensive Planning and zoning principles.
2. Reconsideration of district boundary changes. When a proposed change in district boundaries has been acted upon by the Village Commission and disapproved or failed of passage, such proposed change, in the same or substantially similar form, shall not be reconsidered by the Village Commission for a period of at least six months following the date of such action.

C. Amendments that do not rezone property or substantially change uses permitted in zoning districts.

Amendments to the Land Development Code that do not rezone property or substantially change uses permitted in zoning districts shall be in general accord with sound comprehensive planning and zoning principles and consistent with the adopted Comprehensive Plan.

CHAPTER V, PERMITS AND DEVELOPMENT APPROVALS

§ 5.1 - Purpose and intent.

The purpose of this chapter is to set forth the application and review procedures required to obtain development orders and certain types of permits; to establish regulations, procedures and standards for review and approval of all proposed development in the village and to adopt a development review process that is efficient in terms of time and expense; effective in addressing the natural resource and public facility implications of proposed development; and, equitable with regard to established regulations and procedures, respect the rights of property owners and consideration of the interest of the citizens of the village.

§ 5.2 - Development permit required.

No development allowed by this Code, as more fully referred to in § 5.3, including accessory and temporary uses, shall be established or changed, no structure shall be erected, constructed, reconstructed, altered, or moved and no building used, occupied, or altered with respect to its use after the effective date of adoption of this Land Development Code until there is on file in the village an approved development order for said action. Nothing herein shall relieve any applicant of the additional responsibility of obtaining any permit(s) required by any applicable statute, ordinance, or regulation in compliance with all of the terms of this Land Development Code or any other applicable laws.

DIVISION I, PROCEDURES FOR OBTAINING DEVELOPMENT ORDERS

§ 5.3 – Application required.

Application for any development order shall be made in writing on the appropriate form obtained from the ~~building and zoning department~~ Village Clerk and shall be made by the owner(s) of the property for which the action is being requested or by his authorized agent.

§ 5.4 – Designation as minor or major development.

At the time the owner or his agent requests an application for development order, the department shall determine whether the proposed project constitutes a minor development 1, minor development 2, or major development.

~~A. Major development. A development shall be designated as a major development if it satisfies one of the following criteria:~~

- ~~1. The development is a residential project of over six dwelling units per acre.~~
- ~~2. The development involves more than 10,000 square feet of nonresidential floor space.~~

~~B. Minor development. A development shall be designated as a minor development if it falls beneath the thresholds appearing in § 2.7(1). Minor developments are further subdivided into minor development I and minor development II. A development which contains more than two dwelling units or more than 299 square feet of commercial space shall be a minor development II. All those falling below these thresholds shall be designated minor development I.~~

Note: *[The following text is has been editorially changed but is substantively the same as the above text from the Sec. 2.71 of the Land Development Regulations]*

A. *Minor development 1.*

1. A development will be designated a minor development 1 if it contains two (2) or fewer dwelling units or not more than 299 square feet of commercial use.
2. Minor development 1 projects will be reviewed and approved administratively by the Building Official.

B. *Minor development 2.*

1. A development will be designated a minor development 2 if it contains from three (3) to six (6) dwelling units or from 300 to 10,000 square feet of commercial use.
2. Minor development 2 projects will be heard at public hearings before the Planning and Zoning Board and the Village Commission.

C. *Major development.*

1. A development shall be designated as a major development if it contains seven (7) or more dwelling units or more than 10,000 square feet of commercial use.
2. Major development projects will be heard at public hearings before the Planning and Zoning Board and the Village Commission.

§ 5.5 – Basic application requirements for all developments.

Fifteen copies (perhaps fewer paper copies and allow for electronic copies?) of the following basic materials shall be submitted before any application for a development order shall be considered complete.

- A. The village's standard application forms, completed, signed by all property owners or their designated agents, and notarized. In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.
- B. A survey at a scale of not less than one inch equals 40 feet, prepared by a registered land surveyor and not more than one year old and including the legal description of the property, all easements, and rights-of-way.
- C. Except for a single-family residence, a site plan to include physical features in or adjoining the site, proposed driveways, alleys, off street parking and loading areas, storm drainage, sanitary sewer facilities, and lighting systems.
- D. Preliminary floor plans and elevations of proposed buildings at not less than 1/16 inch scale.
- E. Location, height, and type of all proposed buildings, walls, signs, landscaping, and open space. Tabular project summary including total acreage, project density and FAR floor area ratio (FAR) lot coverage, open space, and number of parking spaces. If variances are being requested, the extent of these variances from requirements shall be noted.
- F. Level of service assessment (See Division 2, §5.17 through 5.20).
- G. Filing fees. See Appendix F § ??? for copy of fee schedule.

§ 5.6 – Major development application requirements.

In addition to the ~~materials listed above~~ basic application requirements of § 5.5, fifteen (15) copies (perhaps fewer paper copies and allow for electronic copies?) of the following may be required to accompany an application for a major development permit:

- A. Development impact study which shall demonstrate whether the impact of the proposed development is favorable, adverse, or neutral on the economy, public services, environment, and housing supply of the village.
- B. Description of the relationship of the proposed project to surrounding, existing, and proposed future land uses, and to existing zoning, and the village's Comprehensive Plan.
- C. Listing of any special permits, variance, or exemptions ~~from the zoning ordinance~~ or any other village ordinance that may be required.

§ 5.7 – Review of development plan.

- A. Within fifteen (15) working days of receipt of a petition for development plan approval the building official shall:
 - 1. Determine ~~that~~ whether or not the information is complete and if incomplete ~~and~~ inform the applicant in writing of the deficiencies. The applicant may submit an amended plan within ten days without payment of a reapplication fee.
 - 2. Determine that the petition is complete.
 - a. If the petition is for a minor development, approve or disapprove the application.
 - b. If for a major development ~~or minor development II~~, proceed with the following procedures.
- B. Prepare a written report setting forth the factual conclusions and:
 - 1. Recommend that the petition be approved.
 - 2. Recommend that the proposed development permit be denied; or
 - 3. Recommend that the petition be denied unless specific modifications are made. The modifications shall be described in sufficient detail and exactness to allow the Applicant to amend his request accordingly.

§ 5.8 – Site plan review, site plan and model required.

- A. *Site plan and model required.*

For any proposed development or redevelopment within the village other than a single-family residence, a site plan and a computer model, or an architectural model built to scale, shall be ~~required and furnished~~ to the Village Manager, or his/her designee. Within ten (10) days prior to the Planning and Zoning Board public hearing, the applicant shall make available for viewing a computer model or an architectural model and photographs depicting same. If an architectural model is provided, said model shall be retrieved by the developer within thirty (30) days following the final public hearing before the Village Commission. The photographs depicting the model and any computer model shall become part of the public records. ~~Said~~ Any computer or architectural

model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that ~~all setbacks~~ no setback for the new structure shall ~~not~~ conflict with the existing or approved structure on either side of the proposed structure.

B. Site plan requirements.

Approval of the site plan shall meet the requirements of ~~§ 152.095~~ § 8.10.D.4. The site plan shall include but not be necessarily limited to the following material, including conformance with all State laws and those of Dade County ~~and state laws~~.

1. The title of the proposed project and the name of the site planner, engineer, architect, landscape architect, developer, and owner.
2. The north point, scale (1/16 inch to the foot, or larger), and date of preparation of the site plan.
3. Existing and proposed zoning district boundaries.
4. Existing easements (with the ownerships thereof noted on the plan), property lines, streets, buildings, and other physical features in or adjoining the project.
5. Proposed streets, alleys, driveways, walkways, curb cuts, off-street parking spaces, loading areas, outdoor lighting systems, storm drainage, and sanitary sewer facilities.
6. Preliminary floor plans of typical floors and elevations of any proposed building according to a 1/16 inch scale.
7. Location, height, and type of all proposed buildings, structures, uses, signs, fences, walls, landscaping, and open space.
8. Tabular project summary, indicating the total acreage, plot area density, lot coverage, open space, and off-street parking spaces. If variances are being sought, the extent of those variances from the requirements of this chapter shall be included within the tabular summary.
9. Review by Planning and Zoning Board and Village Commission.
 - a. Site plans for a building or buildings which contain more than two (2) dwelling units, or more than 299 square feet of commercial or office space shall be reviewed by the Planning and Zoning Board and the Village Commission.
 - b. In reviewing site plans for development, the Planning and Zoning Board and the Village Commission must consider and abide by the provisions of chapter 155 of the North Bay Village Code of Ordinances currently in effect.
 - c. The review by the Planning and Zoning Board and Village Commission shall attempt to establish that the proposed development or redevelopment conforms to all applicable provisions of the building and zoning regulations of the village and the Florida Building Code; and that the proposed development or redevelopment has a design and arrangement which:
 - (1) Protects against and minimizes any undesirable effects upon contiguous and nearby property.
 - (2) Provides sufficient off-street parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.
 - (3) Provides a sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.
 - (4) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

- d. The review of a site plan does not indicate or imply approval of the working drawings (plans) and specifications required for the building permit.
- e. Requests for variances shall require a separate public hearing.

§ 5.9 – Administrative site plan modification.

- A. An amendment to a site plan that has been approved by the Planning and Zoning Board and the Village Commission pursuant to ~~§ 152.095 and § 152.105(C)~~ § 4.2 and § 5.8 may be approved by the Village Manager upon recommendation of the Village ~~Planner~~ Planning and Zoning Official without further review or approval by any such body, as follows:
 - 1. Any modification to the overall combination of unit types within the building(s) shown on the approved site plan or any increase in the total number of units, provided that the additional total number of units does not exceed five percent of the total number of dwelling units of the approved site plan and the resulting total number of units does not exceed the allowable density under the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code.
 - 2. Any modification to increase the size of any units shown on the approved site plan provided that the modification is consistent and is not in violation of the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code. Further, the total floor area for the site plan modification shall not exceed ten percent of the approved site plan after deducting any increase in total floor area directly attributed to bringing unit sizes into compliance with the current minimum unit size set forth in the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code. Any increase in the number or in the size of units will be subject to review in order to determine if concurrency requirements are met.
 - 3. Any modification to increase or decrease the floor-to-ceiling dimensions of any individual floor within the approved site plan, provided that the modification complies with the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code and does not result in a modification of the number of floors for the approved site plan.
 - 4. Any modification to increase or decrease the number of parking spaces within the approved site plan made in order to conform off-street parking of the approved site plan to any modification of a nature described in subparagraphs ~~§ 152.105(c)(10)(a)(1) or (a)(2)~~ A.1 or A.2, preceding, provided that the modification shall be substantially consistent with the approved site plan and not in violation of the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code or any applicable state or federal law.
 - 5. Any modification to the footprint of any building shown on the approved site plan provided that the modification does not change the generalized location of the building(s) shown on the approved site plan nor conflict with buffering requirements and is not in violation of the ~~Village of North Bay Village's Code of Ordinances~~.
- B. Any modifications approved by the Village Manager upon recommendation of the Village ~~Planner~~ Planning and Zoning Official pursuant to ~~this Section 152.105(C)(10)~~ § 5.9 shall be subject to the following limitations:
 - 1. Any modification to an approved site plan not expressly authorized ~~in this subsection 152.105(C)(10)~~ under § 5.9 shall require review and approval in accordance with the requirements and procedures for review and approval of a new site plan, as set forth in ~~Sections 152.095 and 152.105(C)~~ § 5.8.

2. Modifications to an approved site plan approved pursuant to ~~this subsection 152.105(C)(10)~~ § 5.9 shall take effect upon approval by the Village Manager, upon recommendation of the ~~Village Planner~~ Planning and Zoning Official.
- C. Courtesy notification of approved site plan modification review will be given to property owners subject to the requirements of ~~subsection 152.096(A)(2)~~ § 4.4.A, hearing and notices, of the ~~Village of North Bay Village's Code or Ordinances~~ Land Development Code.

§ 5.10 – Expiration of site plan approval.

Site plans approved in accordance with these regulations shall expire two (2) years following final approval by the Village Commission unless otherwise approved by development order. Such site plans may be granted no more than two (2) one-year renewals subject to approval by the Village Commission. Site plans already approved, but for which a building permit has not been issued, shall expire four (4) years following final adoption of this ordinance. To avoid expiration of the site plans the applicant must apply for a full building permit within the time frames set forth above.

§ 5.11 – Building permits.

While both development permits and development orders are considered development orders by state law, building permits are distinguished in this Code as approvals for actual construction or installation. Appendix B contains a copy of a North Bay Village building permit application.

A. Authority.

The South Florida Building Code has been adopted by ~~the Village of~~ North Bay Village as the "Building Code of North Bay Village." All applications for building permits shall be submitted to and processed by the Building Official.

B. Requirements and conditions.

The following requirements shall be met prior to the processing of any application for a building permit.

1. All petitions must be accompanied by two sets of plans and specifications prepared in accordance with the requirements of the South Florida Building Code. The plans must include a survey prepared by a registered land surveyor.
2. Petitions must include a level of service assessment (~~see section 4.2~~ see § 5.18).
3. Petitions for development or redevelopment other than for a single-family residence must contain a site plan which contains:
 - a. Existing and proposed future land use and zoning district boundaries.
 - b. Existing easements and all physical features in or adjoining the project.
 - c. Proposed streets, alleys, curb cuts, off-street parking spaces, loading areas, outdoor lighting, storm drainage, and sanitary sewer facilities.
 - d. Tabular project summary indicating lot area, building area, density, and off-street parking spaces.
 - e. Location, type, height of all proposed buildings, signs, fences, landscaping, and open space.
 - f. Petitions must be accompanied by the appropriate filing fee as ~~described in chapter 152 of the North Bay Village Zoning Code~~ set forth in § 5.12.

§ 5.12 – Filing fees, charges for consultant services, and escrow account.

A. Collection.

All required fees pursuant to this chapter shall be collected by the Building Department.

B. Payment in advance.

1. All persons, firms, or corporations petitioning the Planning and Zoning Board, the Village Commission, and the Village Administration to process special requests shall be required to pay in advance all fees and expenses necessitating the public notification in the newspaper, and notices to property owners. The fees are set forth in Appendix A following this chapter. [See Ord. 2012-02]
2. All persons, firms, or corporations applying for permits under the provisions of these regulations or amendments thereto, variances from these regulations, special use exceptions as required by these regulations in certain instances, or a change in the classification of a district or a portion thereof shall be required to pay in advance for all expenses relative thereto, in accordance with fee schedules adopted by the Village Commission. Permits for signs and other fees shall be in accordance with fee schedules established by the Village Manager.
3. The payment of such money in advance to the Village Clerk shall be a condition precedent to the consideration of such petition, permit, or amendment.

C. Charges for consultant services established.

1. The Village Manager and/or his/her designee in the review of any building and zoning application presented to the village, may refer any such application to such engineering, planning, legal, technical, environmental, or other professional(s) employed by the village as the manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultant shall be made in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the village and such consultant. Charges made by the village shall be in accord with the hourly rates charged by such consultants or hourly rates of employed professionals and shall be paid upon submission of a village voucher.
2. The applicant shall reimburse the village for the cost of such consultant or employed professional services within thirty (30) days of receipt of a voucher from the village upon submission by the consultant. Such reimbursement shall be a condition of the zoning resolution. These fees shall be in addition to any and all other fees required by law, rule, or regulation of the Village Code.

D. Escrow account.

1. At the time of submission of any application or thereafter, the applicant shall pay the minimum fee outlined in the recovery cost schedule for planning and zoning services set forth herein, which funds shall be deposited into an escrow account established for this purpose. Withdrawals shall be made to reimburse the village for the cost of professional review services.

2. The applicant shall be provided with copies of any village voucher for such services as they are submitted to the village. When the balance in such escrow is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such amount is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement of such additional deposit, the village may suspend its review of the application.
3. An application shall be deemed incomplete if any amount shall be outstanding. A building permit or certificate of occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the village. Once all pertinent charges have been paid, the village shall refund to the applicant any funds remaining on deposit.
 - a. Recovery costs of administrative review and processing for each category of application.
 - b. Land Use Plan Amendment\$15,000.00
 - c. Rezoning10,000.00
 - d. Site Plan Review (conditional uses, variances10,000.00
 - e. Site Plan Modification (no Commission review)4,000.00
 - f. Unusual and New Uses10,000.00
 - g. Special Use Exception10,000.00
 - h. Request for encroachments, variances, etc. single-family2,500.00
 - i. Plat10,000.00
 - j. Waiver of Plat3,000.00
 - k. Appeals of Administrative Decisions3,000.00
 - l. Temporary Uses (except garage sales) bond required2,500.00
 - m. The Village shall be reimbursed for Planning and Zoning services not categorized herein under this schedule in accordance with Appendix A. of the Village Code.

§ 5.13 – Fees for copies of records.

The Village Clerk shall charge and collect fees for furnishing copies of plans, permits, and other records to the public, in accordance with a fee schedule established by the Village Manager.

§ 5.14 – Errors, violations, and permits erroneously issued. [permits erroneously issued is NEW]

- A. The issuance or granting of a permit or approval of plans or specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this ~~chapter~~ LDC. No permit presuming to give the authority to violate or cancel the provisions of this ~~chapter~~ LDC shall be valid except insofar as the work or use which it authorizes is lawful.
- B. The issuance of a permit upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on there under when in violation of this ~~chapter~~ LDC, or any ordinance of the Village.

- C. When permits are issued through administrative error, the error shall be called to the attention of the permit holder as soon as it is discovered. If the error is not voluntarily corrected, the matter shall be immediately referred to the Village Commission who shall take such lawful action as is appropriate and necessary.

§ 5.15 – Certificates of occupancy.

- A. No premises shall be used and no building hereafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy and compliance has been issued by the Building Official stating that the building or premises complies with the South Florida Building Code and the provisions of these regulations. In the event there is a question as to the nature or legality of a use, the Building Official shall require affidavits and such other information as he may deem appropriate or necessary to establish the nature and legality of the use before issuance of a certificate of occupancy.
- B. No permanent electrical service will be permitted until a final certificate of occupancy has been issued.
- C. Whenever a request has been made to the Building Official for the issuance of a certificate of occupancy, it shall be accompanied by a certificate of compliance consisting of affidavits from the building contractor (or owner-builder) responsible for the building and the architect or engineer whose seal appeared on the original and all supplementary plans filed in support of the application. The affidavits by the architect or engineer and the building contractor (or owner-builder), respectively, shall state affirmatively that the plans and specifications and all changes thereto are in compliance with, and that the buildings or structures have been substantially completed in accordance with, the South Florida Building Code and this chapter or any variance thereto lawfully granted by the Village Commission.
- D. Temporary certificates of occupancy may be issued for commercial or multi-family structures for purposes of testing. No temporary certificate of occupancy may be issued for a single-family residence. No occupancy shall be permitted until a final certificate of occupancy has been issued.
- E. The Building Official shall not issue any certificate of occupancy for any new or remodeled or otherwise structurally altered building without first receiving the certificate of compliance as set forth in ~~division (C)~~ subparagraph C, above. Upon the receipt of the certificate of compliance, it shall be examined by the Building Official.
- F. Following a physical examination by the Building Official, determination of compliance with all applicable codes and ordinances, and conditioned upon his written certification of the accuracy of the information contained in the affidavit supporting the certificate of compliance, the Building Official shall issue a certificate of occupancy.
- G. Any person submitting false information by affidavit in support of a certificate of compliance may receive the maximum punishment as provided by the Village Charter. Any certificate of occupancy issued upon information supplied therein shall be subject to revocation.
- H. No final inspection shall be made nor shall any certificate of occupancy be issued until all fees and charges due to the village pertaining to the property are fully paid.

§ 5.16 –VACATION OF STREETS, ALLEYS, EASEMENTS, AND PUBLIC RIGHTS-OF-WAY.[NEW]

A. Policy declaration.

The village declares the following to be its general policy regarding vacation of streets, alleys, easements, and public rights-of-way. The vacation of streets, alleys, easements, and public rights-of-way shall be considered based primarily, but not exclusively, on the effect on utilities located in said right-of-ways, emergency services access, feasibility of road construction, access to lots abutting the vacation, area traffic patterns and adjacent landowners' input.

B. Vesting of title upon vacation.

Whenever any property has been conveyed to, or acquired by, the village for use as a street, alley, easement, or public right-of-way, and thereafter is vacated, title to the lands included within such street, alley, easement, or public right-of-way, or so much thereof as may be vacated, shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues, as follows:

1. In the event that a street, alley, easement, or public right-of-way, which constitutes the exterior boundary of a subdivision or other tract of land, is vacated, title to vacated property shall vest in the owners of the land abutting the vacated property at the time said property was acquired for public use, was a part of the subdivided land, or was a part of the adjacent land.
2. In the event that less than the entire width of a street, alley, easement, or public right-of-way is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.
3. In the event that a street, alley, easement, or public right-of-way bounded by straight lines is vacated, title to vacated property shall vest in the owners of the abutting land, with each owner taking to the center of the street, alley, easement or public right-of-way, except as provided in subsections A. and B. of this section. In the event that the boundary lines of abutting lands do not intersect the roadway at a right angle, the land included within such roadway shall vest as provided in subsection D. herein.
4. In all instances not specifically provided for, title to the vacated property shall vest in the owners of the abutting land, with each owner taking that portion of the vacated property to which his land or any part thereof is nearest in proximity.
5. No portion of a roadway, upon vacation, shall accrue to an abutting roadway.

C. Reservation of land for utility uses.

In the event of vacation, easements may be reserved for the continued use of existing sewer, gas, water or similar pipelines and appurtenances, for ditches, or drainage and appurtenances, and for electric, telephone, cable and similar lines and appurtenances.

D. Vacation to be accomplished by ordinance.

If the Village Commission approves an application for a vacation, the actual vacation of any property within a street, alley, easement, or public right-of-way within the village shall be accomplished by ordinance.

E. Recordation of vacation ordinance.

Any ordinance for vacation of any street, alley, easement or public right-of-way, once duly passed and effective, shall be recorded or caused to be recorded by the village in the official records of Miami-Dade County. The vacation shall not be effective until such recording has been completed and the applicant who initially requested the vacation has reimbursed the village for its recording costs and fees. No permits shall be issued until such time as the recordation of the vacation has been completed.

F. Reapplication.

No application for a vacation of streets, alleys, easements, or public rights-of-way shall be filed less than one year after the date of disapproval by the Village Commission or conclusion of an appeal, whichever is later, of an application for vacation involving the same land, easement or right-of-way or any portion thereof.

G. Expiration of application.

An application for the vacation of a street, alley, easement or public right-of-way shall expire 180 days after written notice has been served by the Building Official to the applicant requesting that the applicant provide additional information or that the applicant needs to undertake a specific action(s) before the application can be further considered; provided that the applicant has not supplied the village with the requested information; has not provided evidence to the village that he/she has undertaken the specific action(s) set forth in the written notice; or has not requested, in writing, an extension.

DIVISION 2, CONSISTENCY AND CONCURRENCY DETERMINATIONS

§ 5.17 – Consistency with North Bay Village Comprehensive Plan.

- A. No development activity may be approved unless it is found that the development is consistent with the density and intensity requirements in the Village's Comprehensive Plan; meets the criteria contained in the land use plans(?) in the Comprehensive Plan; and that those public services and facilities addressed in the Comprehensive Plan will be available at the prescribed levels of service (LOS) concurrent with the impact of the development on those services and facilities.

- B. If a development proposal is found to meet all the requirements of ~~this code~~ the LDC it shall be presumed to be consistent with the Comprehensive Plan. If a question of consistency is raised, the Building Official shall make a determination of consistency or inconsistency and support the determination with written findings.

§ 5.18 – Level of service compliance requirements.

All applications for development orders shall be required to demonstrate that the proposed development does not degrade adopted levels of service in North Bay Village. A level of service assessment demonstrating that the proposed development will not degrade the adopted level of service by meeting one of the following general tests, shall accompany each request for development order or development permit approval:

- A. Capacity exists at the time of application to meet the service needs of the proposed development based upon the scheduled completion and occupancy, and based upon the standards described below.

- B. Capacity does not exist at the time of application, but shall exist at the time of completion and occupancy of the proposed development. Existence of capacity shall be ensured through one of the following:
 - 1. Construction is underway to provide additional capacity and is scheduled for completion by or before scheduled occupancy of the development.
 - 2. Contracts are signed for construction to provide additional capacity on a schedule which provides capacity at the time of occupancy of the development.

§ 5.19 – Determining existing capacity.

For the purposes of these regulations, the available capacity of a facility shall be determined by:

A. Adding together:

1. The total capacity of existing facilities operating at the required level of service; and
2. The total capacity of new facilities that will come available concurrent with the impact of the development. The capacity of new facilities may be counted only if one or more of the following is shown:
 - a. Construction of the new facilities is under way at the time of application.
 - b. The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the development permit is issued.
 - c. The new facilities have been included in the appropriate capital improvement program annual budget.
 - d. The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order pursuant to F.S. ch. 380.

B. Subtracting from that number the sum of:

1. The demand for the service created by existing development; and
2. The new demand for the service that will be created concurrent with the impacts of the proposed development by the anticipated completion of other presently approved developments.

§ 5.20 - Burden of showing compliance.

The burden of showing compliance with level of service requirements shall be upon the developer. In order to be approvable, applications for development approval shall provide sufficient information showing compliance with these standards.

A. *Potable water.*

New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for potable water as established in the potable water sub-element of the North Bay Village Comprehensive Plan.

1. Minimum design flow: 120 gpd per capita ~~criteria~~
2. Pressure: To meet Dade County fire flow ordinance

B. *Wastewater.*

New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for wastewater treatment as established in the Capital Improvements Element of the North Bay Village Comprehensive Plan:

Minimum design flow: 110 gpd per capita

C. *Transportation system.*

1. Level of service.

New development shall not be approved unless there is sufficient available capacity to sustain the following level of service for transportation systems as established in the Transportation Circulation Element of the North Bay Village Comprehensive Plan:

Type of Facility	Peak Hour Level of Service
Arterial <u>roadways</u>	D
Collector <u>roadways</u>	D
Limited <u>access roadways</u>	D

2. Determination of impact.

The projected level of service for arterials and collectors within the traffic shed shall be calculated based upon estimated trips to be generated by the project, or where applicable, the first phase of the project, and taking into consideration the impact of other approved but not completed developments within the projected area of impact. Information on committed development within the traffic shed shall be provided by the village/~~county~~ and/or county.

D. *Drainage system.*

~~New development shall not~~ No new development shall be approved unless there is sufficient available capacity to sustain ~~the following levels of service for the drainage system~~ a five year frequency storm event including retention or detention with filtration of the first inch of runoff, as established in the drainage subelement of the North Bay Village Comprehensive Plan.

E. *Solid waste.*

~~New development shall not~~ No new development shall be approved unless there is sufficient available capacity to sustain ~~the following~~ a level of service for solid waste of seven (7) pounds per capita per day as established in the solid waste subelement of the North Bay Village Comprehensive Plan

F. ~~Recreation.~~

~~Not applicable. See Appendix C for Florida Department of Community Affairs communication dated June 4, 1990.~~

Note: Is this section still necessary? I don't think so since Recreation concurrency is optional.

DIVISION 3, SUBDIVISION REGULATIONS

§ 5.21 –Purpose and intent.

The public health, safety, comfort, and welfare require the harmonious, orderly, and progressive development of land within the village. To this end, all lands within the village must be subdivided and platted before any development approval can be obtained.

§ 5.22 –Preliminary and final plats.

A. Purpose and intent.

The purpose of requiring and regulating the platting of land within the village is to ensure compliance with the procedural and substantive requirements of the North Bay Village Comprehensive Plan, the Dade County Subdivision Ordinance, chapter 28 of the Dade County Code of Ordinances, and the requirements of F.S. ch.177.

B. Procedures.

1. Fifteen copies (? perhaps less paper copies and electronic copies) of the tentative plat, prepared in accordance with requirements of chapter 28 and prepared by a licensed surveyor, application for tentative plat approval and accompanied by an opinion of title no older than 30 days, a level of service assessment, and a certified survey of the site shall be submitted to the Building Official.
2. The Building Official shall review the tentative plat as to its compliance with objectives of the Village's Comprehensive Plan, including level of service standards.
3. The Building Official shall place the tentative plat on the Planning and Zoning Board's agenda and submit his recommendations to the board.
4. The Planning and Zoning Board votes to approve or disapprove the tentative plat.
5. The Village Manager places the tentative plat on the agenda of the Village Commission and forwards a copy of the Planning and Zoning Board's recommendations and a copy of the Building Official's report.
6. The Village Commission votes to approve or disapprove the tentative plat. If approved, two copies are signed by the Mayor. One signed copy is returned to the surveyor or subdivider; one copy is filed in the public works department.
7. The surveyor or subdivider delivers the signed tentative plat and 14 copies(? perhaps less paper copies and electronic copies) to Miami-Dade County Subdivision Control for processing.
8. Miami-Dade County shall notify the subdivider or surveyor and the village of its action (approve, approve with conditions, or disapprove).
9. After the surveyor prepares the final plat in accordance with chapter 20 and incorporates all conditions, if any, into the plat, he submits the final plat accompanied by a paving, grading, and drainage plan to the Building Official who then shall review it for consistency with the recommendations made by the Village Commission and Miami-Dade Subdivision Control before placing it with an accompanying report and resolution on the Village Commission's agenda.
10. The Village Commission receives the final plat and concurrency evaluation report from the Building Official at its first public hearing to discuss the proposed plat.
11. The Village Commission holds the second public hearing approximately two weeks later and votes to approve or disapprove the final plat. If the commission votes to approve the plat, the mayor signs the linen or mylar (??) as well as the Resolution accepting the (re)subdivision.

CHAPTER VI, NONCONFORMITIES

§ 6.1 –Defined.

For purposes of this ~~section~~ chapter, a nonconforming lot, structure, use, or characteristic of use, is defined as a platted lot, structure, or use, or combination thereof that does not comply with the use or site development standards of the zoning district in which the lot, structure, use, or characteristic of use, or combination thereof is located, but which was legally established and in existence before the effective date of this ~~section~~ chapter [Jan. 22, 2002 insert new date].

6.2. Purpose and intent.

- A. It is the purpose and intent of this ~~section~~ chapter to permit the continuation of those lots, structures, uses, characteristics of use or combination thereof, which were lawful prior to the passage of this ~~section~~ chapter or future amendment thereto.
- B. This ~~section~~ chapter is designed to provide reasonable and equitable standards and guidelines for the control of nonconforming lots, structures, uses, and characteristics of uses in the regulation of change of use, change in kind or quality of use, change in volume or intensity of use, change in location of use, change of ownership or tenancy of use, accessory or incidental uses to nonconforming lots, structures, uses, or characteristics of uses, enlargement of use, replacement of use, addition or expansion of facilities, new activities, products or services connected with the nonconforming lot, structure, repair of a nonconforming structure, restoration of a nonconforming structure, and abandonment or discontinuance of a nonconforming structure or use, or any combination thereof.
- C. It is the further purpose and intent of this ~~section~~ chapter allow lawful nonconforming lots, structures, uses, and characteristics of use and combinations thereof to continue, subject to specific conditions, in order to not interfere with the existing circumstances surrounding land development within ~~the Village of North Bay Village~~, prior to the effective date of this ~~section~~ chapter any more than is necessary for the proper exercise of police powers relating to the general public welfare of the residents of ~~the Village of North Bay Village~~.

§ 6.3 – Nonconforming classifications.

- A. Within the zoning districts established by this Code, or amendments that may be later adopted to this Code, there may exist:
 - 1. Nonconforming lots
 - 2. Nonconforming structures;
 - 3. Nonconforming uses;
 - 4. Nonconforming characteristics of use;
 - 5. Combinations of nonconforming lots, nonconforming structures, nonconforming uses and nonconforming characteristics of use.

- B. These nonconforming classifications are declared by this ~~section~~ chapter to be incompatible with present permitted uses and all or part of the site development standards regulating permitted uses in the district where the nonconforming classifications are located and, therefore, are the proper subject regulations as provided for herein.

§ 6.4 – Scope.

- A. In order to avoid undue hardship, nothing in this ~~section~~ chapter shall be deemed to require any change in the plans, construction or designated use of any structure on which actual construction was lawfully done prior to the effective date of adoption of this ~~section~~ chapter and upon which actual building construction has been carried on diligently.
- B. For the purposes of this ~~section~~ chapter, the term "actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner according to approved plans for the specific improvement. Where evacuation or demolition or removal of an existing structure has been substantially begun, preparatory to building, such evacuation or demolition or removal shall be deemed to be actual construction; provided, however, that work has been and shall be carried on diligently pursuant to a valid building permit.

§ 6.5 – Nonconforming lots of record.

A. Construction of one single-family dwelling unit.

In any district in which single-family dwellings are permitted, ~~a one (1) single-family dwelling and customary accessory building(s) may be erected on a single lot, tract, or parcel of land of record that is nonconforming with respect to minimum lot area or frontage at the effective date of adoption of this section chapter, notwithstanding limitations imposed by other provisions of this section~~ provided, however:

1. Such lots must be in separate ownership and not be of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for ~~area, width or depth~~ or frontage that are applicable in the zoning district in which the lot, parcel, or tract is located.
2. ~~Required yard or area dimensions and requirements other than those site development standards applying to area, width, or depth shall conform to the regulations for the zoning district in which such lot is located.~~ The construction otherwise conforms to all other applicable laws and ordinances including, but not limited to, required minimum setbacks, minimum floor area, maximum building height and FEMA requirements, unless a variance is granted to such other regulations pursuant to Chapter VII of this Land Development Code.
3. If two or more lots, or combination of lots, or portions of lots with continuous frontage and single ownership are of record at the time of the passage of this ~~section~~ chapter, and if all or part of the lots do not meet the requirements established for lot areas, ~~width or depth~~ or frontage, the lands involved shall be considered to be an undivided parcel and no portion of such parcel shall be used or sold in a manner which diminishes the degree of compliance with established lot ~~width, area and depth~~ area or frontage requirements
4. It shall be the burden of the property owner to demonstrate that the lot is a legal nonconforming lot of record.

B. Construction of other than one single-family dwelling unit.

Notwithstanding limitations imposed by other provisions of this Land Development Code, any lot of record which is nonconforming as to the required minimum frontage requirement the zoning district in which it is located may be used as permitted by the district regulations of the zoning district in which the lot is located, provided:

1. The density or intensity of such use shall not exceed the maximum density or intensity allowable within the zoning district in which the lot of record is located;
2. The construction otherwise conforms to all other applicable laws and ordinances including, but not limited to, required minimum setbacks, minimum pervious area, maximum building height, FEMA requirements, and concurrency requirements, unless a variance is granted to such other regulations pursuant to Chapter VII of this Land Development Code.
3. It shall be the burden of the property owner to demonstrate that the lot is a legal nonconforming lot of record. [NOTE] *This section has been added because there is no section of the code addressing construction of other than a single-family dwelling unit. For example, there are four lots in the CG District that are nonconforming as to required lot frontage and this new subsection would apply to these lots.*

§ 6.6 – Nonconforming uses of land.

A. Defined.

A use of any land or structure, other than a sign, is a nonconforming use if:

1. The use is not listed as a permitted use in the zoning district in which it is located; or
2. The use is not a special use, use exception, or unusual or new use, which was specifically approved by the Village Commission; or
3. The use exists at a density or intensity(?) in excess of that allowable for the zoning district in which it is located.

B. Continuation.

The lawful use of land existing at the time of the passage of this ~~section~~ chapter or an amendment thereto, although such uses do not conform to provisions of ~~this Code~~ the Land Development Code may be continued subject to the following limitations and restrictions:

1. Change in location of use.

A nonconforming use shall not be moved in whole or in part to any other portion of the lot parcel occupied by such use at the effective date of adoption of this ~~section~~ chapter.

2. Change in ownership or tenancy.

All rights and obligations associated with a nonconforming use of land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy, except if abandoned.

3. Accessory uses.

Uses accessory to a nonconforming use not in existence at the time of the effective date of adoption of this ~~section~~ chapter are not permitted.

4. ~~Change to a more restrictive category of use.~~

~~A nonconforming use may be changed to a more restrictive category of nonconforming use as the resulting change reduces the degree of the nonconformity with applicable site development standards and use regulations. For the purpose of this section, a more restrictive category shall be a use or site development standard contained within a more restrictive zoning district.~~

Note: Do we really want to allow a change to another nonconforming use? This appears to be a confusing statement and would probably be fraught with difficulties of interpretation. We would suggest changing this section to read as follows:

Change of use.

a. A nonconforming use shall not be changed to another nonconforming use.

b. A nonconforming use may be changed to a permitted use for the zoning district in which the property is located upon the obtainment of all necessary permits and approvals and may not thereafter be permitted to revert to a nonconforming use.

5. Expansion or extension of use.

No nonconforming use shall be enlarged, increased, expanded or intensified beyond what existed at the time it became nonconforming.

6. Replacement of use.

a. Destruction of more than fifty percent (50%).

In the event that any existing nonconforming use is destroyed by more than fifty percent (50%) of its assessed value at the time of destruction as determined by the official records of the Miami-Dade County Property Appraiser by any means, including fire, flood, wind, explosion, demolition, act of God, or act of a public enemy, such use shall not be replaced.

b. Destruction of fifty percent (50%) or less.

(1) If such nonconforming use is destroyed to a level of ~~less than fifty percent (50%) or less~~ of its total assessed value at the time of destruction as determined by the official records of the Miami-Dade County Property Appraiser, it may be replaced, except that replacement ~~can~~ shall only occur in compliance with those building, plumbing, electrical, gas, fire, and other construction and safety related regulations in effect at the time of application for a permit to allow replacement.

(2) In no event shall the destroyed nonconforming use be replaced ~~to a degree or level more restrictive than the original use as to height, lot coverage, total floor area, bulk, or yard setback requirements.~~ *Note: This is very confusing, particularly the reference to "more restrictive". We suggest changing the stricken language to read as follows.*

such that the replacement structure is higher, contains greater lot coverage or floor area, has greater bulk, or lesser setbacks, than the original structure in which the nonconforming use was located.

7. Abandonment or discontinuance of use.

The abandonment or discontinuance of a nonconforming use for a period of 180 consecutive days or six (6) months shall render the nonconforming use status of the specific nonconforming use null and void. In the factual determination of whether a nonconforming use has been abandoned or discontinued, the following factors shall be used, but not be limited to:

- a. An intent to discontinue the nonconforming use through removal of stock in trade or removal of operating equipment.
- b. Some overt act or failure to act which carries with it a sufficient implication that the owner neither claims nor retains any interest in the use of the abandoned property as it stood before the abandonment occurred. The mere renewal and maintenance of an active occupational license, without further positive action, shall not constitute continuance of a nonconforming use.
- c. Inactive water, sewer, or electrical services at the existing facility.
- d. Attempt to continue use shall include but not be limited to an active listing of the property with a realtor or through posting of a for rent sign.

§ 6.7 – Nonconforming structures.

A. Defined

For the purposes of this chapter, a structure or building, other than a sign, is a nonconforming structure if the structure, or any physical characteristic thereof, is not in full compliance with all regulations of the zoning district in which it is located.

B. Continuation.

Where a lawful structure exists at the effective date of adoption or amendment of this ~~section~~ chapter, and it could not be built under the terms of ~~this Code~~ the Land Development Code by reason of restrictions on area, lot coverage, height, yards, location of the lot, or other site development standards concerning the structure, such structure, except as otherwise specifically provided, may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Alteration, enlargement, or expansion of nonconforming structure.
 - a. No such alteration, enlargement, or expansion of a nonconforming structure shall be permitted in a way which increases its noncompliance with present property development and use standards of the zoning district in which it is located.
 - b. ~~but any~~ Any nonconforming structure or portion thereof may be altered to decrease its noncompliance with present site development and use standards of the zoning district in which it is located. Nothing herein shall prohibit the Village Manager's designee from ordering the compliance with all applicable building construction and safety related codes.

2. Replacement, restoration and reconstruction of nonconforming structure.

a. Destruction of more than fifty percent (50%).

In the event any existing nonconforming structure is destroyed by more than fifty percent (50%) of its assessed value at the time of destruction as determined by the official records of the Miami-Dade County Property Appraiser by any means, including fire, flood, wind, explosion, demolition, act of God, or act of a public enemy, such structure shall not be restored, reconstructed or replaced except in compliance with all applicable provisions of the Land Development Code in effect at the time of its restoration, reconstruction or replacement.

b. Destruction of fifty percent (50%) or less.

In the event ~~that~~ any existing nonconforming structure is destroyed by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy by ~~less than 50-~~ fifty percent (50%) or less of its ~~total appraised~~ assessed value according to the latest records of the Miami-Dade County Property Appraiser, such structure shall be permitted to be replaced, restored, or reconstructed according to the site development standards in effect at the time of its original construction except that:

- (1) Replacement, restoration and reconstruction ~~can~~ shall occur only in compliance with all other applicable building, plumbing, electrical, gas, fire and other construction and safety related regulations in effect at the time of application for permit to allow replacement, restoration, or reconstruction, and
- (2) ~~In no event shall the destroyed nonconforming structure be replaced to a degree or level more restrictive than the original structure as to height, lot coverage, floor area, yard setbacks or other applicable site development standards at the time of its original construction.~~

Note: *This paragraph is unclear. We believe the following is what was intended.*

In no event shall the replacement structure have a greater density or intensity, height, or floor area; or, lesser minimum dwelling unit sizes, yard setback, or pervious area than the destroyed nonconforming structure.

c. *Repairs and maintenance of nonconforming structures.*

Routine repairs and maintenance of nonconforming structures on fixtures, wiring or plumbing or on the repair or replacement of walls shall be permitted.

d. Change in location of nonconforming structure.

Should any nonconforming structure be moved for any reason to any distance whatever from its original permitted location, it shall then conform to the regulations for the zoning district in which it is located after it is moved.

e. Accessory structure.

Structures normally accessory or incidental to a permitted structure or use in the zoning district in which the nonconforming structure is located may be permitted as accessory structures to the nonconforming structure.

f. Abandonment or discontinuance of nonconforming structure.

The abandonment or discontinuance of a nonconforming structure for a period of 180 consecutive days ~~or six months~~ shall render the nonconforming structure status of the specific nonconforming structure null and void.

§ 6.8 – Nonconforming characteristics of use.

~~Characteristics of use, such as off-street parking, off-street loading, and landscaping requirements, shall be interpreted to be synonymous with a part of the nonconforming classification of uses and structures legally permitted and existing at the time of the passage of this section or an amendment thereto, although such characteristics of use do not conform to the provisions of this Code.~~

A. Defined.

For the purposes of this chapter, characteristics of use are defined as requirements for off-street parking, off-street loading, and landscaping and buffering.

B. Continuation.

Where a characteristic of use lawfully exists at the effective date of adoption or amendment of this chapter, and does not conform to the requirements of the Land Development Code such nonconforming characteristic of use may be continued so long as it remains otherwise lawful, provided that, when a use or structure is modified in such a way that the use or structure requires a greater amount of parking, landscaping, or buffering than exists prior to the change, the characteristic(s) of use must be brought into conformance with the requirements associated with the changed use or structure.

Note: The above requires bringing the entire property into conformance when there is a change to the use or structure that increases the requirements for parking, loading or landscaping/buffering. Do we want to require this or just require provision of the incremental increase caused by the change?

§ 6.9 – Nonconforming lots, uses, structures, and characteristics of use in combination.

~~If on the effective date of this section chapter, a lot of record, structure, use or characteristics of use of land, in any combination thereof, exists that would not be permitted under the terms of this section chapter, but was lawful at the time of its original existence, that use may be continued unless otherwise deemed abandoned or terminated or required to be eliminated or brought into conformance by other applicable provisions of this section chapter. Subsections (E) and (F) Sections 6.6 through 6.9 shall apply to all nonconforming lots or record, structures, uses and characteristics of use, and combinations of any or all of them any combination thereof.~~

CHAPTER VII, VARIANCES

§ 7.1 – Purpose and intent.

The purpose and intent of this chapter is to provide flexibility in the administration of the Land Development Code when the strict enforcement of the provisions of the Land Development Code would result in an unnecessary hardship.

§ 7.2 – Variance prohibited.

Under no circumstances shall the Village Commission grant a variance to:

- A. Permit a use not generally permitted, or permitted by special exception or special use exception, in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter the Land Development Code in that district, or
- B. Any condition, criteria or site development standard set forth in § 8.10.D.4, pertaining to special exceptions in the high density multiple family residential district, or any condition associated with the approval by the Village Commission of any unusual or new use, special exception, or special use exception.

§ 7.3 – Procedure for consideration of a hardship variance.

A. Planning and Zoning Board public hearing.

The Planning and Zoning Board shall hold a public hearing to consider a request for a hardship variance and shall recommend to the Village Commission, approval, approval with conditions, or denial of the variance.

B. Village Commission public hearing.

The ~~City~~ Village Commission shall have the power, after a public hearing, to vary or adopt the strict application of the requirements of this chapter, and to prescribe appropriate conditions and safeguards associated with the granting of a variance

C. Required findings.

~~In order to recommend approval of a variance, or grant a variance, the Planning and Zoning Board, or the City Commission, as the case may be, must make an affirmative finding with respect to the criteria contained in division (B) above.~~

In order for the Planning and Zoning Board to recommend approval, and for the Village Commission to grant approval, of a variance request, each must make an affirmative finding with respect to all seven (7) of the following criteria:

1. That there are ~~(or are not)~~ special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district.
2. That the special circumstances and conditions were not ~~(or were)~~ self-created by any person having an interest in the property.

3. That the strict application of the provisions of this chapter would ~~(or would not)~~ deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought; and would ~~(or would not)~~ involve an unnecessary hardship for the applicant.
 4. That granting the variance requested will not ~~(or will)~~ confer on the applicant any special privilege that is denied by ~~this chapter~~ the Land Development Code to other land, structures, or buildings in the same zoning district.
 5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.
 6. That granting the variance will ~~(or will not)~~ be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 7. The variance request is not based exclusively upon a desire to reduce the cost of development.
- D. These required findings may be made by one (1) motion addressed to all ~~three (3)~~ seven (7) findings or, at the request of any member of the Board or Commission as the case may be, a finding or findings shall be considered separately.
- E. The findings shall be made prior to the vote on the application.
- F. The variance application shall be considered as a whole unless any member of the Planning and Zoning Board, or City Commission, as the case may be, shall request that the application be considered in parts, in which event the application shall be considered in such parts as requested.
- G. In light of the particular circumstances involved with each separate variance request, the grant of any variance shall not constitute or be deemed a precedent for the grant of any other variance.

§ 7.4 – Non-hardship variances for single-family properties.

- A. Notwithstanding any other provision of this chapter, ~~in residential districts,~~ upon application duly made upon an application form to be provided by the Department, the City Village Commission may consider requests for ~~non-use variances~~ by single-family property owners for non-hardship variances to which are defined as variances of setback lines, lot size, restrictions and yard requirements for the location and construction of fences, nonpermanent carports, screen enclosures, sheds, awnings and air conditioning compressors, swimming pool pumps and pool heating equipment.

Note: *Does the Village wish to limit the non-hardship variances only to single-family properties or should it be available to all residential properties? We suggest limiting to single-family only.*

- B. The Commission may grant such variance requests if the Commission finds:
1. The variance will be in harmony with the general appearance and character of the community;
 2. The variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
 3. The improvement is designed and arranged on the site in a manner that minimizes aerial and visual impact on the adjacent residences.
- C. As a courtesy, notice of the meeting at which the ~~non-use~~ non-hardship variance request is to be considered shall be provided in writing by regular mail posted at least seven (7) days prior to the meeting to all property owners and residents of property abutting the subject property and immediately across the street.

§ 7.5 – ~~Lapse of special or variance~~ Expiration of hardship and non-hardship variance.

After the Village Commission has ~~approved a special use exception or~~ granted a hardship or non-hardship variance, the ~~special use exception or~~ variance so approved or granted shall ~~lapse~~ expire after ~~the expiration of~~ one year, measured from the date of final Commission action, if no substantial construction or change of use has taken place in accordance with the plans for which the ~~special use exception or~~ variance was granted.

CHAPTER VIII, ZONING

DIVISION 1, ZONING DISTRICTS ESTABLISHED; ZONING MAP

§ 8.1 – Title.

This chapter shall be known as the “Zoning Regulations for the City Village of North Bay Village, Florida; 4983 2014 Revision.”

§ 8.2 – Purpose and ~~objectives~~ intent.

The purpose of this chapter is to encourage and promote, in accordance with present and future needs, the safety, morals, health, order, conveniences, prosperity and general welfare of the citizens of the City Village, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for preservation, protection, development and conservation of the natural resources of land, water and air, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion and the civic amenities of beauty and visual interest, for promotion of large-scale developments as a means of achieving unified civic design, and for development in accord with the City's Village's adopted comprehensive plan, by establishing zoning districts and by regulating the location and use of buildings, signs and other structures, and land and water for trade and residence by regulating and limiting or determining the height, bulk and access to light and air of buildings and structures, the area of yards and other open spaces, and the density of use. To accomplish ~~these objectives~~ this intent, the regulations and districts and ~~accompanying maps~~ have been designed with reasonable consideration, among other things, to the character of the districts and their suitability for particular uses.

§ 8.3 – Establishment of zoning districts.

In order to regulate and restrict the location of commercial, public and semi-public uses, and residences, and the location of buildings erected or altered for specific uses, to regulate or limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the following zoning districts are hereby established:

A. *Single-Family Residential Districts.*

1. RS-1 Low Density Single-Family Residential District (See § ~~452.026~~ 8.10.A).
2. RS-2 Medium Density Single-Family Residential District (See § ~~452.027~~ 8.10.B).

B. *Multiple Family Residential Districts.*

1. RM-40 Medium Density Multiple Family Residential District (See § ~~452.028~~ 8.10.C).
2. RM-70 High Density Multiple Family Residential District (See § ~~452.029~~ 8.10.D).

C. ~~Commercial District, 1. CG General Commercial District~~ (See § ~~452.030~~ 8.10.E).

~~2. CL Limited Commercial District (See § 152.031).~~ *It has been suggested to eliminate the CL District; rezone all CL properties to CG and include in the CG District uses now allowed in the CL District but not presently allowed in the CG District. This means that hotels would be allowed on all properties fronting along Kennedy Cswy. on Treasure Island and those on the north side of Kennedy Cswy. on Harbor Island. Do we want to do this?*

§ 8.4 – Reference to district names.

For the purpose of reference hereafter in these regulations, unless specifically provided to the contrary, the term *Residential* shall include both single-family and multi-family districts.

§ 8.5 – Identification of district maps.

Such land and the zoning district classification thereof shall be shown on a map designated as the Zoning District Map of the City Village, dated and certified by the city Village upon adoption. This Zoning District Map and all notations, dimensions, references, and symbols shown thereon pertaining to such districts, shall be as much a part of these regulations as if fully described herein, and shall be filed as part of these regulations. The map and any later alterations shall be available for public inspection in the offices of the City Village Manager or his designate designee. These regulations shall be similarly dated, filed, and made available for public reference.

§ 8.6 – Publication of district maps.

- A. The City Village Manager or his designate designee shall cause to be published, or prints made available, no later than March 31 of the year following adoption of these regulations, the Official Zoning District Map, clearly showing the zoning district boundaries and zoning district names and designations for the incorporated area of the City Village. In each calendar year thereafter, if there have been any changes in the zoning district boundaries or in reorganization of districts and district classifications in the preceding year, such amended map shall be published no later than March 31, and shall reflect all changes as of December 31 of the preceding year.
- B. Any person desiring a copy of the Official Zoning District Map shall pay a fee for each copy, as set by ordinance.

§ 8.7 – Interpretation of district boundaries

- A. *Map symbols.* A district name or letter-number combination shown on the Zoning District Map indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole incorporated area of the City Village, bounded by the district boundary lines within which the name or letter-number combination is shown or indicated, except as otherwise provided by this section.
- B. *Interpretation.* Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules shall apply:
 - 1. In cases where a boundary line is given a position within a street, alley, or easement, it shall be deemed to be in the center of the right-of-way of the street, alley, or easement. If the actual location of the street, alley, or easement varies slightly from the location as shown on the Zoning District Map, then the actual location shall control.
 - 2. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

3. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where bounded approximately by lot lines, said lines shall be construed to be the boundary of such districts unless the boundaries are otherwise indicated on the map or by ordinance.
4. In unsubdivided property, unless otherwise indicated, the district boundary line shall be determined by the use of the scale contained on the Zoning District Map.
5. All water areas within the zoning jurisdiction are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with City village limit lines, or by a straight line projection of the centerlines of streets as indicated on the Zoning District Map. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other, with City village limit lines or county limit lines.

§ 8.8 – New land area.

Any land hereafter created within or annexed to the corporate area of the City Village shall take the classification of "RS-1" - Low Density Single-Family Residential. This shall include the extension of existing bulkhead lines or the creation of islands not contiguous to existing islands.

DIVISION 2, APPLICATION OF DISTRICT REGULATIONS

§ 8.9 – General regulations.

A. Compliance with regulations.

1. No land or water area may be used except for a purpose permitted in the district in which it is located.
2. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof be used except for a use permitted in the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.
4. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.
5. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which the building is located.
6. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area, floor area ratio, or open space ratio regulations of the district in which it is located.

B. *Encroachment reduction of lot area.*

The minimum yards, parking space, and open spaces, including lot area per family, required by these regulations for each and every building existing at the time of the passage of these regulations or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area be reduced below the requirements of these regulations.

C. *Accessory buildings; prior construction.* No accessory building, structure, or dock shall be constructed upon a lot until the construction of the main use building has actually commenced. No accessory building shall be used unless the main use building on the lot is also being used.

D. *Location on a lot required.* Every building or structure hereafter erected, moved, or structurally altered shall be located on a lot as herein defined, and except as hereinafter provided, in no case shall there be more than one ~~main~~ principal building on one lot.

§ 8.10 – District regulations.

A. *RS-1 Low Density Single-Family Residential District.*

1. Purpose and intent.

The purpose of this District is to provide for low-density single-family residential development in a spacious setting, together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.

2. Uses permitted.

Single-family residential dwellings including duly licensed home occupation.

3. Use exceptions as may be approved under § 8.11

4. *Site development standards.*

a. Minimum lot size:

Area—7,000 square feet
Frontage—70 feet

b. Minimum yard setbacks:

Setback	Distance (Feet)
Front	20
Side (corner)	20
Side (interior)	10
Rear	15
Waterfront	25

The foregoing is applicable except for Lots I through 7 of Block 1 and 1 through 4 of Block 2, respectively, of the subdivision known as North Bay Island, which shall have a minimum waterfront setback of 20 feet.

c. Maximum building height:

~~Three stories, or 25 feet plus the required FEMA base flood elevation, neither to exceed a cumulative total of 35 feet.~~

Three stories, not to exceed 35 feet above grade.

d. Minimum floor area:

One story—2,000 square feet

Two story—2,600 square feet

B. *RS-2 Medium Density Single-Family Residential District.*

1. Purpose and intent.

The purpose of this District is to provide for medium-density single-family residential development in a relatively spacious setting, together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.

2. Uses permitted.

Single-family residential dwellings including duly licensed home occupation.

3. Use exceptions as may be approved under § 8.11

4. *Site development standards.*

a. Minimum lot size:

Area—6,000 square feet

Frontage—60 feet

b. Minimum yard setbacks:

Setback	Distance (Feet)
Front	20
Side (corner)	15
Side (interior)	7½
Rear	15
Waterfront	25

c. Maximum building height:

~~Three stories, or 25 feet plus the required FEMA base flood elevation, neither to exceed a cumulative total of 35 feet.~~

Three stories, not to exceed 35 feet above grade.

d. Minimum floor area:

One story—1,500 square feet

Two story—2,000 square feet

C. *RM-40 Medium Density Multiple Family Residential District.*

1. Purpose and intent.

The purpose of this District is to provide for medium density multi-family residential development, together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible. This district is intended to be utilized as a transitional buffer between single-family residences and high density apartments or commercial uses.

2. Uses permitted.

- a. Multi-family residential dwellings.
- b. Management offices within structures containing eight or more dwelling units.
- c. Duly licensed home occupation.

3. Site development standards.

a. Minimum lot size.

Area—10,000 square feet

Frontage—100 feet

b. Minimum yard setbacks.

Setback	Distance (Feet)
Front	25
Side (corner)	25
Side (interior)	20
Rear	15
Waterfront	25
Adjacent single-family structure	100

c. Maximum density.

Forty (40) efficiency or one-bedroom dwelling units per net acre. The following required amount of lot area per unit shall determine the number of other ~~type~~ dwelling unit types permitted.

Unit Type	Required Lot Area (Sq. Ft./Unit)	Density (Units/Acre)
Efficiency	1,085	40.1
One-bedroom	1,085	40.1
Two-bedroom	1,200	36.3
Three-bedroom or larger	1320	33.0

d. Maximum building height.

45 feet or four (4) stories, whichever is less

e. Exclusion of grade level parking from height limitation.

(1) ~~However, a~~ A grade level of parking, not exceeding ten (10) feet in height, shall not be included in this height limitation.

(2) The grade level parking floor may include other nonresidential uses, including laundry rooms, recreational rooms, storage rooms, and an office for building management.

f. Minimum pervious area: 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.

g. Minimum floor area.

Unit Type	Floor Area (Sq. Ft.)
Efficiency	400
One-bedroom	750
Two-bedroom	1,000
Three-bedroom or larger	1,150

4. Single-family homes approved under the provisions of § 8.11 consistent with the setback provisions of the RS-1 (Low Density Single-Family Residential District).

5. ~~Special uses permitted upon approval of the City Commission in accordance with the provisions pertaining to use exceptions:~~ Use exceptions as may be approved under § 8.11.

D. *RM-70 High Density Multiple Family Residential District.*

1. Purpose and intent.

The purpose of this district is to provide for high-density multi-family residential structures together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.

2. Use permitted.

- a. Multi-family residential dwellings.
- b. Management offices within structures containing eight (8) or more dwellings units or guest rooms.
- c. Office retail and service commercial facilities of an ancillary nature within structures containing 100 or more dwelling units or guest rooms subject to the following conditions:
 - (1) Access to such nonresidential facilities shall be only inside the building.
 - (2) There shall be no external advertising signs, display windows or entrances, provided, however, that
 - (3) Within a building containing 400 or more dwelling units, entrances, external signs and display windows are permitted under the following conditions which:
 - (a) The signs do not abut or face a public right-of-way and cannot be read from the public right-of-way; shall be permitted provided further that
 - (b) Such external signs shall be affixed flat against the facade or awning canopy of the commercial facility;
 - (c) Such external signs shall not exceed in area ten percent of the area of the facade of the facility;
 - (d) Such external signs shall be compatible as to materials, background and style with all adjacent and contiguous commercial facilities, and
 - (e) Such external signs shall not be self-illuminated, "activated", "animated", "flashing", or "beacon light" signs as defined in ~~§ 152.076~~ §11.2 of the LDC Code.

3. Site development standards.

a. Minimum lot size.

Area B—27,000 square feet
 Frontage—75 feet

b. Minimum yard setbacks.

Location	Distance (Feet)
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25
Adjacent single-family district	100
One side (interior)	15
Second side (interior)	20% of the lot width
<u>Total side setback area free of structures at ground level</u>	<u>60</u>

~~The total side setback area free of structures at the ground level shall be at least 60 feet.~~

e. Maximum density.

Seventy (70) efficiency or one (1) bedroom dwelling units per net acre. The following required amount of lot area per unit shall determine the number of other dwelling unit types permitted.

Unit Type	Required Lot Area (Sq. Ft./Unit)	Density (Units/Acre)
Efficiency	620-623	70.3 70.0
One-bedroom	620-623	70.3 70.0
Two-bedroom	685	63.6
Three-bedroom or larger	750	58.1

d. Maximum building height: 150 feet or 15 stories, whichever is less.

~~e. A maximum of four stories may be utilized for a parking structure. (See subsection 7 below.)~~

e. Minimum pervious area: Twenty percent (20%) of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped. *(How does this relate to 20%?)*

f. Minimum floor area:

Unit Type	Floor area (Sq. Ft.)
Efficiency or hotel room	600
One-bedroom	900
Two-bedroom	1,200
Three-bedroom or larger	1,350

g. Minimum boardwalk/baywalk accessibility criteria.

(1) Properties contiguous to Biscayne Bay and its natural tributaries shall provide a public access boardwalk/baywalk in the riparian right-of-way or an upland shoreline access easement adjacent to and parallel to the riparian right-of-way.

(2) These properties shall also provide a connective public easement connecting contiguous properties and the public right-of-way to these ~~building(?)~~ shoreline access areas.

4. Height bonus.

a. The following maximum building height bonuses are permitted in the RM-70 District when any of the design bonus alternatives listed in ~~8(A)§ 4.c.(1)~~ through ~~8(H) §(4).c.(6)~~ are incorporated into proposed project and the incorporated alternatives are subsequently approved by the City Village Commission upon recommendation of the Planning and Zoning Board.

b. Bonus approval shall ~~be done at the time of Site Plan Review as required by § 5.8.B.9 152.105(C)(9).~~ Each bonus alternative may be claimed once for a development and multiple awards for the same bonus feature shall not be permitted.

c. The City Village Commission may grant bonuses subsequent to a public hearing when it is determined by the Commission that the proposed bonus amenities are substantive in nature, contribute to an overall project design which takes into account the public's critical interests in new development and where the proposed plan is otherwise in substantial conformity with the City's Village's Comprehensive Plan.

(1) Twenty-foot height bonus.

An additional impact fee of \$1,500.00 per unit in the building shall be paid to the City of North Bay Village for beautification of the John F. Kennedy Causeway (State Road 934). This fee shall be set towards a Causeway Beautification Fund and/or

(2) Twenty-foot height bonus.

A developer shall pay a fee of \$1,500.00 per unit in the building, which shall be utilized for the construction of a City-wide boardwalk. This fee shall be set towards a Boardwalk Fund and/or

(3) Twenty-foot height bonus.

A developer shall pay a fee of \$1,500.00 per unit in the building, which shall be utilized for the remodeling of the entrances to the islands. This fee shall be set towards an island entrance Remodeling Fund and/or

(4) Ten-foot height bonus.

A developer shall pay a fee of \$750.00 per unit in the building, which shall be utilized for providing art in public places. This bonus is applicable only in conjunction with one of the above three-mentioned bonuses. This fee shall be set towards an Art in Public Places Fund and/or

(5) Ten-foot height bonus.

A developer shall pay a fee of \$750.00 per unit in the building, which shall be utilized for the planting of trees for the interior island streets. This fee shall be set towards a tree fund for the interior island streets and/or

(6) Ten-foot height bonus.

A developer shall be required to pay a fee of \$750.00 per unit in the building, which shall be utilized for sidewalk enhancement, as well as the replacement of walkway areas from plain concrete to brick pavers. This fee shall be set towards a sidewalk enhancement fund

5. Density bonus.

- a. Each parcel shall have the ability to purchase additional buildable units from the City of North Bay Village for a price of \$40,000.00 per unit.
- b. These units shall be derived from land currently owned by the City village, which will not be developed into residential buildings in the future.
- c. The money from these units shall be utilized for future City village parks and for the purchase of land for additional open green space.
- d. These units are to come from the development rights of City Village Hall as well as the public works property on Treasure Island.
- e. The total buildable units are: 129 Efficiencies; 129 1-Bedroom Units; 117 2-Bedroom Units; 106 3-Bedroom Units.
- f. Monies due from development under the bonus participation program shall be paid to the City of North Bay Village within 90 days of site plan approval by the City Village Commission. Thereafter, the appropriate number of units will be deemed to the property. (?) This fee shall be set towards a City Village Park Fund. *Does "deemed mean the number of paid for units will be included in the maximum number of units buildable on the property?"*

6. Allocation of funds.

Funds paid to the City of North Bay Village as a result of the bonus participation program shall be transferred between all accounts created for the purposes listed herein.

~~*Whichever is less.~~ (?) [Note, could not find the asterisk in the preceding sections.]

7. Additional required features and requirements.

All properties developed under the RM-70 Zoning requirements shall provide the following:

- a. Public access boardwalk as required by the Miami-Dade County Shoreline Review Committee. (Developer shall dedicate an easement to the City village conveying the boardwalk and a public access corridor).
 - b. All exterior paving surfaces, except for covered parking garages, shall be constructed of brick pavers.
 - c. A water feature shall be provided in the front of each development.
 - d. Developments shall comply with existing landscaping requirements, as well as changes implemented in the future to conform to contiguous developments and landscaping plans implemented for the causeway and interior island areas.
 - e. Developments shall provide streetscape benches along the boardwalk areas.
 - f. All parking garages shall be constructed with architectural features that hide them from public view (glass, screening, greenery etc.).
 - g. Lighting shall be provided in all areas in the front of development where trees are planted.
8. Special exceptions in high density multiple family residential district for certain undersized parcels.

a. Purpose and intent.

This section recognizes that certain parcels exist in the RM-70 District which do not meet the minimum lot size requirements set forth in ~~§ 152.029 § 8.10.~~ to permit a building to be erected, converted, enlarged, reconstructed, moved or structurally altered (~~undersized parcels~~). Some of said parcels are improved and some unimproved. The purpose of this section is to establish criteria whereby undersized parcels may be put to reasonable use, consistent with the City's Comprehensive Master Plan for development and in furtherance of a policy which discourages overdevelopment and urban congestion.

b. Uses permitted.

Uses permitted shall be the same as permitted in ~~§ 152.029(B)(1) § 8.10.D.2~~

c. Site development standards:

- (1) Minimum lot size: ~~shall be 40 percent of the area prescribed and 40 percent of the front footage requirement of § 152.029(C)(1) (minimum undersized parcels).~~

Area — 10,800 square feet

Frontage—30 feet

- (2) Minimum yard setbacks shall be the same as specified in ~~§ 152.029(C)(2) § 8.10.D.3.b~~ provided that existing buildings, which were completed prior to April 1, 1983, (existing structures) and were lawfully constructed so that any existing setback encroaches into the setback area prescribed by current law but not in excess of 33 1/3 percent of the current setback requirements (nonconforming setback) shall be subject to the provisions of subsection ~~(C)(4) c.(4)~~ hereafter.

- (3) Maximum density shall be as prescribed in ~~§ 152.029(C)(3)~~ § 8.10.D.3.c except that
- (a) on minimum undersized parcels of 10,800 square feet in area and frontage of 30 feet, there shall be a maximum of six (6) residential units;
 - (b) ~~in case of undersized parcels which exceed the minimum area and frontage prescribed in subsection (C)(1) above, in addition to six units there shall be allowed one unit for each whole 750 square feet of land area in excess of the minimum area prescribed in subsection (C)(1).~~
in the case of undersized parcels which exceed the minimum required lot area of 10,800 square feet and the minimum required frontage of 30 feet, in addition to six (6) units there shall be allowed one (1) unit for each whole 750 square feet of land area in excess of the minimum required lot area of 10,800 square feet
- (4) Maximum building height on undersized parcels.
- (a) The maximum building height on minimum undersized parcels shall be three (3) stories or 36 feet above code-approved grade, whichever is less.
~~However Except-~~, in the event an existing structure is the subject of a nonconforming setback, the new covered or roofed area of the third floor (if there is one) shall be reduced in area on the basis of one and five-tenths percent (1.5%) of the area of the second floor for each foot of nonconforming encroachment into the setback area.
 - (b) ~~The maximum building height on undersized parcels which exceed the minimum areas and frontage provided in § 152.029(C)(1) shall be one floor for each whole 1,750 square feet of land area in excess of the minimum area prescribed in subsection (C)(1) not to exceed six stories or 72 feet above code approved grade, whichever is less.~~
The maximum building height on undersized parcels which exceed the minimum required lot area of 10,800 square feet and minimum frontage of 30 feet shall be one (1) floor for each whole 1,750 square feet of land area in excess of the minimum required lot area of 10,800 square feet, not to exceed six (6) stories or 72 feet above code approved grade, whichever is less.
 - (c) Provided further, as to buildings newly constructed under the provisions of this Code LDC, grade level beneath the building parking not exceeding ten (10) feet in height shall not be included in the height limitation herein imposed.
- (5) Minimum pervious area: ~~The provisions of § 152.028(C)(5) are adopted and shall apply to buildings under this section.~~ 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.
- (6) Minimum floor area shall be as prescribed in § 8.10.D.3.g. ~~The provisions of § 152.029(C)(6) are adopted and shall apply to buildings under this section~~
- (7) Offstreet parking: The offstreet parking requirements as set forth in ~~§§ 152.040 through 152.044~~ §9.1 through §9.3 shall apply to buildings under this section except that every dwelling unit, regardless of size, shall require two (2) parking spaces.
- (8) All Village and County landscaping requirements of landscaping of the City and county codes shall be fully applicable to buildings under this section.

Significant changes to NBV LDC to be considered:

1. Since virtually all requests for variances are approved, eliminate "hardship" as a requirement for approval of a variance and replace it with a "planning variance". This is a variance granted for relief from a bulk or numerical requirement that would result in an opportunity for improved zoning and planning that would benefit the community.
2. Need to add requirement for bicycle parking/racks.
3. Do dock approvals really need to be approved through a public hearing?
4. What is now termed a nonuse variance only goes before the Village Commission. If we eliminate the "hardship variance" and replace it with the "planning variance" that will still be approved by the Board of Adjustment, what do we want to call the "nonuse variance"
5. Need regulations for the "Bay Walk", e.g., prohibit alcohol consumption on Bay Walk, etc.



North Bay Village

Administrative Offices

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PLANNING & ZONING BOARD MEETING REPORT

**TREASURE ISLAND ELEMENTARY SCHOOL
7540 EAST TREASURE DRIVE
NORTH BAY VILLAGE, FL 33141**

July 15, 2014 – 7:30 P.M.

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL**

The meeting was called to order at 7:30 P.M. by Chair Reinaldo Trujillo and the Pledge of Allegiance was recited. Also present at Roll Call were Board Members Bud Farrey, Michael Tannhauser and Dr. Douglas Hornsby. Marvin Wilmoth was absent. Also present were Building & Zoning Clerk Elena Grek, Village Clerk Yvonne P. Hamilton, Deputy Village Clerk Jenorgen Guillen, and the Village Planner Ben Smith. Village Manager Frank K. Rollason was in attendance.

As a quorum was determined to be present, the meeting commenced.

Village Attorney Robert L. Switkes swore in those individuals who indicated that they would testify.

Mr. Switkes advised the Board Members to disclose any communication they may have had regarding the issues on the agenda and whether they had any conflict of interest pertaining to those issues. Board Member Bud Farrey disclosed his personal knowledge of his neighbor, Mr. William Webb, Jr.

Dr. Douglas Hornsby recused himself from the meeting because he signed a petition in favor of a development request by one of his neighbors on North Bay Island.

2. **OATH OF OFFICE**

The Village Clerk administered the Oath of Office to new members, Dr. Douglas Hornsby and Michael Tannhauser.

4. (PUBLIC HEARINGS) ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN.

A. AN APPLICATION BY BRAD JOHNSON CONCERNING PROPERTY LOCATED AT 1321 BAY TERRACE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- 1. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SWIMMING POOL TO BE 5.5 FEET FROM THE REAR PROPERTY LINE WHERE SECTION 152.060(A) OF THE VILLAGE CODE REQUIRES A 7.5 FEET REAR-YARD SETBACK AREA.**
- 2. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SWIMMING POOL DECK TO BE 5.5 FEET FROM THE REAR PROPERTY LINE WHERE SECTION 152.060(A) OF THE VILLAGE CODE REQUIRES A 7.5 FEET REAR-YARD SETBACK AREA.**
- 3. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW A SWIMMING POOL DECK TO BE 3.5 FEET FROM THE SIDE PROPERTY LINE WHERE SECTION 152.060(A) OF THE VILLAGE CODE REQUIRES A 7.5 FEET SIDE-YARD SETBACK AREA.**

The Village Clerk read the requests into the record.

Ben Smith, of LaRue Planning & Management, Village Planner, presented the Staff Report which denied the application as the applicant did not prove a hardship under the variance criteria.

The Chair opened the public hearing and there were no speakers.

Bud Farrey Made a motion to approve the requests and Michael Tannhauser seconded the motion. The motion was adopted by a 3-0 roll call vote. The vote was as follows: Michael Tannhauser, Rey Trujillo, and Bud Farrey all voting Yes.

B. A REQUEST BY ISABEL YERO, OWNER OF THE BUSINESS ESTABLISHMENT LOCATED AT 1888B KENNEDY CAUSEWAY, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA FOR THE FOLLOWING:

- 1. A VARIANCE PURSUANT TO SECTION 111.03 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FROM THE STRICT INTERPRETATION OF SECTION 111.12(A)(1) AND 111.12 (B)(1) FOR THE ISSUANCE OF A BUSINESS TAX RECEIPT TO PERMIT THE SALE AND ON PREMISES CONSUMPTION OF BEER AND WINE WITHIN 300 FEET OF AN EXISTING RESTAURANT HOLDING A 4COP LICENSE AND WITHIN 500 FEET OF A PUBLIC SCHOOL.**

The Village Clerk read the request into the record.

Ben Smith, of LaRue Planning & Management Services, Inc., Village Planner presented the Staff Report recommending approval of the request with the following conditions:

1. There are no objections from owners or occupants of neighboring residential properties.
2. The alcoholic beverages shall be consumed on the premises with the operation of a restaurant only.
3. The establishment shall be allowed to sell, serve, and dispense alcoholic beverages for consumption on the premises between the hours of 10:00 am and 12:00 am only.
4. Sale of package goods shall be prohibited.
5. Cost Recovery changes must be paid pursuant to Section 152.110. Specifically, no license or permit shall be issued for the property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications on the property), have been paid in full.

6. Authorization or issue of a variance by the Village does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Village for issuance of a variance or a building permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.
7. Pursuant to Section 152.103 of the Village Code, the Variance shall lapse after one year of Commission approval if no substantial construction takes place.

The Chair opened the public hearing.

Sergio Lenarte addressed the Board on behalf of the applicant.

Bud Farrey made a motion to approve the request with the conditions outlined by the Village Planner. Dr. Douglas Hornsby seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Reinaldo Trujillo, Michael Tannhauser, Dr. Douglas Hornsby all voting Yes.

C. AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING" BY AMENDING SECTION 152.056, SETBACK ENCROACHMENTS, BY ADDING SECTION "D"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

The Village Clerk read the Ordinance by caption.

The Chair opened the public hearing and there were no speakers.

Bud Farrey made a motion to approve the ordinance on first reading. Dr. Douglas Hornsby seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Reinaldo Trujillo, Dr. Douglas Hornsby, Michael Tannhauser, and Bud Farrey all voted Yes.

5. **WORKSHOP**

A. **Draft Land Development Code Revisions**

Jim LaRue made a presentation to the Board on proposed revisions to the Zoning Village's Zoning Code.

6. **ADJOURNMENT**

The meeting adjourned at 8:48 p.m.

*Prepared and submitted by: Yvonne P. Hamilton
Village Clerk*

*Adopted by the Planning & Zoning Board on
this ___ day of _____ 2014.*

Reinaldo Trujillo, Chair

(Note: The Minutes are summary of the proceeding.)