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

PLANNING & ZONING BOARD MEETING

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

JANUARY 17, 2017 – 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).

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1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC HEARING ITEMS *(ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN)*

A. AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

1. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE.

1.) Board Recommendation

B. AN APPLICATION BY P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

1. **AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK; TRANSFERRING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR. PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT; PROVIDING THAT SITE DENSITY ALLOWED SHALL NOT EXCEED 100 RESIDENTIAL DWELLING UNITS PER ACRE.**

2. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, CHAPTER 152, CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY; PERMITTING ADDITIONAL HEIGHT; REDUCED SIDE SETBACKS; AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.**

3. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.**

   1.) **Board Recommendation**

C. AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, REPEALING ALL CHAPTERS OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING CHAPTER 1 GENERAL PROVISIONS, CHAPTER 2 ADMINISTRATIVE AND LEGISLATIVE PROCEDURES, CHAPTER 3 LAND USE, CHAPTER 4 CONSISTENCY AND CONCURRENCY DETERMINATIONS, CHAPTER 5 DESIGN STANDARDS AND CHAPTER 6 FLOOD DAMAGE PREVENTION; REPEALING APPENDICES OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING APPENDIX A APPLICATIONS, APPENDIX B BUILDING PERMIT APPLICATION, APPENDIX C DEPARTMENT OF COMMUNITY AFFAIRS LETTER, APPENDIX D SHORELINE REVIEW CHECKLIST AND QUESTIONNAIRE, APPENDIX E CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION, APPENDIX H FLOOD CONTROL; REPEALING LAND DEVELOPMENT CODE COMPARATIVE TABLE OF ORDINANCES, REPEALING CHAPTERS OF THE VILLAGE CODE OF ORDINANCES INCLUDING CHAPTER 152 ZONING AND CHAPTER 155 DESIGN GUIDELINE STANDARDS; REPEALING APPENDIX B OF THE

VILLAGE CODE OF ORDINANCES ENTITLED SIGN ILLUSTRATION; ADOPTING A NEW UNIFIED LAND DEVELOPMENT CODE INCLUDING CHAPTER 1 GENERAL, CHAPTER 2 RELATIONSHIP TO THE COMPREHENSIVE PLAN, CHAPTER 3 DEFINITIONS, CHAPTER 4 ADMINISTRATION AND ENFORCEMENT, CHAPTER 5 PERMITS AND DEVELOPMENT APPROVALS, CHAPTER 6 NONCONFORMITIES, CHAPTER 7 VARIANCES, CHAPTER 8 ZONING, CHAPTER 9 GENERAL SITE DESIGN STANDARDS, CHAPTER 10 FLOOD DAMAGE PREVENTION, CHAPTER 11 SIGNS, CHAPTER 12 ADULT ENTERTAINMENT, CHAPTER 13 VACATION RENTAL LICENSE PROGRAM, CHAPTER 14 MARIJUANA DISPENSARIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

1.) Board Recommendation

5. APPROVAL OF MINUTES

A. REGULAR PLANNING & ZONING BOARD MEETING SEPTEMBER 6, 2016

B. REGULAR PLANNING & ZONING BOARD MEETING OCTOBER 18, 2016

1.) Board Action

6. ADJOURNMENT

Staff Report
Variance Request

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

Applicant: *Sophia Lima*

Request: *Variance to Minimum Rear Yard Setback for Placement of a Pool and Pool Deck*

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:	**Sophia Lima**
Applicant Address:	7505 Treasure Dr North Bay Village, FL 33141
Site Address:	7505 W Treasure Dr
Contact Person:	Sophia Lima
Contact Phone Number:	786-514-1007
E-mail Address	sophies_pyramid@yahoo.com

Future Land Use Map Classification	Single Family Residential
Zoning District	RS-2
Use of Property	Single Family Home
Acreage	0.16 ac.

Legal Description of Subject Property

LOT 14, BLOCK 2 OF TREASURE ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 50 ON PAGE 67 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

SAID LANDS LYING AND BEING IN NORTH BAY VILLAGE, MIAMI-DADE COUNTY, FLORIDA CONTAINING 7,140 SQUARE FEET (0.16 ACRES), MORE OR LESS.

Requested Variance

The applicant installed an above ground pool and a surrounding pool deck at the subject property without a building permit. The structure is currently only 2.5 feet from the (east) rear property line. Since this is an above ground pool, the structure should adhere to the RS-2 district setback regulations, which require structures to be setback at least 15 feet from rear property lines.

Since the applicant's structures do not meet Village Code, the Village could not issue an after-the-fact building permit for these structures. The applicant has now requested a 12.5-foot variance to the 15-foot rear setback requirement. If this request is approved by the Village Commission, the after-the-fact building permit can be approved.

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;

Applicant Comments: There are no special circumstances and conditions peculiar to the land, structure or building involved.

Staff Comments: We agree. 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 7,140 square feet, in excess of the 6,000 square foot minimum lot size required in the RS-2 Zoning District. The lot is 60 feet wide, which meets the 60-foot minimum frontage required in the RS-2 District.

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

Applicant Comments: The special circumstances were not self created. The foundation of the building was in place when the property burned down a long time ago. As the purchasers of the land, we rebuilt on the existing foundation built by others. This foundation took up a great portion of the available land.

Staff Comments: There are no special circumstances and/or conditions. The desire for a pool and pool deck is a matter of choice by the Applicant 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;

Applicant Comments: The strict application of the provisions of this chapter would deprive us of the reasonable use of the land for which the variance is sought. There is no other place on the property where we could reasonably install an above ground pool or other pool. The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

Staff Comments: The existence of a single-family residence at the subject property is considered reasonable use of the property. The inability to construct an above ground pool within the required setbacks does not deprive the applicant of reasonable use of the property.

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

Applicant Comments: Not granting this variance would create a hardship to the applicant due to the fact that our family, friends and guests cannot enjoy a pool (however small it may be) as others in North Bay Village can enjoy a pool.

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 minimum required setbacks. The desire for a pool and deck is a choice made by the Applicant. The Applicant chose to build a recreational structure which encroaches into the required setback without a building permit. Any perceived hardship is one that is self-created.

Requiring the Applicant to remove the structures does not deprive the Applicant of reasonable use of the land. The inability to have a pool does not constitute a hardship, as the situation does not meet the definition of a hardship, as defined in the North Bay Village Code above.

(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 Comments: Granting this variance will not confer any special privilege to the applicant. We are only seeking to enjoy an above ground swimming pool which others in North Bay Village can also enjoy.

Staff Comments: The width and depth of the lot is the same as many of the other lots in the RS-2 district. It is our opinion that granting the requested rear yard setback variance would confer on the Applicant a special privilege that has been 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.

Applicant Comments: The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

Staff Comments: The presence of the existing single family residence does represent reasonable use of the land. No pool and deck are necessary to enjoy reasonable use of this property.

(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: We believe that granting this variance will be in harmony with the general intent an purpose of this chapter and will not be injurious to the neighborhood and neighbors. This variance will not be detrimental to the public welfare in any way. In fact, the pool is in the back yard and the property is fenced off. The pool and deck are not even visible to the neighbors and public.

Staff Comments: The Applicant has provided letters of consent from three nearby property owners, though not the owner of the property to the south.

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.

Applicant Comments: The variance is not based upon a desire to reduce the cost of development as this property is a completed project.

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

Discussion

This non-conforming, unpermitted accessory structure has existed on the property for at least three years now. It would have continued to remain, for the use of the applicant and family, had the applicant not requested a short term vacation rental (STVR) license. In order to receive that STVR license, the structure must either be permitted or removed. Since the structure does not meet code, the applicant has requested a variance.

The applicant has stated that there are no special circumstances and conditions peculiar to the land, structure or building involved. The fact that they did not leave enough room in the backyard for a pool when they built the house, is not a valid reason to issue a variance, according to Village Code. The applicant has not submitted any evidence or argument which supports the presence of a hardship, as defined in the Village Code. The definition of hardship specifically precludes 'loss of best use of the land' as a valid argument for requesting a variance.

Recommendation

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

Because the requested variance does not meet the specific code requirements for granting a variance, staff cannot recommend approval of the requested variance to allow less than the required 15-foot setback from the rear property line.

Submitted by:

James G. LaRue, AICP
Planning Consultant

January 3, 2017

Hearing: North Bay Village Planning and Zoning Board, January 17, 2017

City of North Bay Village
1666 Kennedy Causeway Ste 300
North Bay Village, FL 33141

August 31, 2016

RE: 7505 West Treasure Drive, NBV, FL 33141
Variance Request for Above Ground Pool and Wood Pool Deck

Dear City of North Bay Village,

It has come to my attention that the owners of the house located at 7505 West Treasure Dr are seeking a variance to get their above ground pool and wood deck permitted by the City of NBV.

The location of their existing pool had never bothered us and we are not opposed to this Variance being granted.

Sincerely,

Mauricio Mendoza
Ginna Gamboa
7504 Adventure Avenue
North Bay Village. FL 33141

City of North Bay Village
1666 Kennedy Causeway Ste 300
North Bay Village, FL 33141

August 31, 2016

RE: 7505 West Treasure Drive, NBV, FL 33141
Variance Request for Above Ground Pool and Wood Pool Deck

Dear City of North Bay Village,

It has come to my attention that the owners of the house located at 7505 West Treasure Dr are seeking a variance to get their above ground pool and wood deck permitted by the City of NBV.

I understand that there is not other place to fit a pool on their property. I am not opposed to this Variance being granted.

Sincerely,

Armand Abecassis
7508 West Treasure Dr
North Bay Village. FL 33141

City of North Bay Village
Attn: Planning & Zoning Board and City Commissioners
1666 Kennedy Causeway Ste 300
North Bay Village, FL 33141

August 30, 2016

RE: 7505 West Treasure Drive, NBV, FL 33141
Variance Request for Above Ground Pool and Wood Pool Deck

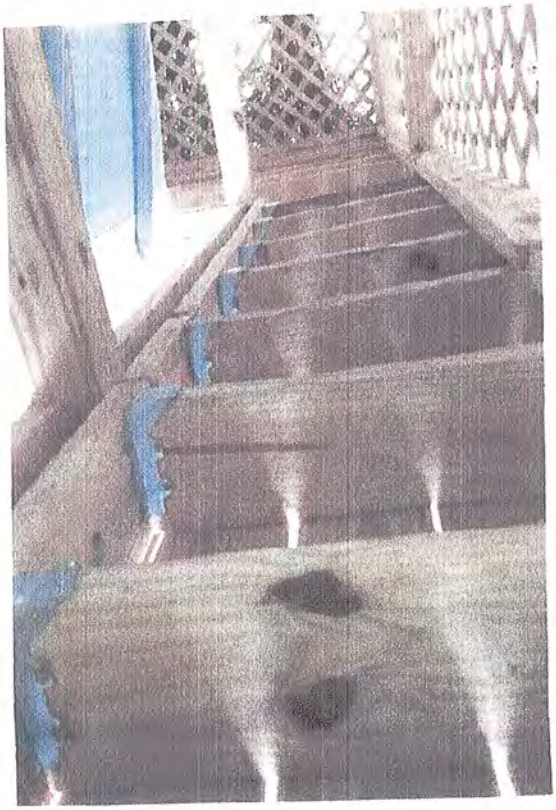
Dear Mayor, Commissioners and Planning and Zoning Board,

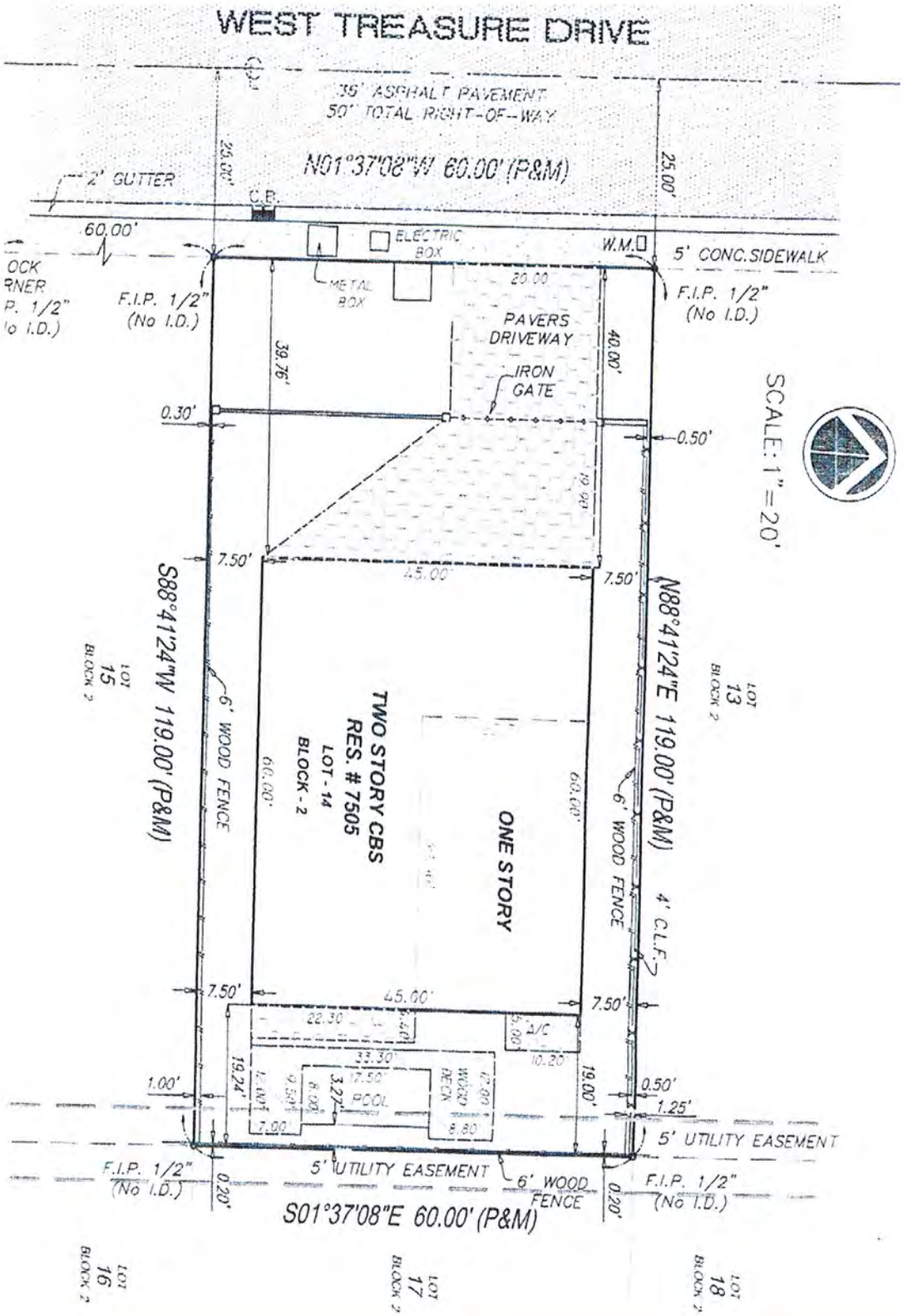
It has come to my attention that the owners of the house located at 7505 West Treasure Dr are seeking a variance to get their above ground pool and wood deck permitted by the City of NBV.

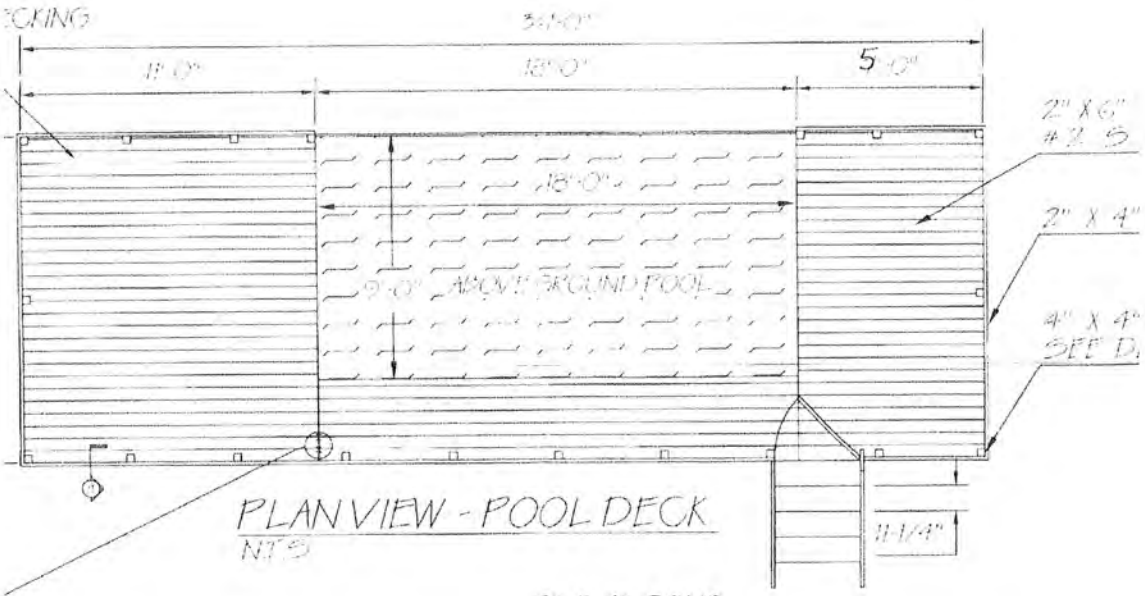
Please be advised that their existing pool as built does not affect us in any way and we are not opposed to this Variance being granted.

Sincerely,

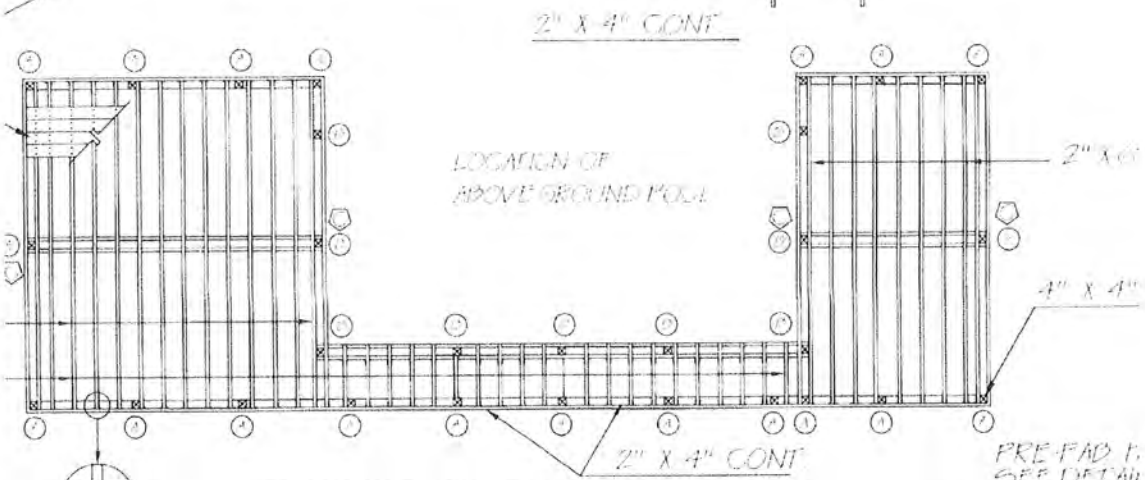
Antonio and Elvira Villar
7509 West Treasure Dr
North Bay Village. FL 33141



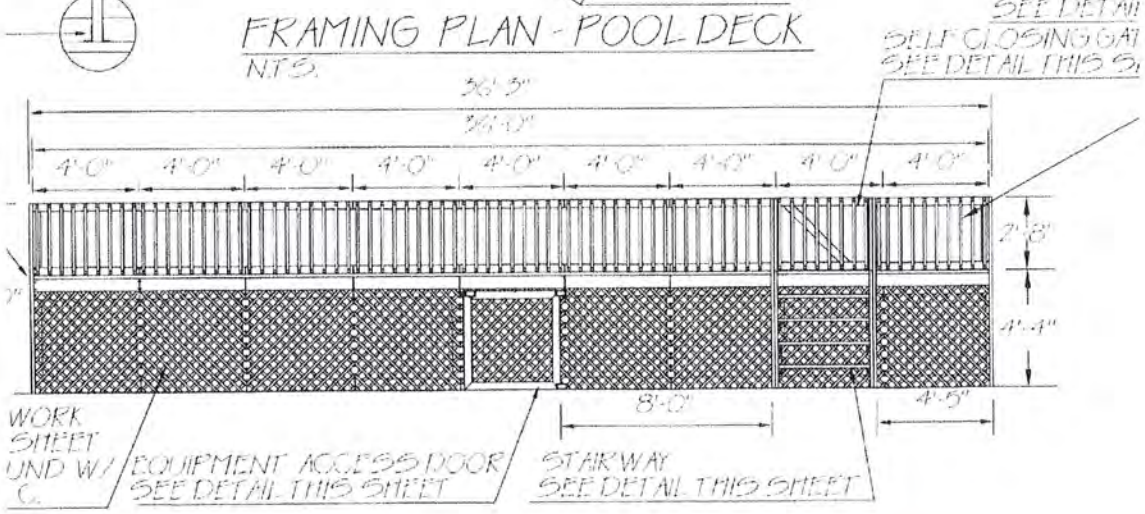

WEST TREASURE DRIVE
35' ASPHALT PAVEMENT
50' TOTAL RIGHT-OF-WAY
N01°37'08"W 60.00' (P&M)
2' GUTTER
C.B.
25.00'
25.00'
60.00'
ELECTRIC BOX
W.M.
5' CONC. SIDEWALK
METAL BOX
20.00
F.I.P. 1/2" (No I.D.)
F.I.P. 1/2" (No I.D.)
PAVERS DRIVEWAY
IRON GATE
39.76'
40.00'
0.30'
0.50'
SCALE: 1" = 20'
7.50'
45.00'
7.50'
S88°41'24"W 119.00' (P&M)
N88°41'24"E 119.00' (P&M)
LOT 15 BLOCK 2
LOT 13 BLOCK 2
6' WOOD FENCE
TWO STORY CBS
RES. # 7505
LOT - 14
BLOCK - 2
ONE STORY
60.00'
68.00'
6' WOOD FENCE
4' C.L.F.
7.50'
45.00'
7.50'
22.30'
A/C
10.20'
33.30'
17.50'
3.27'
POOL
WOOD DECK
19.24'
19.00'
1.00'
0.50'
1.25'
5' UTILITY EASEMENT
F.I.P. 1/2" (No I.D.)
5' UTILITY EASEMENT
6' WOOD FENCE
F.I.P. 1/2" (No I.D.)
0.20'
0.20'
S01°37'08"E 60.00' (P&M)
LOT 16 BLOCK 2
LOT 17 BLOCK 2
LOT 18 BLOCK 2



PLAN VIEW - POOL DECK
N.T.S.



FRAMING PLAN - POOL DECK
N.T.S.



WEST ELEVATION

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

NOV 8 2:56PM

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Instructions: Submit this application, along with 15 sets of sealed plans (1 set 36"x24" and 14 11"x17" sets) and the required information and fee, to the Village Clerk's Office at 1666 Kennedy Causeway, Suite 300. Applications are due by 12:00 noon on the deadline date and must be complete to be accepted and place on the agenda. A sign will be posted on the property, and public hearings will be conducted by the Planning & Zoning Board and the Village Commission.

Site Address 7505 WEST TREASURE DR NBV FL 33141

Owner Name SOPHIA LIMA BARBARA MARQUET Owner Phone # 786-544-1007

Owner Mailing Address 47 Jean Lafitte Dr Key Largo FL 33037

Applicant Name SOPHIA LIMA Applicant Phone # 786-514-1007
(if different from Owner)
Applicant Mailing Address

Contact Person SOPHIA LIMA Contact Phone # 786-514-1007

Contact Email Address sophies_pyramid@yahoo.com

Legal Description of Property

Existing Zoning Lot Size Folio Number

Project Description Above Ground Pool + Pool Deck - Rear Setback Variance

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

Variance Requested 12 FT 6 inch (12'6") Rear setback variance

Reason for Request This is the only place on the property that we could put an above ground pool.

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Mandatory Submittals (check that each item is included with this application):

✓ Plans depicting work to be completed (including 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

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 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.

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 Village Commission 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 Sophia Lima Sophia Lima

Print Name SOPHIA LIMA

(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.)

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

STATE OF FLORIDA
COUNTY OF Miami-Dade

Sworn to and subscribed to before me this 8th day of November, 2018,

by Sophia Lima,

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

Notary Public Signature _____

Commission Number/Expiration _____

YVONNE P. HAMILTON
Notary Public - State of Florida
Commission # FF 947305
My Comm. Expires Dec 30, 2019
Bonded through National Notary Assn.

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Office Use Only:

Date Submitted: 11/8/14

Fee Paid: $ —

Tentative Meeting Date: 12/6/14

Cash or Check # —

Date Paid: —

Yvonne Hamilton

Subject: FW: 7505 West Treasure Drive- Variance to side and rear setbacks for pool and pool deck

From: Sophie Lima [mailto:sophies_pyramid@yahoo.com]
Sent: Tuesday, October 04, 2016 11:35 AM
To: Ben Smith
Cc: Jim LaRue; Yvonne Hamilton; Jenorgen Guillen; Maurice Murray
Subject: Re: 7505 West Treasure Drive- Variance to side and rear setbacks for pool and pool deck

Hello Ben

Please see responses to criteria regarding our requested variance.

1(a) There are no special circumstances and conditions peculiar to the land, structure or building involved.

1(b) The special circumstances were not self created. The foundation of the building was in place when the property burned down a long time ago. As the purchasers of the land, we rebuilt on the existing foundation built by others. This foundation took up a great portion of the available land.

1(c) The strict application of the provisions of this chapter would deprive us of the reasonable use of the land for which the variance is sought. There is no other place on the property where we could reasonably install an above ground pool or other pool. The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

1(d) Not granting this variance would create a hardship to the applicant due to the fact that our family, friends and guests cannot enjoy a pool (however small it may be) as others in North Bay Village can enjoy a pool.

2(a) Granting this variance will not confer any special privilege to the applicant. We are only seeking to enjoy an above ground swimming pool which others in North Bay Village can also enjoy.

2(b) The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

3 We believe that granting this variance will be in harmony with the general intent an purpose of this chapter and will not be injurious to the neighborhood and neighbors. This variance will not be detrimental to the public welfare in any way. In fact, the pool is in the back yard and the property is fenced off. The pool and deck are not even visible to the neighbors and public.

7. The variance is not based upon a desire to reduce the cost of development as this property is a completed project.

Additional Comments:
We would like to ask that the Planning and Zoning Commission takes into consideration that this variance will accommodate a 9ft x 18ft Intex Above Ground Plastic Pool and a surrounding sun deck. We are not building an expensive and disruptive below grade pool. Our grandchildren wanted a pool where they could cool off in the summer. We never imagined that an above ground plastic lined swimming pool would create a disturbance to the neighbors or neighborhood. We have considered other Intex pools with a different size but they do not manufacture anything smaller. The width of the pool is 9 ft. Even if a pool with a width smaller than 9 ft were available, anything smaller than 9 feet would be impractical and aesthetically awkward. Our neighbors to the rear and to north have indicated in writing that this variance would not affect them. We are not asking for an extreme deviation of the setback requirements. We are simply asking for a minimum 2 foot deviation to accommodate a small above ground pool and sun deck.

We consider that not being able to have a pool is a loss of the "best" use of the land. Most residential properties are able to also have a pool for quite enjoyment.

Thank you for your consideration to this request. He hope the commission concludes that granting this variance is the only way that the owners of this property can ever enjoy a small pool in their yard.

Sincerely,

Sophia Lima, Owner
7505 West Treasure DRive
North bay Village, FL 33141

Cell: (786) 514-1007
sophies_pyramid@yahoo.com

From: Ben Smith <ben@larueplanning.com>
To: 'Sophie Lima' <sophies_pyramid@yahoo.com>
Cc: 'Jim LaRue' <jim@larueplanning.com>; 'Yvonne Hamilton' <yvonne.hamilton@nbvillage.com>; JGuillen@nbvillage.com; 'Maurice Murray' <mmurray@nbvillage.com>
Sent: Wednesday, September 14, 2016 10:59 AM
Subject: 7505 West Treasure Drive- Variance to side and rear setbacks for pool and pool deck

Sophia,

We received your variance request application and have begun our review. As you may be aware, this item will be scheduled for public hearings with the Village Planning & Zoning Board and the Village Commission. We will be preparing a staff report and making a recommendation.

The Village Code provides several criteria by which variance requests shall be reviewed. We will be responding to these criteria in our staff report. As the applicant, you have the opportunity to provide your own responses to these criteria, which we will also include in the staff report. Please see below for the criteria broken into subparts and provide your responses to each part.

Sec. 152.097(B):

> *(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;*
>
> *(1)b. that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property;*
>
> *(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;*
>
> *(1)d. and would (or would not) involve an unnecessary hardship for the Applicant.*
>
> *(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;*
>
> *(2)b. and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.*
>
> *(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.*

Section 2.7.6:

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

Additionally, with regard to subpart 152.097(B)(1)d, we will be using the definition of unnecessary hardship found in Village Code Section 152.003 as follows:

> *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.

Please submit your responses to us in writing by responding to this email. This is not required, though it will provide us with a basis for our review and recommendation. Let us know if you have any questions on this. We are available by phone or email. 239-334-3366.

Ben Smith, AICP

LaRue Planning & Management Services, Inc
1375 Jackson Street, Suite 206, Fort Myers, FL 33901
239-334-3366 ben@larueplanning.com

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 ***JANUARY 17, 2017 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 HEAR THE FOLLOWING REQUEST AND SUBMIT A RECOMMENDATION TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE**

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 VILLAGE 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. 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
(January 5, 2017)

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 SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

A. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE.

I, Yvonne P. Hamilton, Village Clerk, hereby certify that that the petition filed hereto is correct.

Dated this 13th day of December 2016.

Yvonne P. Hamilton
Village Clerk

(North Bay Village Planning & Zoning Board Meeting – January 17, 2017)

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 SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

A. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE.

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 January 6, 2017.

Dated this 6th day of January 2017.

Yvonne P. Hamilton, CMC
Village Clerk

North Bay Village Planning & Zoning Board Meeting – January 17, 2017.

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 SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

A. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE.

I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on January 17, 2017 was posted at the above-referenced property on January 9, 2017.

Dated this 9th day of January 2017.

Yvonne P. Hamilton, CMC
Village Clerk

(North Bay Village Planning & Zoning Board Meeting-1-17-2017)

Owner/Occupant
7500 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7504 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7508 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7512 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7516 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7520 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7524 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7528 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7509 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7513 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7517 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7521 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7525 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7529 West Treasure Drive
N. Bay Village, FL 3314

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

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

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

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

Owner/Occupant
7521 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7525 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
7520 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7524 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
1400 South Treasure Drive
N. Bay Village, FL 33141

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

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

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

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

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

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

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

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

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

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

Owner/Occupant
1501 South Treasure Drive
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 ***JANUARY 17, 2017 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 HEAR THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK; TRANSFERRING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR. PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT; PROVIDING THAT SITE DENSITY ALLOWED SHALL NOT EXCEED 100 RESIDENTIAL DWELLING UNITS PER ACRE.**

   B. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, CHAPTER 152, CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY; PERMITTING ADDITIONAL HEIGHT; REDUCED SIDE SETBACKS; AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.**

   C. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.**

2. **AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE**

3. **AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, REPEALING ALL CHAPTERS OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING CHAPTER 1 GENERAL PROVISIONS, CHAPTER 2 ADMINISTRATIVE AND LEGISLATIVE PROCEDURES, CHAPTER 3 LAND USE, CHAPTER 4 CONSISTENCY AND CONCURRENCY DETERMINATIONS, CHAPTER 5 DESIGN STANDARDS AND CHAPTER 6 FLOOD DAMAGE PREVENTION; REPEALING APPENDICES OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING APPENDIX A APPLICATIONS, APPENDIX B BUILDING PERMIT APPLICATION, APPENDIX C DEPARTMENT OF COMMUNITY AFFAIRS LETTER, APPENDIX D SHORELINE REVIEW CHECKLIST AND QUESTIONNAIRE, APPENDIX E CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION, APPENDIX H FLOOD CONTROL; REPEALING LAND DEVELOPMENT CODE COMPARATIVE TABLE OF ORDINANCES, REPEALING CHAPTERS OF THE VILLAGE CODE OF ORDINANCES INCLUDING CHAPTER 152 ZONING AND CHAPTER 155 DESIGN GUIDELINE STANDARDS; REPEALING APPENDIX B OF THE VILLAGE CODE OF ORDINANCES ENTITLED SIGN ILLUSTRATION; ADOPTING A NEW UNIFIED LAND DEVELOPMENT CODE INCLUDING CHAPTER 1 GENERAL, CHAPTER 2 RELATIONSHIP TO THE COMPREHENSIVE PLAN, CHAPTER 3 DEFINITIONS, CHAPTER 4 ADMINISTRATION AND ENFORCEMENT, CHAPTER 5 PERMITS AND DEVELOPMENT APPROVALS, CHAPTER 6 NONCONFORMITIES, CHAPTER 7 VARIANCES, CHAPTER 8 ZONING, CHAPTER 9 GENERAL SITE DESIGN STANDARDS, CHAPTER 10 FLOOD DAMAGE PREVENTION, CHAPTER 11 SIGNS, CHAPTER 12 ADULT ENTERTAINMENT, CHAPTER 13 VACATION RENTAL LICENSE PROGRAM, CHAPTER 14 MARIJUANA DISPENSARIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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 VILLAGE CLERK, 1666 KENNEDY CAUSEWAY, #300, NORTH BAY VILLAGE, FL 33141.

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YVONNE P. HAMILTON, CMC
VILLAGE CLERK
(DECEMBER 15, 2016)

Staff Report

Prepared for:	*North Bay Village, Planning and Zoning Board*
Applicant:	*P&O Global Technologies, Inc.*
Site Address:	*7914, 7916, and 7918 West Drive*
Request:	*Comprehensive Plan Amendment*

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:	P&O Global Technologies, Inc.
Applicant Address:	11098 Biscayne Blvd, Suite 203 Miami, FL 33161
Site Address:	7914, 7916, and 7918 West Drive
Contact Person:	Graham Penn
Applicant Phone Number:	305-374-5300
E-mail Address	gpenn@brzoninglaw.com

	Existing
Future Land Use	High Density Multi-family Residential
Zoning District	RM-70
Use of Property	Vacant
Acreage	33,600 sq ft

Legal Description of Subject Property

Lot 1 – 7914 West Drive
Harbor Island PB 44-72
Lot 14
Lot Size 80.000 x 140
OR 19456—1179 01 2001 2(3)
COC23266-2683 04 2005 2

Lot 2 – 7916 West Drive
Harbor Island PB 44-72
Lot 16
Lot Size 80.000 x 140
OR 19456—1179 01 2001 2(3)
COC23266-2683 04 2005 2

Lot 3 – 7918 West Drive
Harbor Island PB 44-72
Lot 18
Lot Size 80.000 x 140
OR 19456—1179 01 2001 2(3)
COC23266-2683 04 2005 2

Current Future Land Use, Zoning and Existing Land Use Characteristics

	Current	**Proposed**
Future Land Use	High Density Multi-family	High Density Multi-family
Zoning District	RM-70	RM-70
Use of Property	Vacant	Multi-family Residential
Acreage	33,600 sq ft	33,600 sq ft

Adjacent Land Use Map Classifications and Zoning District

North	Future Land Use	Recreation & Open Space
	Zoning District	RM-70
	Existing Land Use	Park
East	Future Land Use	High Density Multi-Family Residential
	Zoning District	RM-70
	Existing Land Use	Condominiums & Commercial Parking Lot
South	Future Land Use	High Density Multi-Family Residential
	Zoning District	RM-70
	Existing Land Use	Condominium
West	Future Land Use	Water
	Zoning District	Water
	Existing Land Use	Biscayne Bay

Request

The applications for development before the P&Z and Commission include:

1. Amendment of the Village Comprehensive Plan
2. Revisions to the Land Development Code, including a new Zoning Overlay District
3. Site Plan Approval (Can be heard at a subsequent public hearing contingent upon approval of the above amendments)

This staff report will focus on the proposed Comprehensive Plan Amendment which would create new Future Land Use Policy 2.1.14.

General Description of Project

The applicant is proposing to locate a 77-unit, 290 foot high residential development on the 0.77 acre property just south of and contiguous to Vogel Park. The development would provide additional public park space contiguous to Vogel Park and provide 30 public parking spaces. The applicant is proposing a Comprehensive Plan Amendment and Land Development Code revisions to utilize reduced building setbacks, greater building height, increased density (100 dwelling units per acre) beyond the currently allowed density of 70 dwelling units per acre, mechanical parking lifts, and parking garage elevators.

Review of Comprehensive Plan Amendment

The Comprehensive Plan Amendment proposed by the Applicant is as follows:

Policy 2.1.14 of the Future Land Use Element of the North Bay Village Comprehensive Plan is hereby created:

Policy 2.1.14 In order to encourage the private development of publicly accessible open space in the High Density Residential category, the Dr. Paul Vogel Community Park space shall be deemed to be a sending site for a transfer of development rights. Residential density may be transferred from the Dr. Paul Vogel Community Park space to High Density Residential land under the following circumstances:

1. The number of residential dwelling units shall be limited to a maximum of 36 units.

2. The Village Commission has determined, through the application of the relevant zoning code provisions, that the proposed development has incorporated enhanced public open space or amenities, including, but not limited to, the expansion of existing Village park spaces.

3. Site(s) that receive units transferred from the Dr. Paul Vogel Community Park space may be developed at no more than 100 units to the acre.

* * * *

Staff Analysis of the Comprehensive Plan Amendment

The new policy would allow transfer of density from Vogel Park to another site which is designated high density multi-family residential on the Village's Future Land Use Map. This would raise the maximum allowable density at the receiving site from 70 residential dwelling units per acre to 100 residential dwelling units per acre.

If this proposed policy is adopted by the Village Commission, it is recommended that the language be revised (see highlighting below) for clarification, to read as follows:

Policy 2.1.14 In order to encourage the private development of publicly accessible open space in the High Density Residential category, the Dr. Paul Vogel Community Park space shall be deemed to be a sending site for a transfer of development rights. Residential density may be transferred from the Dr. Paul Vogel Community Park space to High Density Residential land under the following circumstances:

1. The total number of residential dwelling units that are available to be transferred from Vogel Park is limited to 36 units.

2. The Village Commission has determined, through the application of the relevant

zoning code provisions, that the proposed development has incorporated enhanced public open space or amenities, including, but not limited to, the expansion of existing Village park areas.

3. Site(s) that receive units transferred from the Dr. Paul Vogel Community Park space may be developed at no more than 100 dwelling units per acre.

The current Future Land Use Element of the Comprehensive Plan, Policy 2.1.2 limits high density multi-family development to 70 dwelling units per acre. See policy below:

Policy 2.1.2: Adopt the following Future Land Use categories consistent with the Future Land Use Map and further defined in Land Development Regulations:

Residential – Residential areas with dwelling units used for permanent housing and subdivided into three districts based on density: Single family or low density allowing up to six dwelling units per acre, multi-family medium density allowing up to 40 units per acre, and multi-family high density allowing 41 to 70 dwelling units per acre.

The current land development code limits density further, based on the number of bedrooms per unit. Section 152.029(C)(3) allows 70 dwelling units per acre for efficiencies and one-bedroom units, 63.6 dwelling units per acre for two-bedroom units, and 58.1 dwelling units per acre for three-bedroom units. Section 152.029(C)(8) does currently allow for the purchase of additional bonus density dwelling units; though up till now, FLUE Policy 2.1.12 has effectively limited past developments in North Bay Village to 70 dwelling units per acre, only allowing the bonus density program to be used to increase the number of bedrooms per unit. Thus, the maximum density allowed is currently 70 three-bedroom dwelling units per acre. At 100 dwelling units per acre, the applicant is requesting a 30% increase in the current maximum allowed multi-family residential density clearly not consistent with the above Future Land Use policy.

The current Future Land Use Element of the Comprehensive Plan, Policy 2.1.3, addresses incompatibility. See policy below:

Policy 2.1.3: Prohibit infilling of lots, expansion of existing uses, or replacement of land uses with development that is incompatible with the Future Land Use Plan by strict enforcement of development regulations.

In order to build at the requested density of 100 dwelling units per acre on the subject property, the applicant is also requesting approval of new zoning overlay regulations which would allow increased building height past what is currently allowed in the RM-70 Zoning District. The request for approval of a 290 foot structure is 50 feet above current height thresholds. This height discrepancy would be incompatible with the current multi-family character of Harbor Island and is not consistent with policy 2.1.3.

Adequacy of Public Facilities

Traffic Analysis

The applicant's traffic impact study (TIS) for this project was performed by CPH, Inc. A review of the applicant's (TIS) was conducted by Mohsen Salehi, traffic engineer for LaRue Planning. The TIS analyzed several aspects of traffic related to the proposed project, including roadway segments, intersections, and the project's internal traffic patterns that have the potential to cause queuing or delays for the residents of this project and other motorists on West Drive.

Road Segment Analysis

The submitted TIS utilized 2015 traffic counts for Kennedy Causeway obtained from the Florida Department of Transportation (FDOT) and 2016 counts collected by a third party at the intersection of Larry Paskow Way (LPW). According to the TIS, the proposed project will not generate a significant increase in vehicle trips and the level of service (LOS) will remain at LOS B. However, our traffic engineer has raised several concerns regarding the methodology employed in the road segment analysis.

Intersection Analysis

The TIS states that all intersections are expected to continue operating acceptably during the AM and PM peak hours with the addition of project traffic; but also goes on to say additional delays will be experienced at the LPW intersection and traffic signal timings should be modified to reduce this delay. The TIS also states that the queuing at LPW is already in the 95th percentile and exceeds the eastbound left turn lane storage capacity; and the additional vehicle trips generated by the proposed development are expected to increase the anticipated queue. Then it is stated that the project is not responsible for correcting existing deficiencies.

The applicant has now proposed adjustments to the traffic signal timing as well as extension of the existing eastbound left turn lane on Kennedy Causeway to add an additional 100 feet to the turning lane. At our request, they have contacted FDOT to discuss this proposal. FDOT issued a letter which acknowledged a discussion related to extension of the eastbound turn lane (without mentioning the traffic signal timing adjustments) and listed the required steps for completion of this project, without actually providing approval of the project. It should be noted that FDOT does not typically give assurances on such requests before the submittal of a permit application. The letter also makes clear that the Village would have the burden of submitting the application for the said lane extension and a landscape permit for removal/relocation of existing trees in the median.

Regardless of whether the applicant is able to successfully extend the eastbound left turn lane and adjust the traffic signal timing, the applicant has not provided a synchro analysis to verify the positive effects of the signal timing adjustments and extension of the turn lane. And no synchro analysis has been conducted for LPW using updated future growth traffic projection rates.

Finally, even if these adjustments to the LPW intersection are made, and the adjustments prove to alleviate some of the congestion generated by this proposed development, we have concerns regarding the precedent of allowing development to occur at a density of 100 units per acre on Harbor Island, when the only intersection available for ingress/egress of Harbor Island is currently operating in the 95th percentile.

Valet Parking & Internal Traffic

The applicant has provided retrieval time data from several existing locations which are currently utilizing vehicle elevators and mechanical parking lifts. However, while there is estimation provided for single vehicle retrieval times within the proposed development, there is no estimation or projection of overall wait times at peak AM and PM periods. What is the projected average wait time during these periods? Does the range cited "from 2 minutes to a maximum of 5 minutes and 40 seconds for the upper parking levels" refer to off peak? What is the projected longest wait time if there is a glut of residents leaving or arriving at one time? These questions need to be addressed in order to assess the potential wait times for residents and the potential queuing of cars on West Drive.

Discussion and Analysis

Harbor Island is already a fairly dense neighborhood. And in addition to the undeveloped lots, there are many properties which have a serious potential for redevelopment. If this comprehensive plan amendment is approved to allow new development at 100 dwelling units per acre, it is very likely to lead to other properties requesting to develop or redevelop at 100 dwelling units per acre.

The main concern here is an overburdening of the intersection at Larry Paskow Way (LPW), which is a funnel for all traffic on Harbor Island. It has not been demonstrated that this intersection will be able to accommodate complete build out at 70 dwelling units per acre, let alone build out at 100 dwelling units per acre. With wait times at LPW already very long, it does not seem appropriate to allow additional density on Harbor Island. It is likely that approval of this amendment would lead to a traffic situation that would diminish the quality of life for all residents of Harbor Island.

Recommendations

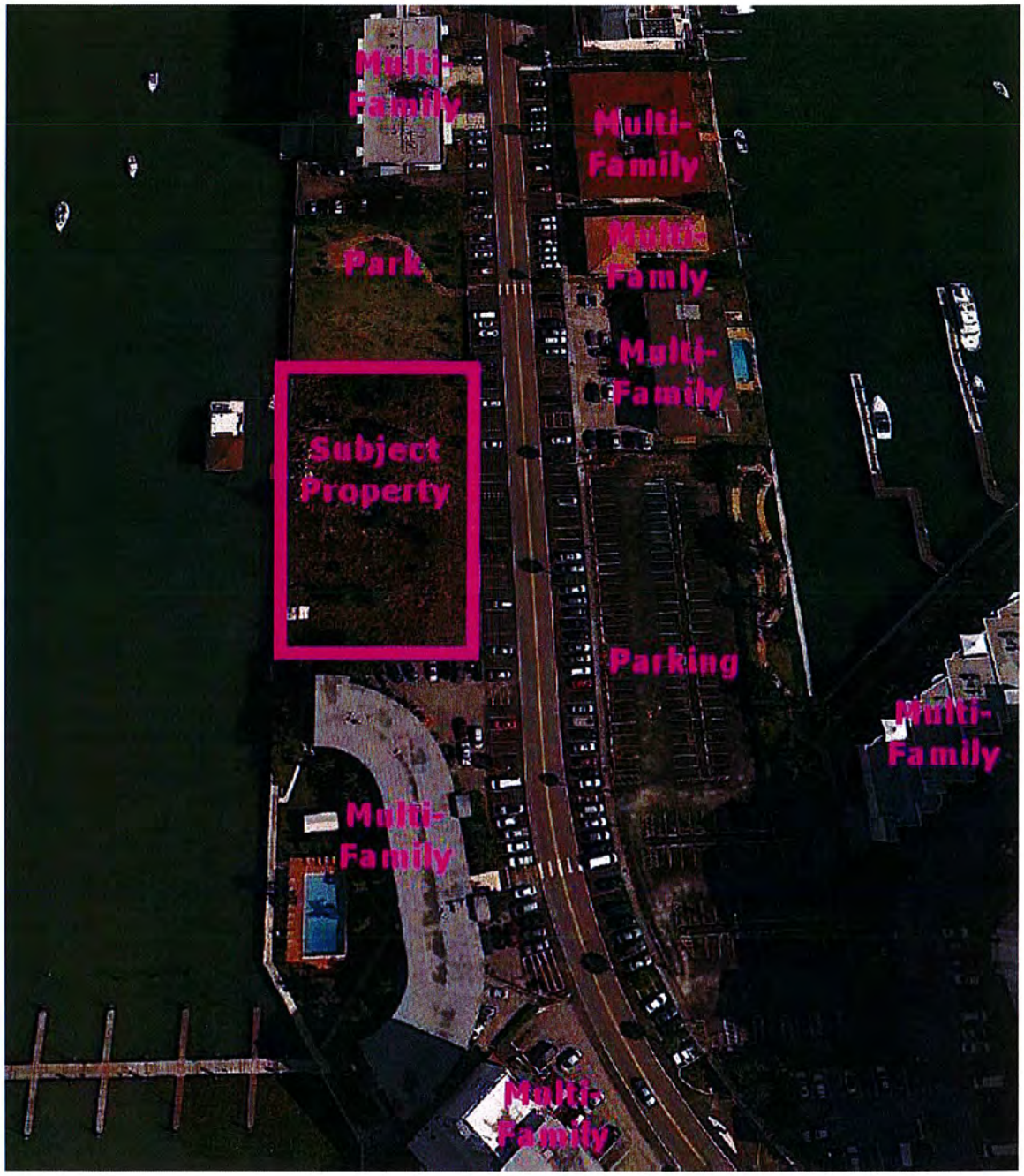
Staff recommends **denial** of the Comprehensive Plan Amendment based on the analysis above.

Submitted by:
James G. LaRue
James G. LaRue, AICP
Planning Consultant
December 30, 2016

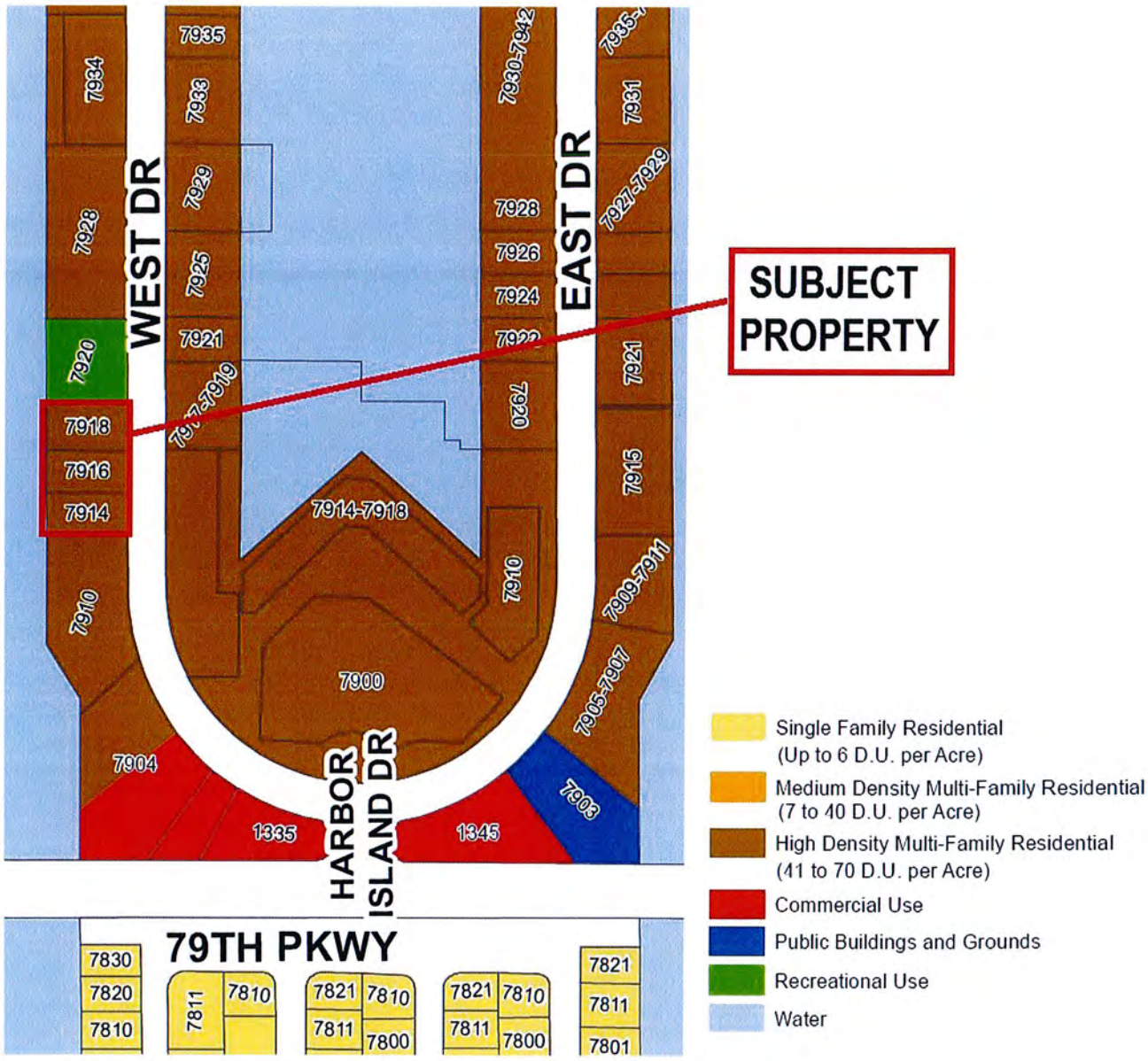
Hearing: Planning & Zoning Board, January 17, 2017

Attachments: Aerial photograph
Future Land Use Map
Zoning Map

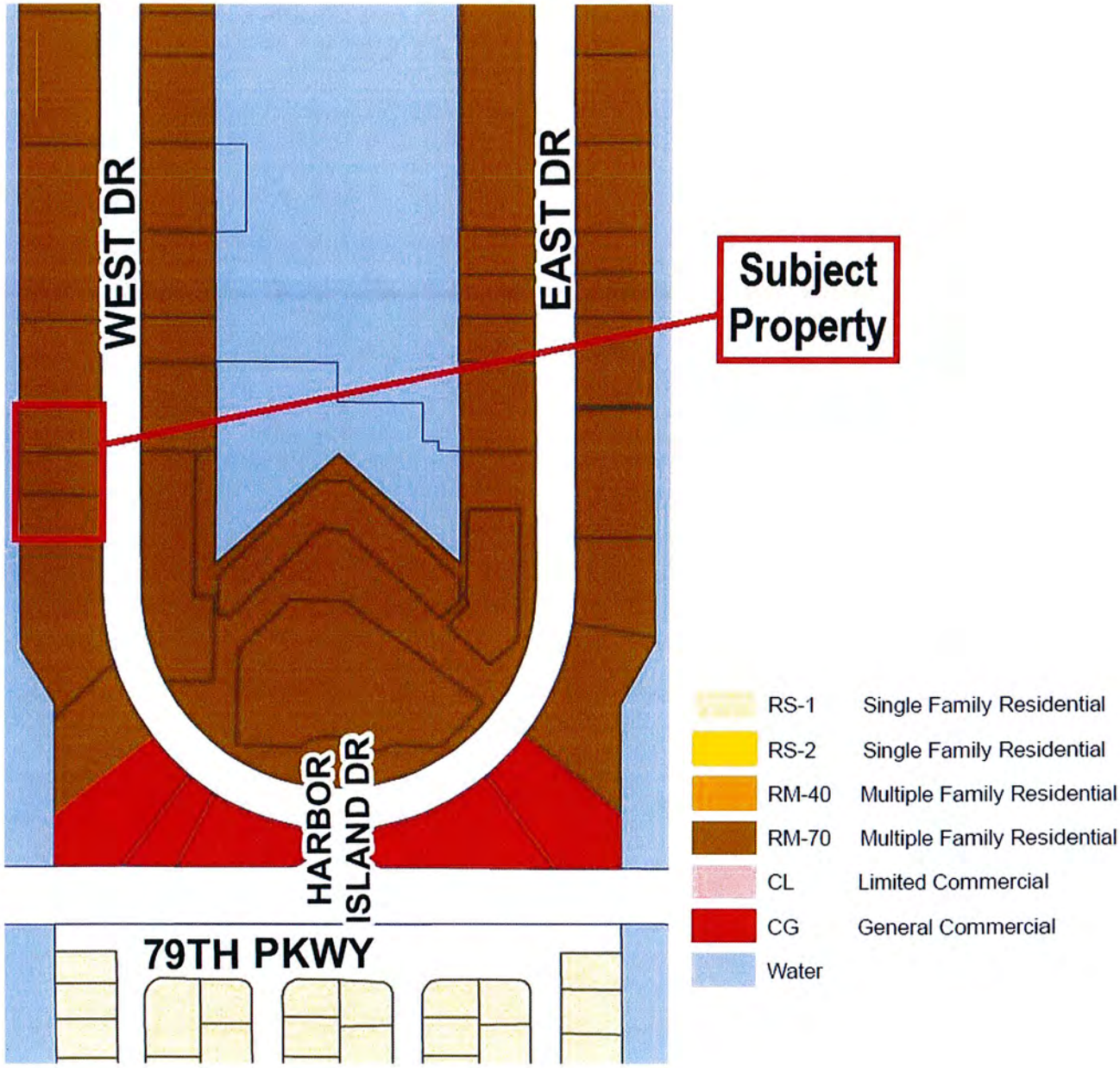
AERIAL
SUBJECT SITE AND ENVIRONS



FUTURE LAND USE
SUBJECT SITE AND ENVIRONS



ZONING
SUBJECT SITE AND ENVIRONS



TRANSFERS OF DENSITY – HIGH DENSITY RESIDENTIAL COMPREHENSIVE PLAN DESIGNATION

ORDINANCE NO._____

AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRTICT, VOGEL PARK, TRANSFERING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT, ALLOWING RECEIVING SITE DENSITY TO BE NO MORE THAN 100 RESIDENTIAL DWELLING UNITS PER ACRE.

WHEREAS, the Mayor and Village Commission desire to encourage the expansion and enhancement of public spaces in the Village's the RM-70 zoning district; and

WHEREAS, the Mayor and Village Commission desire to incentivize the provision of public open space and amenities by private property owners; and

WHEREAS, the Mayor and Village Commission have concluded that the Village's Comprehensive Plan should be amended to allow the Village to transfer unused development rights from Dr. Paul Vogel Community Park to privately owned parcels also designated for High Density Residential to encourage development that incorporates substantial publicly accessible open space and/or public park space.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA:

SECTION 1. Policy 2.1.12 of the Land Use Element of the North Bay Village Comprehensive Plan is hereby created:

Policy 2.1.14 In order to encourage the private development of publicly accessible open space in the High Density Residential category, the Dr. Paul Vogel Community Park space shall be deemed to be a sending site for a transfer of development rights. Residential density may be transferred from the Dr. Paul Vogel Community Park space to High Density Residential land under the following circumstances:

1. The number of residential dwelling units shall be limited to a maximum of 36 units.

2. The Village Commission has determined, through the application of the relevant zoning code provisions, that the proposed development has incorporated enhanced public open space or amenities, including, but not limited to, the expansion of existing Village park spaces.

3. Site(s) that receive units transferred from the Dr. Paul Vogel Community Park space may be developed at no more than 100 units to the acre.

* * * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

A motion to approve the foregoing Ordinance on first reading on _____ was offered by _____, seconded by _____.

THE VOTES WERE AS FOLLOWS:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

A motion to adopt the foregoing Ordinance was offered by _____, seconded by_____.

FINAL VOTES AT ADOPTION:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

DULY PASSED AND ADOPTED __ day of _____ 2017.

_____
Connie Leon-Kreps
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Village Clerk

APPROVED AS TO FORM FOR THE USE OF NORTH BAY VILLAGE ONLY:

_____
Robert L. Switkes & Associates, P.A.
Village Attorney

Ordinance: Valet Operated Mechanical Parking in RM-70 District

Staff Report

Prepared for:	*North Bay Village, Planning and Zoning Board*
Applicant:	*P&O Global Technologies, Inc.*
Site Address:	*7914, 7916, and 7918 West Drive*
Request:	*Land Development Code Amendments*

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:	P&O Global Technologies, Inc.
Applicant Address:	11098 Biscayne Blvd, Suite 203 Miami, FL 33161
Site Address:	7914, 7916, and 7918 West Drive
Contact Person:	Graham Penn
Applicant Phone Number:	305-374-5300
E-mail Address	gpenn@brzoninglaw.com

	Existing
Future Land Use	High Density Multi-Family Residential
Zoning District	RM-70
Use of Property	Vacant
Acreage	33,600 sq ft

Legal Description of Subject Property

Lot 1 – 7914 West Drive
Harbor Island PB 44-72
Lot 14
Lot Size 80.000 x 140
OR 19456—1179 01 2001 2(3)
COC23266-2683 04 2005 2

Lot 2 – 7916 West Drive
Harbor Island PB 44-72
Lot 16
Lot Size 80.000 x 140
OR 19456—1179 01 2001 2(3)
COC23266-2683 04 2005 2

Lot 3 – 7918 West Drive
Harbor Island PB 44-72
Lot 18
Lot Size 80.000 x 140
OR 19456—1179 01 2001 2(3)
COC23266-2683 04 2005 2

Current Future Land Use, Zoning and Existing Land Use Characteristics

	Current	**Proposed**
Future Land Use	High Density Multi-family	High Density Multi-family
Zoning District	RM-70	RM-70
Use of Property	Vacant	Multi-family Residential
Acreage	33,600 sq ft	33,600 sq ft

Adjacent Land Use Map Classifications and Zoning District

North	Future Land Use	Recreation & Open Space
	Zoning District	RM-70
	Existing Land Use	Park
East	Future Land Use	High Density Multi-Family Residential
	Zoning District	RM-70
	Existing Land Use	Condominiums & Commercial Parking Lot
South	Future Land Use	High Density Multi-Family Residential
	Zoning District	RM-70
	Existing Land Use	Condominium
West	Future Land Use	Water
	Zoning District	Water
	Existing Land Use	Biscayne Bay

Request

The applications for development before the P&Z and Commission include:

1. Amendment of the Village Comprehensive Plan
2. Revisions to the Land Development Code, including a new Zoning Overlay District
3. Site Plan Approval (Can be heard at a subsequent public hearing contingent upon approval of the above amendments)

This staff report will focus on the proposed Land Development Code Amendments, which consist of two Ordinances proposed by the Applicant.

General Description of Project

The applicant is proposing to locate a 77-unit, 290 foot high residential development on the 0.77 acre property just south of and contiguous to Vogel Park. The development would provide additional public park space contiguous to Vogel Park and provide 30 public parking spaces. The applicant is proposing a Comprehensive Plan Amendment and Land Development Code revisions to utilize reduced building setbacks, greater building height, and increased density (100 dwelling units per acre) beyond the currently allowed density of 70 dwelling units per acre mechanical parking lifts, and parking garage elevators.

Review of Land Development Code Amendments

The LDC text amendments proposed by the Applicant are as follows:

Section 152.0297 – RM-70 Public Space and Parking Enhancement Overlay of the North Bay Village Code of Ordinances is hereby created as follows:

A. *Purpose and intent.* The PSPEO District is intended to encourage taller, narrower, residential buildings on RM-70 lots where such buildings provide enhanced public open space or amenities, including the expansion of existing Village park spaces or provide public residential parking spaces. Application of the development incentives available in the PSPEO District to individual properties will be reviewed and approved by the Planning and Zoning Board and Village Commission concurrently with the site plan approval process.

B. *Applicability.*

(1) The PSPEO District provides for an optional set of development regulations that may be voluntarily employed in the development of RM-70 zoned properties.

(2) All regulations of the underlying zoning district that are not otherwise addressed in these regulations shall apply. Where the underlying zoning district and the PSPEO overlay both apply, the PSPEO regulations shall govern.

(3) If a property owner should elect not to develop under these optional regulations, only the regulations of the underlying zoning district shall apply.

C. *Procedure.*

(1) *PSPEO standards review.* Applications to use the development standards provided in the PSPEO District shall be processed concurrently with all other required development applications. At a minimum, the following applications are necessary and shall be considered in the following order:

a. Building height bonus review to 240 feet pursuant to subsections 152.029(C)(8)8(A) through 8(F);

b. Public Space and Parking Enhancement Overlay standards review; and

c. Site plan review required by subsection 152.105(C)(9).

(2) *Approval.* Applications require approval by the Village Commission following a single public hearing and a recommendation from the Planning and Zoning Board. In order to approve an application, the Village Commission shall find that the development proposed:

a. Is compatible with surrounding development;

b. Provides access to adequate light and air for surrounding properties;

c. Provides a significant public benefit as provided in the PSPEO regulations.

(D) Building Height Bonuses.

(1) Building height bonuses may be available for sites consisted of at least 200 feet of platted frontage as follows:

a. A building height bonus of up to 50 feet if at least 10% of the assembled lot width has been set aside and improved for the perpetual use of the public as open space at no cost to the Village. Access to the open space may be subject to hours set by the Village Commission. The property owner must guarantee the perpetual maintenance of the open space through a special taxing district or similar mechanism acceptable to the Village. The improvements to the open space must be complete and open to the public prior to the issuance of the first certificate of occupancy for a residential unit in the development. The set-aside open space area will be considered part of the site for purposes of calculating lot area and required building setbacks.

b. The proposed development has provided at least thirty (30) parking spaces to be offered to Village residents under terms set by the Village Commission. The public residential parking spaces must be located in the same area and accessed in the same or equivalent manner as those parking spaces provided for the development. The public residential parking spaces must be made available prior or simultaneous to the parking spaces for the development. The location of public parking and the terms under which the public residential parking spaces will be offered to residents, including monthly lease rates, must be included in any resolution approving the project site plan and/or a development agreement approved by the Village Commission.

(2) No building, or portion therefore, exceeding 75 feet in height may encompass more than 60% of the width of the lot(s) if developed under the terms of the PSPEO regulations.

(E) Building Setbacks.

Development under PSPEO may have one interior side setback of 15 feet and a second interior side setback of 10% of the lot width.

(F) Residential Density.

(1) Development under the PSPEO may exceed seventy (70) residential dwelling units per acre through the purchase of development rights from the Village under the terms of the RM-70 Density Flexibility provisions of the Village's Comprehensive Plan.

(2) Residential dwelling units purchased under the terms of this section shall be in excess of those required for the development under the terms of Section 152.029(C)(8)(H).

(3) The Village has assigned the following residential dwelling units from the "Dr. Paul Vogel Community Park" site to this program: Thirty-six (36) efficiency or one bedroom units; Thirty-two (32) two bedroom units; and twenty-nine (29) three bedroom units.

(4) The cost, timing of payment for residential dwelling units, and disposition of funds under this provision shall be governed by Section 152.029(C)(8)(H). The Village Commission may establish an alternative payment schedule, unit allocation, and fund disposition through the approval of a Development Agreement pursuant to Sections 163.3220 through 163.3243, F.S., known as the Florida Local Government Development Agreement Act. Such alternative unit allocation may include the purchase of residential dwelling units for later application to other PSPEO sites under the terms of this section or, alternatively, to other RM-70 zoned sites at densities not to exceed seventy (70) units per acre.

* * * *

Section 5.2.2 of the Consolidated Land Development Codes of North Bay Village is hereby amended as follows:

(a) *Off-street parking spaces.* The following describes the standard requirements for off-street parking spaces within the Village.

(1) A standard parking space shall be nine feet wide and 18 feet long. Mechanical parking lifts may be permitted in lieu of standard spaces in the RM-70 or PRD zoning districts as provided in Section 152.042 of the North Bay Village Code of Ordinances.

(2) Compact parking spaces shall be eight feet wide and 16 feet long, up to 20 percent of all required parking spaces may be compact spaces if prior approval is received from the Village Commission.

(3) Within all off-street parking facilities of 20 spaces or more, not less than two percent shall be designed and allocated for handicapped usage. Handicapped spaces shall be clearly marked and located as near as possible to the principal entrance of the use or structure being served. Design of handicapped spaces shall comply with all applicable accessibility standards of the State of Florida and Dade County.

Section 152.003 – Definitions, of the North Bay Village Code of Ordinances is hereby amended as follows:

* * *

Parking space, off-street. An all-weather surfaced area, exclusive of streets, alleys, and driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by an all-weather surfaced driveway, which affords ingress and egress for a vehicle without requiring another vehicle to be moved. When developing single lot sites under the PRD regulations found in Section 152.096, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces. Mechanical parking lifts served by valet may also be used to create an additional parking space that can be counted towards the total number of required parking spaces in the RM-70 district as provided in Section 152.042.

Section 152.042 – Design Standards, of the North Bay Village Code of Ordinances is hereby amended as follows:

(A) *Definition.* For the purpose of this subchapter an "off-street parking space" is an all-weather surfaced area, at grade or above, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. ~~On single lot sites only,~~ ~~m~~Mechanical parking lifts, may be approved within enclosed garage structures in the RM-70 and PRD Overlay districts, if they meet the standards of Section 152.029(F)(5) and this subchapter. When developing under the PRD regulations found in Section 152.0296 and this subchapter, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

* * *

(R) *Mechanical Parking Lifts with Valet Parking in the RM-70 District.* Notwithstanding the above, mechanical parking lifts may be permitted in a valet operated enclosed garage structure if approved by the Village Commission through the site plan review process. A mechanical parking lift is an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion. Both parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces. Access to both standard and mechanical parking may be provided through the use of vehicle elevators. A mechanical parking structure may be permitted if it meets the following standards:

(a) Mechanical lifts shall be permitted only when operated by an attendant or a licensed and insured valet parking company on a 24-hour/seven-days-a-week basis, to be confirmed by restrictive covenant to be recorded by the owner/applicant prior to establishment of the use. Proof of the valet service contract must be provided to the Village annually.

(b) The mechanical parking lifts and the garage structure shall be designed so that the noise or vibration from the operation of the lifts or car

elevators shall not be plainly audible to, or felt by, any individual standing outside on property adjacent to the garage structure. Noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions.

(c) All mechanical parking lifts and/or car elevators providing access to levels within the garage must be maintained and kept in good working order and must be inspected by a licensed mechanical engineer at least once annually.

(d) All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.

(e) Any building utilizing car elevators to access parking must include an emergency electric generator consistent with the requirements of Section 151.25 of the Village Code regardless of the height of the building.

(f) All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked or objects are located below the lift.

(g) All mechanical lift components, car elevators, and emergency generators shall be Underwriters Laboratories (UL) approved.

(h) All non-mechanical parking spaces in the garage structure must measure at least nine feet in width by eighteen feet in depth.

(i) The building owner or condominium association must maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of the lifts and car elevator(s). Proof of the service contract must be provided to the Village annually.

(j) The ceiling heights of any parking level with parking lifts within a garage shall be a minimum of 11'6".

(k) The parking lift platform must be sealed and of a sufficient width and length to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.

Section 155.17 of the North Bay Village Code of Ordinances is hereby amended as follows:

A. Minimum off-street parking and loading requirements shall conform to the Village Code relating to parking and loading requirements. Except for one-way drives and access ramps on single lot sites in the PRD Overlay district and mechanical parking systems and car elevators located in valet operated enclosed garage structures, the following criteria shall also be considered:

* * * *

Staff Analysis of the Public Space and Parking Enhancement Overlay (PSPEO) Ordinance

The PSPEO ordinance would create another optional set of regulations for developing in the RM-70 Zoning District. Currently, there are already three sets of codes available for developing sites in the RM-70 district; the standard RM-70 district regulations in section 152.029, regulations for developing undersized lots in section 152.0295, and the planned residential development (PRD) overlay regulations in section 152.0296. The applicant's proposed ordinance would create the public space and parking enhancement overlay (PSPEO) standards in a new section 152.0297. If adopted, the PSPEO regulations would be the fourth set of optional development regulations for developing in the RM-70 Zoning District.

Under the PSPEO Ordinance maximum allowable building height is 290 feet for developments that meet the following criteria:

- A lot with at least 200 feet of frontage
- Provide at least 10% of the lot width for public open space amenities
- Provide at least 30 public parking spaces
- The portion of the building above 75 feet shall have combined side setbacks equal to or greater than 40% of the lot width

The required side setbacks for the first 75 feet of building structure would be at least 15 feet on one side and at least 10% of the lot width on the other.

Density could exceed the current RM-70 maximum of 70 residential dwelling units per acre by use of the proposed density transfer program (created by the applicant's proposed comprehensive plan amendment).

Proposed subsection 152.0297(F)(3) establishes the number of residential dwelling units that can be transferred from the Vogel Park site, which is 22,400 square feet (0.5) acres. According to the current maximum allowable density in the RM-70, the number of units that could be built on a half acre site is 29 three-bedroom units OR 32 two-bedroom units OR 36 efficiencies/one-bedroom units. If this amendment is approved by the Commission, this section must be re-written to clarify the above densities with the "OR"; not "AND", as the applicant has proposed.

According to the proposed ordinance language, payment for bonus density could be according to the current density bonus payment structure found in Section 152.029(8)(H) at $40,000 per unit or through a negotiated development agreement with the Village. If held to the existing payment structure, the applicant would pay $1,200,000 in bonus density fees to the Village.

Essentially, the applicant is proposing to turn over their setback area, which is adjacent and contiguous to the park, as an addition to Vogel Park. It is also important to know that the "set-aside open space area" will be considered part of the site for purposes of calculating lot area and required building setbacks. The 20-foot setback area, multiplied by the depth of the lot (140 ft) would provide an additional 2,800 square feet (0.06 acres) of park area to the existing Vogel

park which is 22,400 square feet (0.5 acres) of established park area.

Staff Analysis of the Valet Operated Mechanical Parking Lifts Ordinance

The second ordinance would allow valet operated mechanical parking lifts to be utilized by developments throughout the RM-70 Zoning District and to allow the extra spaces created by the mechanical lifts to be counted toward the required number of parking spaces.

To accomplish this, the ordinance proposes new and revised language in several existing sections of the Village code, including the definition of a parking space and the parking design standards.

Provisions have also been proposed which relate to safety and operational standards of the lifts.

Consistency and Compatibility with the Comprehensive Plan

Existing Future Land Use Policy 2.1.3 is as follows:

> **Policy 2.1.3:** Prohibit infilling of lots, expansion of existing uses, or replacement of land uses with development that is incompatible with the Future Land Use Plan by strict enforcement of development regulations.

The current maximum building height in the RM-70 Zoning District is 150 feet, by right. With payment of bonus density fees, 240 feet is currently achievable. The applicant's proposal to allow 290-foot-tall buildings and minimal ground level setbacks is not compatible with the scale of surrounding buildings, and would be inconsistent with Future Land Use Policy 2.1.3. While commercial properties developed along the Causeway have been encouraged to develop higher and slimmer buildings with utilization of the optional Bay View Overlay District standards, the request to develop more than the current allowed density does not seem appropriate in the strictly residential multi-family zoned district on Harbor Island.

Discussion and Analysis

While the Applicant has made a good faith effort to offer a public benefit to the Village in exchange for greater height and density for the subject property, too many negative impacts can occur:

1. If density increases are to be considered anywhere, it is more logical to consider mixed use buildings that would be developed along Kennedy Causeway, not on Harbor Island. The minimal ground level view corridors and increased building height allowed by this overlay ordinance will be incompatible with the surrounding area on Harbor Island and inconsistent with the Village's Comprehensive Plan.

2. Transfer of density allowing up to 100 dwelling units per acre is contrary to the operation of the transfer of development rights program currently available under existing Section 152.029. Currently, units cannot be transferred to a site beyond 70 dwelling units per acre. If this proposed ordinance is adopted it will set a precedent for a TDR program to increase density to 100 dwelling units per acre. Do to the constraints of the intersection at Larry Paskow Way, we cannot recommend an increase in the allowable density on Harbor Island.

3. Allowing valet operated mechanical parking lifts throughout the RM-70 Zoning District creates reliance on the funding of valet services. Over time, if valet programs are not sufficiently staffed, vehicle retrieval times could become excessive. Valet parking programs must be adequately staffed, especially during peak demand periods. However, the applicant has not provided sufficient projections to determine the necessary staffing. Without a better understanding of the projected wait times, it is unclear whether vehicle queuing could extend onto West Drive, potentially creating delays for residents of existing facilities.

4. It seems overly elaborate and complex to create a zoning overlay to allow a limited number of parcels to receive TDR units from Vogel Park. Since density increases do not qualify to be granted under the variance criteria, this appeared to be a favorable procedure by the Applicant. Unfortunately, it is not particularly desirable to the Village to have a zoning district that is structured for such a limited number of properties.

Recommendations

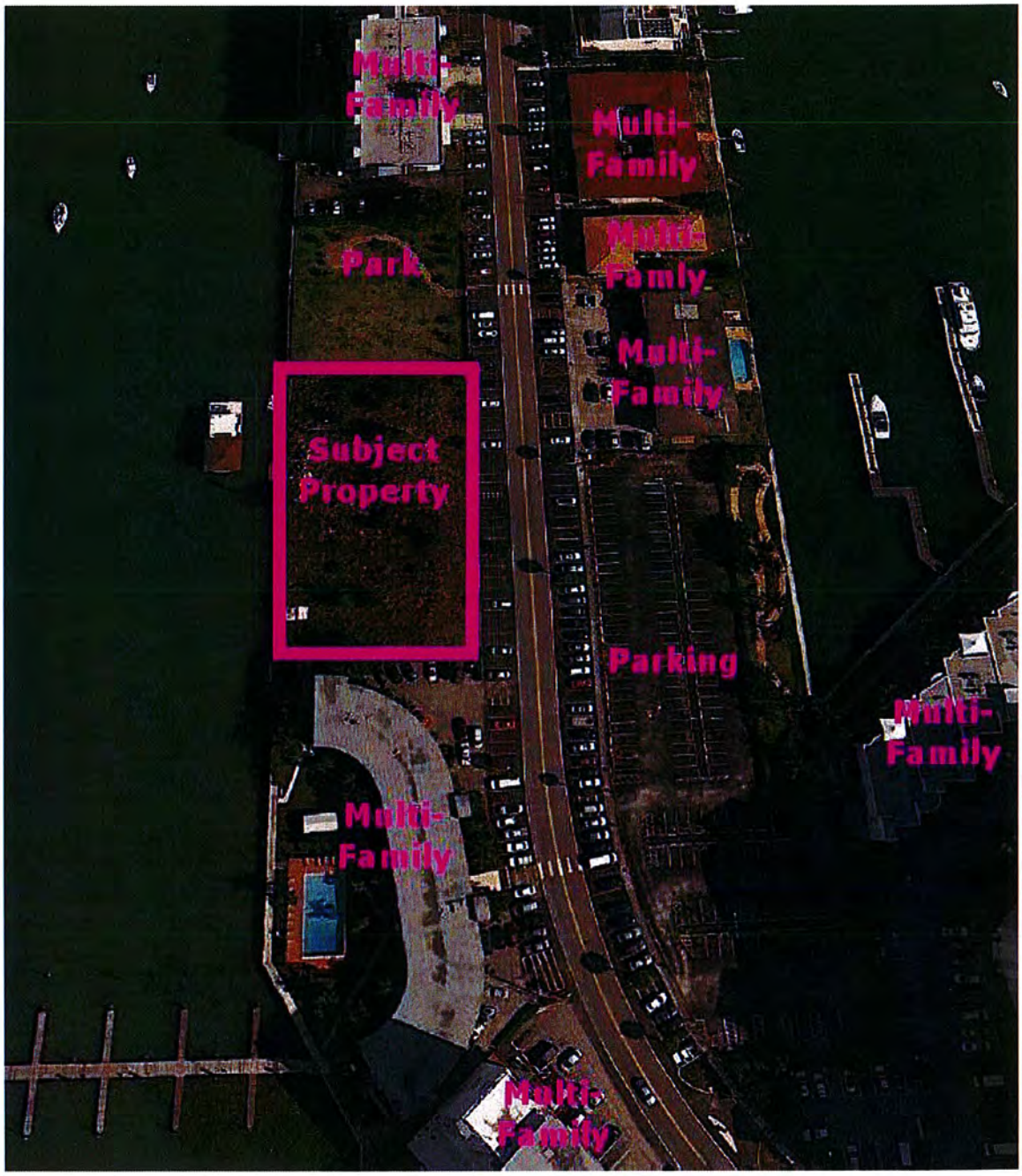
While the Applicant is innovative in his request for the Zoning Overlay District and the ancillary mechanical parking lift code revisions there are too many negative impacts and unknowns in accepting these changes. Based on the above analysis, Staff recommends **denial** of both Land Development Code revisions.

Submitted by:
James G. LaRue
James G. LaRue, AICP
Planning Consultant
December 30, 2016

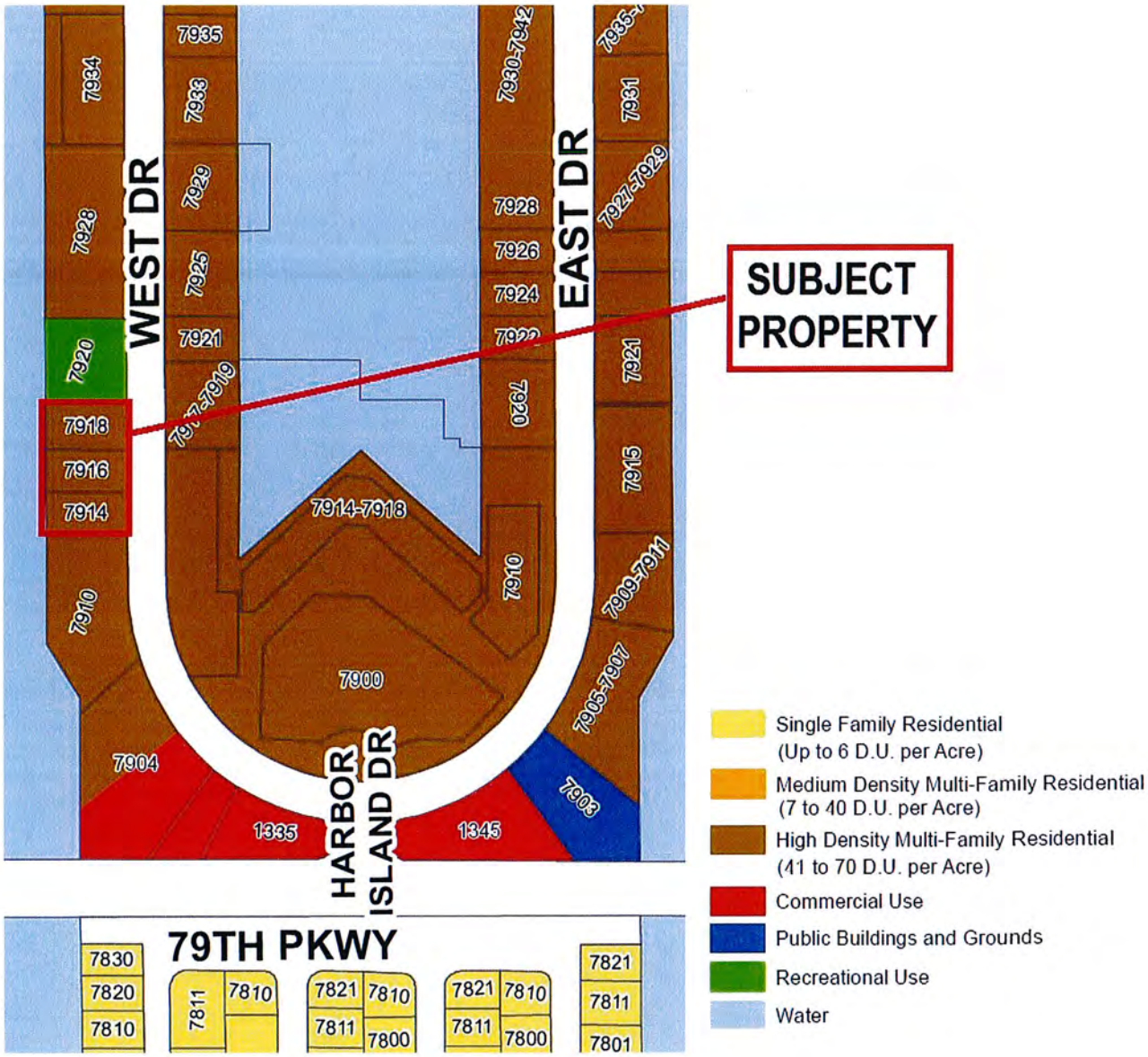
Hearing: Planning & Zoning Board, January 17, 2017

Attachments: Aerial photograph
Future Land Use Map
Zoning Map

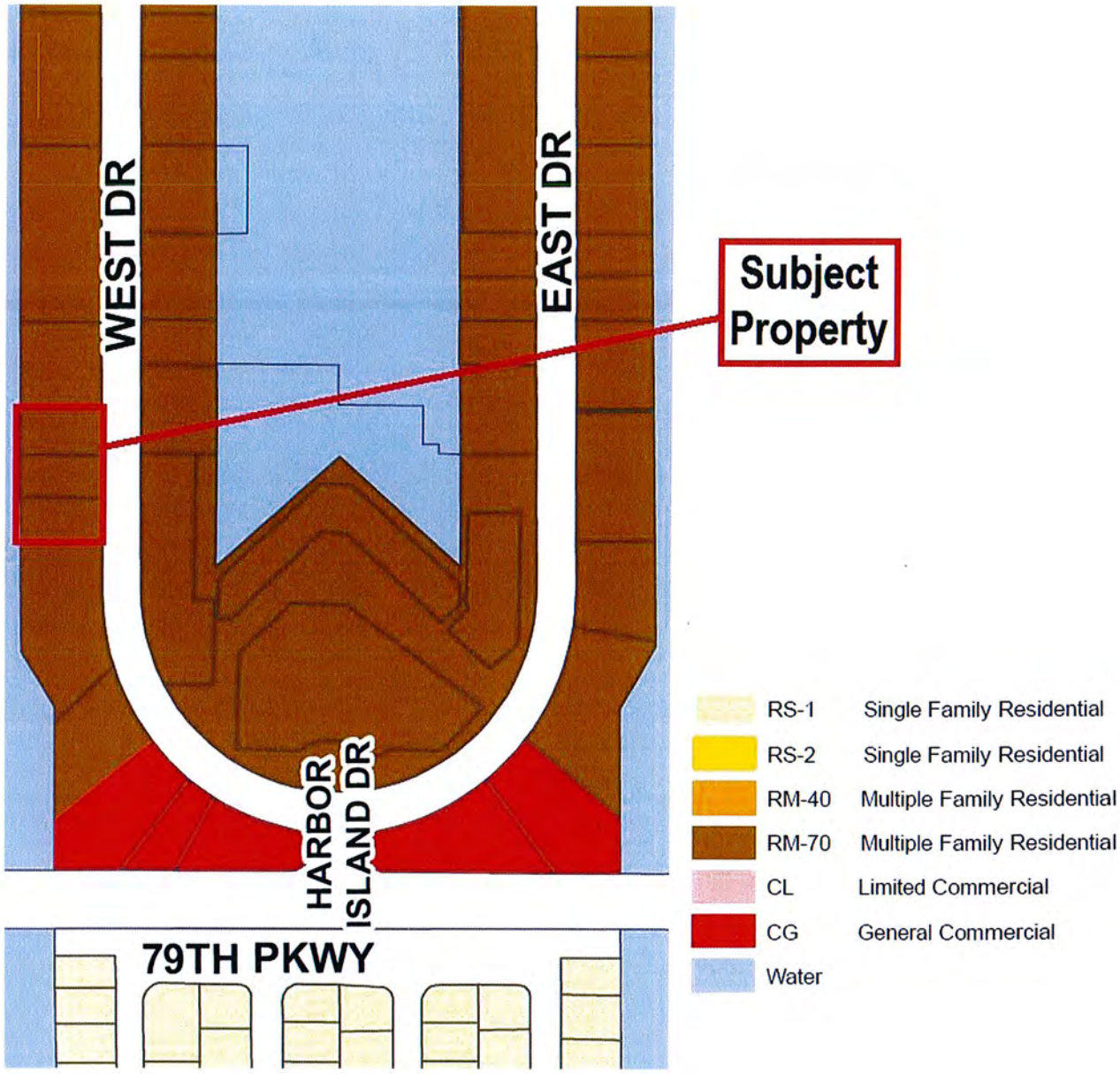
AERIAL
SUBJECT SITE AND ENVIRONS



FUTURE LAND USE
SUBJECT SITE AND ENVIRONS



ZONING
SUBJECT SITE AND ENVIRONS



RM-70 PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY

ORDINANCE NO._____

AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE CHAPTER 152 CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY, PERMITTING ADDITIONAL HEIGHT, REDUCED SIDE SETBACKS, AND TRANSFER OF DENSITY FROM CITY OWNED PROPERTY TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.

WHEREAS, the Mayor and Village Commission desire to encourage the expansion and enhancement of public spaces and the provision of public parking within private development in the Village's the RM-70 zoning district; and

WHEREAS, the Mayor and Village Commission desire to incentivize the provision of public open space and amenities by private property owners; and

WHEREAS, the Mayor and Village Commission have concluded that a "Public Space
Owner/Occupant
1501 South Treasure Drive
N. Bay Village, FL 33141additional height, reduced setbacks, and a transfer of density to private development that incorporates substantial publicly accessible open space and/or public park space and/or public residential parking.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA:

SECTION 1. Section 152.0297 of the North Bay Village Code of Ordinances is hereby created as follows:

Sec. 152.0297 – RM-70 Public Space and Parking Enhancement Overlay.

A. *Purpose and intent.* The PSPEO District is intended to encourage taller, narrower, residential buildings on RM-70 lots where such buildings provide enhanced public open space or amenities, including the expansion of existing Village park spaces or provide public residential parking spaces. Application of the development incentives available in the PSPEO District to individual properties will be reviewed and approved by the Planning and Zoning Board and Village Commission concurrently with the site plan approval process.

B. *Applicability.*

(1) The PSPEO District provides for an optional set of development regulations that may be voluntarily employed in the development of RM-70 zoned properties.

(2) All regulations of the underlying zoning district that are not otherwise addressed in these regulations shall apply. Where the underlying zoning district and the PSPEO overlay both apply, the PSPEO regulations shall govern.

(3) If a property owner should elect not to develop under these optional regulations, only the regulations of the underlying zoning district shall apply.

C. *Procedure.*

(1) *PSPEO standards review.* Applications to use the development standards provided in the PSPEO District shall be processed concurrently with all other required development applications. At a minimum, the following applications are necessary and shall be considered in the following order:

a. Building height bonus review to 240 feet pursuant to subsections 152.029(C)(8)8(A) through 8(F);

b. Public Space and Parking Enhancement Overlay standards review; and

c. Site plan review required by subsection 152.105(C)(9).

(2) *Approval.* Applications require approval by the Village Commission following a single public hearing and a recommendation from the Planning and Zoning Board. In order to approve an application, the Village Commission shall find that the development proposed:

a. Is compatible with surrounding development;

b. Provides access to adequate light and air for surrounding properties;

c. Provides a significant public benefit as provided in the PSPEO regulations.

(D) Building Height Bonuses.

(1) Building height bonuses may be available for sites consisted of at least 200 feet of platted frontage as follows:

a. A building height bonus of up to 50 feet if at least 10% of the assembled lot width has been set aside and improved for the perpetual use of the public as open space at no cost to the Village. Access to the open space may be subject to hours set by the Village Commission. The property owner must guarantee the perpetual maintenance of the open space through a special taxing district or similar mechanism acceptable to the Village. The improvements to the open space must be complete and open to the public prior to the issuance of the first certificate of occupancy for a residential unit in the development. The set-aside open space area will be considered part of the site for purposes of calculating lot area and required building setbacks.

b. The proposed development has provided at least thirty (30) parking spaces to be offered to Village residents under terms set by the Village Commission. The public residential parking spaces must be located in the same area and accessed in the same or equivalent manner as those parking spaces provided for the development. The public residential parking spaces must be made available prior or simultaneous to the parking spaces for the development. The location of public parking and the terms under which the public residential parking spaces will be offered to residents, including monthly lease rates, must be included in any resolution approving the project site plan and/or a development agreement approved by the Village Commission.

(2) No building, or portion therefore, exceeding 75 feet in height may encompass more than 60% of the width of the lot(s) if developed under the terms of the PSPEO regulations.

(E) Building Setbacks.

Development under PSPEO may have one interior side setback of 15 feet and a second interior side setback of 10% of the lot width.

(F) Residential Density.

(1) Development under the PSPEO may exceed seventy (70) residential dwelling units per acre through the purchase of development rights from the Village under the terms of the RM-70 Density Flexibility provisions of the Village's Comprehensive Plan.

(2) Residential dwelling units purchased under the terms of this section shall be in excess of those required for the development under the terms of Section 152.029(C)(8)(H).

(3) The Village has assigned the following residential dwelling units from the "Dr. Paul Vogel Community Park" site to this program: Thirty-six (36) efficiency or one bedroom units; Thirty-two (32) two bedroom units; and twenty-nine (29) three bedroom units.

(4) The cost, timing of payment for residential dwelling units, and disposition of funds under this provision shall be governed by Section 152.029(C)(8)(H). The Village Commission may establish an alternative payment schedule, unit allocation, and fund disposition through the approval of a Development Agreement pursuant to Sections 163.3220 through 163.3243, F.S., known as the Florida Local Government Development Agreement Act. Such alternative unit allocation may include the purchase of residential dwelling units for later application to other PSPEO sites under the terms of this section or, alternatively, to other RM-70 zoned sites at densities not to exceed seventy (70) units per acre.

* * * *

SECTION 2. CODIFICATION.

It is the intention of the Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances of North Bay Village as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

A motion to approve the foregoing Ordinance on first reading on _____ was offered by _____, seconded by _____.

THE VOTES WERE AS FOLLOWS:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

A motion to adopt the foregoing Ordinance was offered by _____, seconded by_____.

FINAL VOTES AT ADOPTION:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

DULY PASSED AND ADOPTED __ day of _____ 2017.

_____
Connie Leon-Kreps
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Village Clerk

APPROVED AS TO FORM FOR THE USE OF NORTH BAY VILLAGE ONLY:

_____
Robert L. Switkes & Associates, P.A.
Village Attorney

Ordinance: RM-70 Height Setbacks and Density Overlay

VALET OPERATED MECHANICAL PARKING IN RM-70 DISTRICT

ORDINANCE NO._____

AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.

WHEREAS, the Mayor and Village Commission desire to encourage the provision of parking in developments in the RM-70 zoning district; and

WHEREAS, one of the recognized limitations on the design of multi-family developments on RM-70 lots is the need to accommodate the requisite number of parking spaces; and

WHEREAS, the Mayor and Village Commission have concluded that the use of mechanical parking lifts in the RM-70 will encourage the development of underutilized infill sites and will help limit the impact of residential parking on the public rights of way.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA:

SECTION 1. Section 5.2.2 of the Consolidated Land Developments of North Bay Village is hereby amended as follows:

(a) *Off-street parking spaces.* The following describes the standard requirements for off-street parking spaces within the Village.

(1) A standard parking space shall be nine feet wide and 18 feet long. Mechanical parking lifts may be permitted in lieu of standard spaces in the RM-70 or PRD zoning districts as provided in Section 152.042 of the North Bay Village Code of Ordinances.

(2) Compact parking spaces shall be eight feet wide and 16 feet long, up to 20 percent of all required parking spaces may be compact spaces if prior approval is received from the Village Commission.

(3) Within all off-street parking facilities of 20 spaces or more, not less than two percent shall be designed and allocated for handicapped usage. Handicapped spaces shall be clearly marked and located as near as possible to the principal entrance of the use or structure being served. Design of handicapped spaces shall comply with all applicable accessibility standards of the State of Florida and Dade County.

SECTION 2. Section 152.003 of the North Bay Village Code of Ordinances is hereby amended as follows:

Sec. 152.003 Definitions

* * *

Parking space, off-street. An all-weather surfaced area, exclusive of streets, alleys, and driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by an all-weather surfaced driveway, which affords ingress and egress for a vehicle without requiring another vehicle to be moved. When developing single lot sites under the PRD regulations found in Section 152.096, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces. Mechanical parking lifts served by valet may also be used to create an additional parking space that can be counted towards the total number of required parking spaces in the RM-70 district as provided in Section 152.042.

SECTION 3. Section 152.042 of the North Bay Village Code of Ordinances is hereby amended as follows:

Sec. 152.042. Design Standards

(A) *Definition.* For the purpose of this subchapter an "off-street parking space" is an all-weather surfaced area, at grade or above, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. ~~On single lot sites only,~~ ~~m~~Mechanical parking lifts, may be approved within enclosed garage structures in the RM-70 and PRD Overlay districts, if they meet the standards of Section 152.029(F)(5) and this subchapter. When developing under the PRD regulations found in Section 152.0296 and this subchapter, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

* * *

(R) *Mechanical Parking Lifts with Valet Parking in the RM-70 District.* Notwithstanding the above, mechanical parking lifts may be permitted in a valet operated enclosed garage structure if approved by the Village Commission through the site plan review process. A mechanical parking lift is an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion. Both parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces. Access to both standard and mechanical parking may be provided through the use of vehicle elevators. A mechanical parking structure may be permitted if it meets the following standards:

(a) Mechanical lifts shall be permitted only when operated by an attendant or a licensed and insured valet parking company on a 24-hour/seven-days-a-week basis, to be confirmed by restrictive covenant to be recorded by the owner/applicant prior to establishment of the use. Proof of the valet service contract must be provided to the Village annually.

(b) The mechanical parking lifts and the garage structure shall be designed so that the noise or vibration from the operation of the lifts or car elevators shall not be plainly audible to, or felt by, any individual standing outside on property adjacent to the garage structure. Noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions.

(c) All mechanical parking lifts and/or car elevators providing access to levels within the garage must be maintained and kept in good working order and must be inspected by a licensed mechanical engineer at least once annually.

(d) All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.

(e) Any building utilizing car elevators to access parking must include an emergency electric generator consistent with the requirements of Section 151.25 of the Village Code regardless of the height of the building.

(f) All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked or objects are located below the lift.

(g) All mechanical lift components, car elevators, and emergency generators shall be Underwriters Laboratories (UL) approved.

(h) All non-mechanical parking spaces in the garage structure must measure at least nine feet in width by eighteen feet in depth.

(i) The building owner or condominium association must maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of the lifts and car elevator(s). Proof of the service contract must be provided to the Village annually.

(j) The ceiling heights of any parking level with parking lifts within a garage shall be a minimum of 11'6".

(k) The parking lift platform must be sealed and of a sufficient width and length to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.

SECTION 4. Section 155.17 of the North Bay Village Code of Ordinances is hereby amended as follows:

A. Minimum off-street parking and loading requirements shall conform to the Village Code relating to parking and loading requirements. Except for one-way drives and access ramps on single lot sites in the PRD Overlay district and mechanical parking systems and car elevators located in valet operated enclosed garage structures, the following criteria shall also be considered:

* * * *

SECTION 5. CODIFICATION.

It is the intention of the Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances of North Bay Village as amended; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 7. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

A motion to approve the foregoing Ordinance on first reading on _____ was offered by _____, seconded by _____.

THE VOTES WERE AS FOLLOWS:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

A motion to adopt the foregoing Ordinance was offered by _____, seconded by_____.

FINAL VOTES AT ADOPTION:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

DULY PASSED AND ADOPTED __ day of _____ 2017.

_____
Connie Leon-Kreps
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Village Clerk

APPROVED AS TO FORM FOR THE USE OF NORTH BAY VILLAGE ONLY:

_____
Robert L. Switkes & Associates, P.A.
Village Attorney

Ordinance: Valet Operated Mechanical Parking in RM-70 District

BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

Direct: 305-377-6229
E-Mail: gpenn@brzoninglaw.com

VIA HAND DELIVERY

March 2, 2016

Frank Rollason,
Village Manager
North Bay Village
1666 Kennedy Causeway, 3rd Floor
North Bay Village, Florida 33141

RE: 7918 West Drive Development Proposal.

Dear Mr. Rollason:

Our law firm represents P&O Global Technologies, Inc. (the "Applicant"), the owner of 7914-7918 West Drive (the "Property"). Please consider this letter the Applicant's letter of intent supporting the following requests: (1) an amendment to the Village's comprehensive plan, (2) Village Ordinance amendments, (3) site plan approval, (4) special exception approval under the proposed "Public Space Enhancement Overlay" for the RM-70 zoning district, and (5) a Development Agreement between the Applicant and the Village.

As we have discussed in the past, we believe that this development proposal will bring significant public benefits to the Village. I am enclosing the required forms, plans, impact studies, draft ordinance and amendments, as well as a draft development agreement document.

Proposed Development. The Applicant is proposing to locate a seventy-seven (77) unit residential building on the Property. As you

know, the Property lies immediately to the south of the Village's Dr. Paul Vogel Community Park (the "Park"), a small but very important recreational area in a portion of the Village that otherwise has no public recreational facilities. The Applicant proposes to improve the park and expand the public access onto adjacent private property. At the same time, the project proposes to provide the Village with compensation for the residential units that hypothetically could be developed on the Park.

Park Improvements. The Applicant has committed to designing and constructing a package of improvements to the Park at the time the 7918 West Drive project is being constructed. Subject to Village approval, those improvements will include a shoreline walkway, boardwalk, play area improvements, a splash area, and/or other recreational facilities chosen by the Village. The Applicant will prepare the park design without seeking credits of impact fees or other City or County fees. The Applicant will seek credits for the value of the construction of the improvements against the compensation due to the Village for the residential units transferred from the Park.

Expansion of Public Area. The Park is 22,400 square feet in size. The Applicant proposes to provide the Village with an easement over the north 24 feet of the Property to allow that area to be incorporated into the Park. The Applicant will design this area of its Property so that it serves to extend the Park further south. The grant of the easement would result in the Park's useful space increasing in size by approximately 15% at no cost to the Village or taxpayers.

Boardwalk Linking Park to Baywalk. One of the largest impediments to an integrated baywalk in the Village has been the existence of older developments built prior to the point baywalks were a required design element. As reflected in the attached Development Agreement, the Applicant is proposing to develop a boardwalk (following the Village obtaining the necessary approvals)

linking the new shoreline walkway in the Park to the "Space 01" baywalk, bypassing the Islander Club condominium property. That would allow for a significant extension to the Village's baywalk network.

Building Design and Operation. The proposed development is intended to bring a signature building to this portion of the City, while limiting the visual impact of the project on our neighbors. The Applicant plans on meeting both goals by increasing the height of the building to approximately 333 feet while, at the same time, significantly reducing the footprint of the tower element of the building.

As you know, the RM-70 side setbacks currently require 15 feet on one side, with 20% of the lot width on the second side. As applied to the Property, that leaves approximately 74% of the width of the lot (here, 177 feet) that could be developed with a residential tower up to 240 feet. The Applicant proposes, as reflected on the attached plans and draft ordinance, to reduce the tower footprint considerably – not to exceed 50% of the Property's width (a maximum of 120 feet).

With the approval of the plan (and related Public Space Enhancement Overlay regulations) fifty-seven (57) additional feet would be opened up above 75 feet in height, creating a significant benefit in the amount of light and air available to the public and neighboring parcels. In exchange for the reduced tower footprint, the draft regulations would allow a building on the Property to reach 340 feet in height, the same height permitted for some lots under the Village's Bayview Overlay, and would permit the replacement of the private "view corridor" area normally required for RM-70 development with a smaller, but publicly-accessible, area integrated into Dr. Paul Vogel Community Park.

Baywalk on Property. The Applicant is proposing to develop a wide public baywalk access providing access to Biscayne Bay along

the entire western boundary of the Property. While open to the public, the baywalk will remain in the ownership of the Applicant and the Village and the public will therefore incur no costs in the continued maintenance of the baywalk area. The baywalk on the Property will be linked with the new baywalk in the Park and, assuming the necessary approvals are issued, the boardwalk linking the Park to the Space 01 baywalk.

The Applicant will be filing an application with the Miami-Dade County Shoreline Development Review Committee seeking approval of the proposed baywalk on the Property.

Legislative Changes. The legislative package proposed by the Applicant includes the following:

- A comprehensive plan text amendment (draft enclosed) that will permit the Village to transfer density from the Park to eligible receiving sites.

- An ordinance (draft enclosed) creating the Public Space Enhancement Overlay permitting, following the review of the Commission, additional density and height as well as reduced side setbacks for RM-70 developments that provide enhanced publicly-accessible open space.

- An ordinance permitting mechanical parking served by valets for RM-70 buildings (draft enclosed).

The establishment of a process to permit transfer of density from the Park will allow the Village to obtain the most value possible from the land while not increasing the total number of units within the High Density Residential land use category. The Public Space Enhancement Overlay will allow for "taller and skinny" buildings in the RM-70 zone, an approach which has succeeded in attracting much needed attention to the Kennedy Causeway area. At

the same time, the Overlay would lead directly to the creation of much-needed publicly accessible open space in the Village. Finally, following the lead of other South Florida cities, the proposed mechanical parking ordinance would allow the use of mechanical parking lifts and car elevators in valet-operated garages in the RM-70 zone. Allowing mechanical parking in these buildings will help encourage more efficient garages and the requirement that any such parking be operated by valets will remove any concerns about the operation of lifts in larger, non PRD zoned, developments.

Public Hearing Requests. As required by Section 2.7.3(2) of the Village's Consolidated Land Development Regulations, the Applicant hereby makes the following public hearing requests:

- Site plan approval of a major development (over 10,000 square feet of floor area).

- Building height bonus review to 240 feet pursuant to subsections 152.029 (C)(8)8(A) through 8(F).

- Special use exception for development under the new Public Space Enhancement Overlay District standards.

The Applicant is unaware of any additional special permits, variances or exemptions that would be required by the proposed development. As noted above, the Applicant will be seeking additional approval of the Miami-Dade County Shoreline Development Review Board.

Compliance with Zoning and Village Code Standards. The proposed development will comply with all the requirements of the Village's RM-70 zoning district (as modified by the proposed ordinances attached), the Village's site plan review standards and the Village's design guidelines. As noted above, the proposed plan contains no variances of the Village's zoning requirements.

Village's Site Plan Review Criteria. The following are the Village's site plan review criteria and the status of the compliance of the Isle of Dreams Retail development with each requirement:

Section 152.105(C)

(a) Protects against and minimizes any undesirable effects upon contiguous and nearby property.

The submitted plan complies with this requirement. The building has been designed in a manner to limit negative impacts on the Property's neighbors.

(b) 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.

The submitted plan complies with this requirement. The proposed garage parking will remain sufficient to serve the uses within the building. The garage parking will be exclusively valet in operation and the Applicant has presented an engineer's report that demonstrates that the system will operate properly.

(c) Provides a sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.

The submitted plan complies with this requirement.

(d) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

As indicated by the submitted memos prepared by CPH Engineers and Ocean Engineering, Inc., the impact of the proposed development will be accommodated by the existing roadway network and the water and sewer system, as currently contemplated to be expanded by the Village.

Village's Design Standards. As you know, the Village adopted a set of urban design standards codified in Section 155 of the Village Code. The following are the relevant design standards and the status of the compliance of the Isle of Dreams Retail development with each requirement:

Section 155.03

Building and site design relationships shall conform to the following standards

1. Buildings or structures located along strips of land or on single sites and not part of a unified multi-building complex shall strive to achieve visual harmony with the surroundings.

The submitted plan complies with this requirement.

2. Retail or office establishments, which are located on corners, are recommended to place windows on each wall that faces a street, parking area or driveways.

This requirement is inapplicable to the Property.

3. In the case of buildings with multiple storefronts and shopping centers with out-parcel development, facade treatment shall be coordinated. Such facade treatments include: building colors, windows, storefronts, signage and awnings.

This requirement is inapplicable to the Property

4. All vending machines, any facility dispensing merchandise, or a service on private property shall be confined to a space built into the building or buildings, or enclosed in a separate structure compatible with the main building.

This requirement is inapplicable to the Property.

5. When garage structures are provided, such shall be designed to incorporate a decorative grid treatment into the structure's facade at ground level.

The parking structure complies with this requirement.

6. Storefronts shall have easily identifiable entrances.

The submitted plan complies with this requirement.

7. Window displays shall be done in such a manner as to capture the pedestrians' customers' attention, establishing a positive and professional image for the business, and informing the potential customers of the merchandise.

This requirement is inapplicable to the Property.

8. "Take out" or "pick up" windows for retail or other establishments shall not be located on a building facade that faces a public right-of-way, unless they are designed in such a manner as to be an aesthetic asset to the building and neighborhood.

This requirement is inapplicable to the Property.

9. Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grills and shall be painted in muted colors or match the building and shall not be visible from the street.

The submitted plan complies with this requirement.

10. All service bays, mechanical (HVAC) equipment and delivery areas shall be located away from and not visible from the streets, waterways, sidewalks and adjacent properties.

The submitted plan complies with this requirement; all service bays, HVAC equipment, and similar areas will be hidden from public view. The trash pick up area will be located on the south side of the building, but all dumpsters will be located in a fully enclosed trash room and moved outside only for pick up.

11. Service bays, ground-mounted air conditioning units and other mechanical equipment shall be buffered and completely screened from public and on-site pedestrian view.

The submitted plan complies with this requirement; all service bays and similar areas will be hidden from public view.

12. Exterior service bays and delivery areas shall not be used for the storage of vehicles or materials.

The development will comply with this requirement.

13. The sale, dismantling or servicing of any vehicles, equipment, materials, or supplies shall not take place within the service area or delivery area.

This requirement is inapplicable to the Property.

14. Driveways and loading spaces associated with exterior service bays shall be so that vehicles using the space do not hinder the use of traffic lanes, streets, or adjacent properties.

The submitted plan complies with this requirement. The loading and service areas are located in a manner that does not impede traffic on the Property. Standard loading will be provided completely within the building. An independent loading area for large moving trucks and garbage trucks is proposed for the south property line (using turfblock).

15. Pre-fabricated homes are prohibited in new construction.

This requirement is inapplicable to the Property.

16. Fences shall be made of wrought iron or aluminum bars with intermittent posts. Masonry walls are also permitted, with forty (40) percent of the wall opaque. Chain link fences and privacy wood fences are prohibited along the Corridors. Sharp projections, barbed wire or other hazardous materials are not permitted as any part of a fence or wall. Wrought iron and aluminum bar fences shall be either black, white or match the color of the building. Masonry walls shall match the building color or reflect Florida coastal themes. Color shall be muted tones.

The submitted plan complies with this requirement.

17. Temporary construction shall be enclosed by black vinyl coated chain-link fences. Construction walls/fences are encouraged to contain art work and graphics. Commercial advertisements are prohibited.

The development will comply with this requirement at the time of construction.

18. Reflective/mirrored glass shall be discouraged.

The submitted plan complies with this requirement.

19. Buildings shall not have unfinished surfaces visible to the public.

The submitted plan complies with this requirement.

Section 155.04 New Construction.

A. Buildings should have a recognizable entrance facing the public street.

The building has a clear entranceway.

1. Design and location of balconies should reinforce the building form.

The project balconies are a very important element of the building's design.

2. All projects should consider the overall form, and detail of the building. Box buildings are discouraged.

The submitted plan complies with these requirements. While the design is simple, it features changes in material and in plane that will create the most attractive new building in the Village.

Section 155.05 Site Design Relationships

A. The coordination of facade components help establish an identity for an office building, industrial building or shopping plaza. Therefore, for all unified developments and shopping centers including principal buildings and out parcel development, all buildings and signage shall demonstrate compatibility in materials and consistency in style throughout all exterior elevations. The following standards shall apply to all new and substantial development. Buildings and signage shall demonstrate the following:

1. Compatibility with adjacent land uses in terms of scale and lot coverage.

The submitted plan complies with this requirement. The tower's limited footprint will effectively create a sense of open space and its adjacency to the Bay works to confirm the sense of scale. The project readily complies with all lot coverage requirements.

2. Utilize color schemes that blend with those of neighboring developments, as well as consistency in color schemes for the site. Accent colors and materials shall be chosen to enhance architectural detail.

The development will comply with this requirement.

3. In the case of buildings with multiple storefronts and shopping centers with out-parcel development, façade treatment shall be coordinated and have like details. Such façade treatments include: building colors, building, floors, storefront, signage, awnings, roof materials, and roof pitch.

The submitted plan complies with this requirement; the façades of the building will be coordinated and consistent with one another.

4. Building signs shall be designed as integral architectural elements with proportions related to the surfaces to which they are attached.

The development will comply with this requirement at the time of sign approval.

<u>Section 155.08 Bayview</u>

A. Buildings should provide view/light/breeze corridors to the bay.

The submitted plan complies with this requirement. The proposed plan will incorporate 10% of the property's width into the adjacent Park, which will drastically improve the value of the northern view corridor. The limited tower footprint will also ensure that neighboring buildings will retain their views and that a "canyon" effect will not be created.

B. Building pedestal should not form continuous sheer wall along the bay. Decorative surfaces, multi-level decks, berming and sufficient setbacks shall reduce the impact of the pedestal.

The submitted plan complies with this requirement.

C. Buildings should be designed with distinctive form. Stepped form and distinctive roof lines create a more interesting skyline and increase building recognition.

The submitted plan complies with this requirement.

D. Pool decks should include landscaping to provide shade and tropical image.

The submitted plan complies with this requirement. The pool deck will include generous landscaped areas.

E. All projects shall provide bay walkways along the rear of the property, which can be connected to other properties.

The submitted plan complies with this requirement.

<u>Section 155.14 Landscaping</u>

(A) Landscaping should compliment the old Florida/Maritime theme, using native plant materials and street furnishings that carry the theme, and provide continuity throughout the district. In addition, public safety will be a priority using the principles of CPTED to create high visibility areas and natural access control. With regards to landscape design for both new construction and existing buildings, the following should apply:

The submitted plan complies with this requirement.

(B) Ornamental trees or palms should be placed in front of buildings in such a manner as to provide visual transparency. Shade trees and palms shall be used adjacent to open spaces, parking lots, and residential streets. Planting areas shall be designed with multi-layers of plant material including shrubs and ground covers.

The submitted plan complies with this requirement.

1. Landscaping should compliment and enhance the overall architectural and design theme of the property, but not overpower it.

The submitted plan complies with this requirement.

2. Rhythm should be maintained along public streets through the uniform placement of trees.

The submitted plan complies with this requirement.

3. Blank walls greater than 25' in length and other unattractive areas of a site or building should be heavily screened with andscaping. Rooflines or storefronts of twenty-five (25) feet or greater shall be broken by vertical landscaping materials. Shade and accent trees planted at twenty (20) foot intervals shall be required to achieve this screening.

The submitted plan complies with this requirement. There are no "blank" walls in the proposed design.

4. Large parking areas and driveways shall be heavily landscaped along the perimeter and with interior and terminal islands.

The submitted plan complies with this requirement.

5. Landscape design should utilize the CPTED principles of natural surveillance, natural access control and territorial reinforcement.

The submitted plan complies with this requirement. The integration of the northern setback into the Park will enhance "eyes on the street" and limit areas in which bad actors could lurk.

6. The use of native trees, shrubs and ground covers is encouraged to be incorporated into the landscaping around proposed developments. Local flora will be maintained as part of the built environment and the demand on our local water resources will be minimized.

The submitted plan complies with this requirement.

7. The placement and design of landscaping shall maximize visibility to provide natural surveillance.

The submitted plan complies with this requirement.

8. Landscape design shall incorporate with design of other physical features, such as sidewalk, pavements, lighting and fences; to emphasize public entrances, define and reinforce ownership of property.

The submitted plan complies with this requirement.

9. Tree and palm heights and spread shall allow sufficient visibility, not completely block views of/from doors, windows, and streets.

The submitted plan complies with this requirement.

10. Shrubs and ground cover shall be planted along public right-of-ways or around parking, and public open areas.

The submitted plan complies with this requirement.

11. Landscape design will utilize principles of xeriscape landscaping, while retaining the tropical beach resort atmosphere.

The submitted plan complies with this requirement.

12. Landscape plans must be drawn, signed and sealed by a Florida Registered Architect or Landscape Architect.

The submitted plan complies with this requirement.

13. In addition to the design standards, all landscaping shall meet the standards of the Village of North Bay Village Landscape Code.

The submitted plan complies with this requirement.

14. Landscaping in 15' line of site triangle at intersections of right-of-ways and at driveways shall conform to height clearances of bushes and trees, and maximum tree calipers in accordance with the Village Code.

The submitted plan complies with this requirement.

Section 155.17 Off-Street Parking and Loading

A. Minimum off-street parking and loading requirements shall conform to the Village Code relating to Parking and Loading Requirements. The following criteria shall also be considered:

1. Parking lots and other vehicular use areas are to be designed to be functional and aesthetically enhance neighborhood building, group of buildings, or facility they serve.

The submitted plan complies with this requirement.

2. Off-street loading areas shall be located where they will not disturb adjacent uses and should not be the visual focal point of a driveway, parking area, adjacent properties, or the right of way. This may be accomplished by providing any or a combination of the following: masonry wall extensions of the building line, opaque landscape screening, berming, and through selective placement or orientation of the loading area.

The submitted plan complies with this requirement. The Property's loading areas will be located within the building. For limited trash pick up and large-scale loading, an area on the south side of the building has been set aside.

3. Developments which include out-parcels shall be designed to provide safe and efficient vehicular and pedestrian circulation within the out-parcel, between the out-parcel and the principle development and off-site. All pedestrian connections should be well marked and lighted.

The submitted plan complies with this requirement.

4. Sites requiring large areas of surface parking should attempt to distribute parking into smaller areas broken up by intervening areas of landscaping, open space and buildings wherever possible rather than aggregating parking into continuous street facing strips.

There are very limited areas devoted to vehicle drop off and pick up on the submitted plans.

5. Parking areas must provide adequate drainage.

The submitted plan complies with this requirement.

6. With the exception of temporary parking lots, the landscaped areas of an at-grade parking lot should be defined with a six inch curb.

This requirement is inapplicable to the Property.

7. Parking garages and structures shall contain commercial use on the ground floor and architectural detailing so not to appear as a garage on elevations facing the street.

The garage includes a habitable lobby area on the ground floor.

8. Multiple levels of parking structures should be parallel to grade on waterfront elevations.

The submitted plan complies with this requirement.

9. Stairways and elevators should be glass enclosed or open clearly visible to the street or other populated areas to prevent vandalism.

There are no exterior facing or publicly accessible stairs or elevators.

10. Ramps, stairwells and any other portion of the garage should be buffered with the use of decorative grilles and screens.

The submitted plan complies with this requirement. The proposed garage will be completely screened.

Section 155.18 Dumpster Enclosures, Garbage / Mechanical Equipment Rooms

A. Mechanical equipment is necessary to the function of the buildings, which comprise a successful development. Unfortunately, space must be found for components that are sometimes large, noisy and unsightly. Mechanical equipment, particularly when added after the building is in use, can interrupt the streetscape and public views, decreasing the comfort and livability throughout the area. Enclosures and Mechanical Rooms shall conform to the following criteria:

1. When associated with a restaurant and/or drinking use, trash and garbage facilities are recommended to be within an enclosed, air-conditioned garbage room for new construction or when buildings are being substantially rehabilitated, if feasible.

The proposed trash room serving the project will be fully enclosed.

2. When located outside of the building, the facilities are preferred to be enclosed within a CBS opaque structure. The structure (including opaque gates) shall be painted to match the building, unless otherwise required by a special use district.

This requirement is inapplicable to the Property.

3. 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.

The submitted plan complies with this requirement as the dumpster enclosure will be located within the building.

4. 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.

The submitted plan complies with this requirement. Garbage trucks will back into the side loading area.

5. 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.

The submitted plan complies with this requirement.

6. All service bays, mechanical (HVAC) equipment and delivery areas should be located away from and not visible from the streets, waterways, sidewalks, and adjacent properties.

The submitted plan complies with this requirement.

7. Service bays, ground-mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.

The submitted plan complies with this requirement.

8. Exterior service bays and delivery areas should not be used for the storage of vehicles or materials.

The development will comply with this requirement.

Section 155.19 Awnings and Canopies

A. Pedestrian related concerns are a priority in the creation of a successful development. Overhead protection from rain and sun should be provided for pedestrians. Awnings have an impact on the appearance of the storefront and building and tend to bring pedestrians closer to shop windows and entrances. Consideration shall be given to the following where applicable:

1. Buildings/storefronts should have awnings or other means to provide pedestrians with sun/rain protection unless physically unsuited.

The submitted plan complies with this requirement.

2. Continuous awnings over several stores are prohibited. Individual awnings should be distinct from its adjacent neighbor. When multiple awnings are attached to one building, awnings shall be of identical height and depth.

The submitted plan complies with this requirement.

3. Backlit awnings are prohibited. These awnings, because of their high visibility, become attention getting devices - such as a sign, rather than means to provide comfort and protection for the pedestrian. Such awnings overwhelm the appearance of the buildings they are attached to, detracting from architectural qualities. Awnings that incorporate subtle down-lighting in a manner which creates a discreet peripheral washing of the awning, may be appropriate in some instances. High gloss vinyl (plastic) awning, backlit and metal awnings are not permitted.

The submitted plan complies with this requirement. There are no backlit awnings proposed in the development.

4. Metal awnings should be contemporary in design and shall be subject to the same restrictions and guidelines as other awning materials.

There are no metal awnings proposed for the development.

5. Awnings shall be maintained in good repair, free from tears, fading or peeling. Awnings may be supported by poles and connected to the building underneath. Awnings needing vertical support columns are prohibited in the setback area.

The submitted plan complies with this requirement.

6. The awnings on corner buildings shall continue around the corner for compatibility with building form and pedestrian patterns, wherever possible.

The submitted plan complies with this requirement.

7. Signs on awnings/canopies are prohibited.

The submitted plan complies with this requirement.

8. Awnings shall not to be used where there is an existing projecting concrete sunscreen, except that a vertical awning valance may be suspended below the sunscreen with a clear height of 8 feet above the sidewalk.

The submitted plan complies with this requirement.

9. Awnings should utilize color schemes that blend with those of neighboring developments as well as consistency in color

schemes for the site. Accent colors should be chosen to enhance architectural details. Solid color and broad striped fabric patterns are preferred.

The submitted plan complies with this requirement.

Landscape Maintenance. As required by Chapter 18A of the Miami-Dade County Code, the Applicant will be submitting a full irrigation plan at the time of permit. The landscaping, as required by code, will be irrigated on a regular basis.

The landscaping, once installed, shall be maintained under the following schedule:

A. Lawn/Grass

1) Cut bimonthly as required.
2) Fertilize and weed control as necessary.
3) Treat for pests and/or diseases as necessary.

B. Trees/Shrubs

1) Trim, fertilize and treat for pests as needed.
2) Replace as required.

Conclusion. We look forward to the Village's review and recommendation on the application. If you have questions or concerns, please call me at (305) 377-6229.

Sincerely,

Graham Penn

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

SITE PLAN APPLICATION FOR PUBLIC HEARING

Site Address 7914-18 West Drive

Owner Name P&O Global Technologies, Inc. Owner Phone # c/o Graham Penn 305 374 5300

Owner Mailing Address 224 Commercial Blvd., #206 Lauderdale by the Sea, FL 33308

Applicant Name Same as Owner Applicant Phone # Same as Owner

Applicant Mailing Address Same as Owner

Contact Person Graham Penn Contact Phone #305 374 5300

Contact Email Address gpenn@brzoninglaw.com

Legal Description of Property: Lots 14, 16, and 18 Harbor Island Subdivision, recorded in Plat Book 44, Page 72 of the Public Records of Miami-Dade County, Florida

Existing Zoning RM-70 Proposed Zoning RM-70 Lot Size 33,600 sq. ft.

Folio Number 23-3209-001-0160

Project Description Multi-family residential – see submitted letter for details.

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

€ Property survey
€ Site plans which depict:
- North point
- Scale at 1/16 inch to the foot, or larger
- Date of preparation
- Existing and proposed easements
- Existing and proposed utilities
- Property lines
- Location of streets, alleys and ROW
- Structures
- Mechanical equipment
- Parking and loading spaces
- Fences
- Signs
- Exterior Lighting
- Any other physical features

€ Floor plans including
- Layout of each level
- Layouts for each dwelling unit type
- Parking and loading space dimensions
- Width of drive aisles

€ Elevations

€ Tabular project summary indicating:
- Total acreage
- Dwelling units per acre
- Number of bedrooms per dwelling unit
- Number of each dwelling unit type
- Pervious surface area
- Open space
- Structure setbacks
- Off-street parking and loading spaces
- Floor area of each dwelling unit type
- Floor area of each commercial use
- Gross floor area
- Building height
- Floor area ratio

€ Landscape plan
€ Analysis of Services
- Potable water
- Sanitary Sewer
- Traffic

€ Application fees
€ Cost recovery deposit

Mayor **Connie Leon-Kreps** | Vice Mayor **Eddie Lim** | Commissioner **Dr. Richard Chervony** | Commissioner **Andreana Jackson** | Commissioner **Eddie Lim**

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

All requests for site plan approval 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 application 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 site plan approval 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 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 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 _____

Print Name Graham Penn

(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 2nd day of March, 2016,

by Graham Penn,

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

Notary Public Signature _____

Commission Number/Expiration 4/10/19

Notary Public State of Florida
Diana Ramos
My Commission FF 207719
Expires 04/10/2019

Mayor	Vice Mayor	Commissioner	Commissioner	Commissioner
Connie Leon-Kreps	**Eddie Lim**	**Dr. Richard Chervony**	**Andreana Jackson**	**Eddie Lim**

Office Use Only:

Date Submitted: _____

Tentative Meeting Date: _____

Fee Paid: $ _____

Cash ☐ or Check ☐ # _____

Date Paid: _____

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

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Instructions: Submit this application, along with 15 sets of sealed plans (1 set 36"x24" and 14 11"x17" sets) and the required information and fee, to the Village Clerk's Office at 1666 Kennedy Causeway, Suite 300. Applications are due by 12:00 noon on the deadline date and must be complete to be accepted and place on the agenda. A sign will be posted on the property, and public hearings will be conducted by the Planning & Zoning Board and the Village Commission.

Site Address 7914-18 West Drive

Owner Name P&O Global Technologies, Inc. Owner Phone # c/o Graham Penn 305 374 5300

Owner Mailing Address 224 Commercial Blvd., #206 Lauderdale by the Sea, FL 33308

Applicant Name Same as Owner Applicant Phone # _____
(if different from Owner)
Applicant Mailing Address _____

Contact Person Graham Penn Contact Phone #305 374 5300

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Legal Description of Property: Lots 14, 16, and 18 Harbor Island Subdivision, recorded in Plat Book 44, Page 72 of the Public Records of Miami-Dade County, Florida

Existing Zoning RM-70 Proposed Zoning RM-70 Lot Size 33,600 sq. ft.

Folio Number 23-3209-001-0160

Project Description Multi-family residential – see submitted letter for details.

Section of North Bay Village Code from which the Applicant is Seeking Relief:NA/

Variance Requested:Seeking Special Exception to allow development under proposed new height and setback overlay for RM-70 lots that provide publicly accessible open space

Reason for Request: See attached letter.

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Mandatory Submittals (check that each item is included with this application):

_____Plans depicting work to be completed (including 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

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 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.

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 Village Commission 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_____

Print Name Graham Penn

(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.)

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Sworn to and subscribed to before me this 2nd day of March, 2016,

by Graham Penn,

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

Notary Public Signature _____

Commission Number/Expiration 4/10/19

Notary Public State of Florida
Diana Ramos
My Commission FF 207719
Expires 04/10/2019

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Office Use Only:

Date Submitted:_____ Fee Paid: $_____

Tentative Meeting Date:_____ Cash or Check # _____

Date Paid: _____

5601 Mariner Street
Suite 240
Tampa, FL 33609
Phone: 813.288.0233
Fax: 813.288.0433

December 16, 2016

Ben Smith, AICP
LaRue Planning & Management Services, Inc.
1375 Jackson Street
Suite 206
Fort Myers, FL 33901
(239) 334- 3366

RE: 7914 West Drive Residential
Traffic Methodology Memo

Dear Mr. Smith:

As requested, CPH Inc. has met with FDOT to discuss the requested improvement at NE 79th Street and Larry Paskow Way, State Road 934, Section 87080. Please find the attached FDOT meeting letter acknowledging no foreseeable issues. I hope this information is useful in resolving any outstanding issues.

If you have any questions, please do not hesitate to contact me.

Sincerely,
CPH, Inc.

Sandra Gorman, PE
Senior Traffic Engineer

Florida Department of Transportation

RICK SCOTT
GOVERNOR

1000 NW 111 Avenue
Miami, Florida 33172

JIM BOXOLD
SECRETARY

December 8, 2016

Sandra Gorman, P.E.

SUBJECT: ***Pre-application meeting letter for proposed extension of eastbound left turn lane located at NE 79th Street and Larry Paskow Way, State Road 934, Section 87080***

Dear Ms. Gorman:

This is to acknowledge the outcome of the subject meeting dated December 7, 2016 as well as other informal discussions. **This review is advisory in nature only, and the results are non-binding on the Department and the applicant.**

The proposed extension of the eastbound left turn lane will require a construction agreement from the Department to construct the extension and a landscape permit for the removal/relocation of existing trees in the median (the City as the applicant). Any other changes or work, related to the subject project within the Department's Right-of-Way, may require other permits from the Department accordingly.

The initial processing of the permit applications may take up to 30 days, in which this office will inform the applicant of any required additional information.

This review letter does not constitute preliminary or final Department's approval of the proposed project. Additionally, these preliminary comments may only be valid until such time as the site or roadway characteristics change. All plans shall comply with the Department's standards and specifications for design and construction.

Please include a copy of this letter with your permit application package. If you have any further questions, please feel free to contact me at (305) 470-5367

Sincerely,

Ali Al-Said, P.E.
District Permits Engineer

cc. Section File (87080)

PROJECT:	**7918 North Bay Village**	PROJECT NUMBER:	MIA 16109.00
DATE:	December 8, 2016	COMPANY:	P&O GLOBAL TECHNOLOGIES
PROJECT MANAGER:	Javier Sanchez, AIA	CLIENT CONTACT:	Maurizio Pejoves Director

ANALYSIS OF QUEUING FOR THE VALET PARKING OPERATION OF THE 7918 NORTH BAY VILLAGE PROJECT.

SUBJECT PROJECT DESCRIPTION:

The proposed project at 7918 West Drive, North Bay Village is a residential building with 77 apartment units and a 4 level garage with 4 car elevators and car lifts on all the levels. The garage will be Valet operated.

The garage levels are accessed via 4 independent car elevators and the parking count per level is as follows:

Level	Total Spaces	Car Lifts	Surface Spaces
• Ground Level	37 Parking Spaces	14(x2) Stackers	9 Surface Spaces
• Second Level	99 Parking Spaces	33(x3) Stackers	
• Third Level	66 Parking Spaces	33(x2) Stackers	
• Fourth Level	66 Parking Spaces	33(x2) Stackers	
TOTAL	**268 Spaces**	259 Lift Spaces	9 Surface Spaces

PURPOSE:

The purpose of this study is to measure the queue wait times and amount of patrons waiting to drop off or pick up their vehicles at peak hours at similar valet operations with car lifts in the Miami Dade area.

SAMPLE PROJECTS:

Hyatt Centric, Miami Beach

The first project selected to be compared due to its similarity to the subject project is The Hyatt Centric South Beach located at 1600 Collins Ave, in Miami Beach. The Hyatt Centric is a medium sized hotel with 107 rooms. This project has 2 levels of parking with 2 scissor elevators and 32 Klaus car lifts on the second floor. The ground level has 2 parking spaces (used mostly for larger SUVs and space for 6 cars in front of the scissor elevators. They also have 2 spaces of on street parking in

front of the drop off area that they use for queuing. The second level has a capacity of 64 vehicles with 16 bays of tandem spaces with 32 car lifts (4 cars per bay). 10 of the bays are to the south of the scissor elevator and 6 are to the north. The scissor elevators have doors to both sides. The scissor elevator takes about 1 minute to raise or lower a car once it is inside the lift.

The Hyatt Centric was studied on October 12th, 2016 during the hours of 8:00am – 10:30am and from 4:00pm – 7:00pm. During the observation periods there were no more than 2 guests at a time requesting cars from the second floor. There were never any queue lines to drop off car at the valet station during the observation period. The car that took the longest to retrieve was in the morning and the car was in a tandem space behind another car. It took the valet operators 6m 40s to bring the car down from the time of request to handing the key to the guest. Had this car been in a lift with cars in both tandem spaces it would have taken about a minute to move one additional car out and 30 seconds to bring the car down from the car lift. The worst case scenario for this facility, based on the measured information, is about 7m 10s to bring a car down from a lift in a tandem position with 2 cars at the bottom locations.

The efficiency of the operation of the Hyatt Centric relies on the amount of Valet runners assigned to it and that is determined on the expected demand for the operation coordinated with bookings and extraordinary activities. For their typical days the Valet Company has assigned 2 runners during the day shift (7:00am – 3:00pm) and 3 runners during the night shift (3:00pm – 11:00pm).

AC Marriott, Miami Beach

The AC Marriott located at 2912 Collins Ave, Miami Beach is a 150 room hotel with a parking garage with 146 parking spaces, 66 of those have car-lifts, parking spaces are accessed via ramps. From November 1st, 2016 to November 29th the valet operation handled 1,259 received vehicles and delivered 1,345 vehicles. The average time waiting for a vehicle was 2m 00s. At their peak hours (7:00am – 7:00pm) the longest wait was 3m 39s and the shortest wait 45s. The day with the most vehicle pickups was a Sunday with 90 pickups during the day and an average wait time of 1m 09s.

Acqualina Resort and Spa, Sunny Isles Beach

The Acqualina Resort and Spa located at 17875 Collins Ave, Sunny Isles Beach has 98 hotel rooms and 188 Condo units with a parking garage with 106 car lifts accessed via ramps and 56 regular parking spaces. In the week studied in the month of November the valet operation handled 1,198 vehicles. In the 7:00am – 3:00pm period the average wait time was 5-7 minutes. In the 3:00pm – 11:00pm the average wait time was 8-12 minutes and in the 11:00pm – 7:00am period the average wait time was 6-10 minutes. For the entire month of November the valet operation handled 11,274 vehicles.

The hotel and Spa uses at the Acqualina Resort make it harder for the valet operators to use the patterns of residential users as would be the case in the Subject Project at 7918 North Bay Village, thus the longer wait times.

Sayan Condo, Sunny Isles Beach

The Sayan Condo located at 16275 Collins Ave, Sunny Isles Beach has 90 condo units and a parking garage with 46 car lifts accessed via ramps. The wait times for the retrieval of vehicles fluctuate between 3 to 10 minutes at this property.

Brickell First Apartments, Miami

The Brickell First Apartment located at 110 SW 12th St, Miami is a 131 apartment building with a small valet operation of 40 surface spaces and 13 car lifts for visitors and some residents, the rest of the residents self-park in the garage in the building. The wait times for the retrieval of vehicles fluctuate between 2 to 5 minutes.

SUBJECT PROJECT 7918 North Bay Village:

The project at 7918 North Bay Village will have 4 independent car elevators model TKE Conventional CarLift; 8000lb, Plan II by Thyssen-Krupp, which are substantially faster than the scissor lifts of the Hyatt Centric. The car elevators that will be installed in the Subject Property don't require the valet runner to leave the vehicle and close the gate(s) before operating like a scissor lift would. On the car elevator the valet runner stays inside the vehicle and operates the controls from inside the car with the elevator doors opening and closing automatically, much like a modern people elevator does. The car elevator is faster going up and down too. These car elevators were timed at the Marea Condominium visited earlier at 801 South Point Drive, Miami Beach and it takes the car elevator on that property 1 minute to go up to the 4th floor of the garage from the time of entry at the ground floor to the time of exit at the fourth floor, proportionately less for levels 2 and 3.

The project at 7918 North Bay Village does not have any spaces in a tandem configuration, which will make the retrieval process easier than at the Hyatt Centric.

GROUND TIER

On the ground tier there are 9 surface spaces and 14 spaces with car lifts. The retrieval of the 23 spaces at grade should be the fastest of all the spaces in the building. The 14 on car lifts on the ground floor should add about 30 seconds to lower the car from a lift and about an additional minute if there is a car below that needs to be staged temporarily.

SECOND TIER

On the second tier there are 33 surface spaces, all of them with double car lifts, totaling 99 spaces. This level will be the most challenging in terms of managing the car lifts, at the same time this level is the best location in the building to have the double car lifts due to its capacity and it being the closest one to grade.

Bringing a car from the bottom location of a lift to the elevator will take about 1 minute, the elevator ride down to the ground level should be 20 seconds (assuming the elevator is at the second tier) and it should take another 40 seconds to drive the car out to the drop off area. In this (best case) scenario, it would take about 2 minutes from the moment the car is started to delivery at the drop off. Getting a car from the second or third car lift positions will add 30 seconds per car to bring down the lift and about 1 minute to drive the car out and stage it somewhere in the second floor, so 3m 30s and 5 minutes respectively from start of first car to delivery at the drop off area (again assuming the elevator is at the second floor). Additional time, 20-40 seconds, can be expected due to the elevator not being on this particular floor.

THIRD TIER

On the third tier there are 33 surface spaces, all of them with single car lifts, totaling 66 spaces.

Bringing a car from the bottom location of a lift to the elevator will take about 1 minute, the elevator ride down to the ground level should be 40 seconds (assuming the elevator is at the third tier) and it should take another 40 seconds to drive the car out to the drop off area. In this (best case) scenario, it would take about 2m 20s from the moment the car is started to delivery at the drop off. Getting a car from the second car lift position will add 30 seconds per car to bring down the lift and about 1 minute to drive the car below out and stage it somewhere in the third tier, so 3m 50s from start of first car to delivery at the drop off area (again assuming the elevator is at the third tier). Additional time, 20-40 seconds, can be expected due to the elevator not being on this particular floor.

FOURTH TIER

On the fourth tier there are 33 surface spaces, all of them with single car lifts, totaling 66 spaces.

Bringing a car from the bottom location of a lift to the elevator will take about 1 minute, the elevator ride down to the ground level should be 1 minute (assuming the elevator is at the fourth tier) and it should take another 40 seconds to drive the car out to the drop off area. In this (best) scenario, it would take about 2m 40s from the moment the car is started to delivery at the drop off. Getting a car from the second car lift position will add 30 seconds per car to bring down the lift and about 1 minute to drive the car below out and stage it somewhere in the fourth tier, so 4m 10s from start of first car to delivery at the drop off area (again assuming the elevator is at the fourth tier). Additional time, 20-60 seconds, can be expected due to the elevator not being on this particular floor.

CONCLUSION

The approximated times shown in this study are based on real world timing studies performed on projects in the Miami Beach area that have as similar characteristics as we could find to the subject property at 7918 North Bay Village. Estimated retrieval times on the upper tiers of the garage can run from 2 minutes to 5m 40s depending on the vehicle location, elevator(s) location and time it takes the valet runner(s) to get to the vehicle once it is requested. Proper management of the valet operation and assigned man power is essential to the successful operation of the proposed garage layout. Locating the vehicles with less demand in the 3rd level of the double car lifts on the second tier will greatly reduce retrieval time of vehicles with higher turnover. As the valet operation learns the patterns of the residents they will optimize the location of the vehicles to improve retrieval times.

Additional properties with car-lifts were also surveyed and data was obtained in terms of wait times for retrieval of vehicles. The wait times ranged from under a minute to 10 minutes in the properties with no commercial component, averaging 5 minutes or less in most cases. The Acqualina Resort and Spa had the longest wait time of all the properties studied at 12 minutes with the high volume and lack of patterns that commercial clients bring in a hotel and spa setting.

Sincerely,

Javier Sanchez, AIA
Project Manager
TimHaahs
40 NW 3rd Street, Suite 1102
Miami, FL 33128
T 305 592 7123 x16
E jsanchez@timhaahs.com www.timhaahs.com

Architects
Environmental
M/E/P
Surveyors

Engineers
Landscape Architects
Planners
Transportation/Traffic

5601 Mariner Street
Suite 105
Tampa, FL 33609
Phone: 813.288.0233
Fax: 813.288.0433

Memo

Date: October 23, 2016

To: Juan Azulay

Organization: MTTR MGMT

From: CPH, INC / Sandra Gorman, Traffic Department.

Re: 7914 West Drive Residential – North Bay Village, Florida

CPH Job No.: M18101

A traffic and queue analysis was previously performed for the proposed 77 unit condominium unit on West Drive in North Bay Village, Florida. At the request of the City's consultant, LaRue Planning, additional data was collected related to the proposed valet and vehicle lifts proposed for the parking garage. Also at the request of LaRue Planning, potential mitigation for the additional traffic was also evaluated. This memo summarizes the additional data collected related to the proposed parking and traffic impacts.

Traffic Analysis

The project is anticipated to generate approximately 41 trips during the AM Peak Hour (8 Entry/33 Exit) and 60 trips during the PM Peak Hour (39 Entry/21 Exit). The 0.77 acre project proposes an increase density from 70 units per acre to 100 units per acre. At the current density, the property has the trip potential of 47 PM Peak Hour Trips. The proposed change reflects a potential increase of approximately 13 trips for the property compared to the existing land use density.

The traffic analysis indicated that the additional traffic associated with the proposed project is not anticipated to have a significant impact on the surrounding roadway network. There is concern that the eastbound left turn movement at SR 934 & Larry Paskow Way is currently exceeding the storage available for the left turn lane. The proposed project is anticipated to add 7 trips during the AM Peak Hour and 29 trips during the PM Peak Hour to this movement. This is approximately 1 vehicle per traffic signal cycle during the PM Peak Hour.

The eastbound left turn lane is currently 250 feet in length, under existing and background conditions (without the addition of project traffic), the 95th percentile queue experienced is approximately 275 feet, which exceeds the turn lane length prior to the addition of project traffic. It should be noted that this is an existing deficiency and not the result of the additional project traffic.

Modifying the signal timings to allow additional green time for the protected left turn movement is anticipated to resolve the overflow of the eastbound left turn movement and accommodate project traffic. It is recommended, in addition to the signal timing adjustment, that the existing left turn lane at SR 934 & Larry Paskow Way be extended by 100 feet as illustrated in **Figure 1** attached. The extension would accommodate the existing and background queues currently experienced, as well as the additional queue anticipated by the addition of project traffic.

Queue Analysis

Previously performed queue analysis for the valet parking services indicated that no queue beyond the available storage areas is anticipated if the average service time remains between 4 and 6 minutes. At the request of LaRue Planning, observations were conducted at locations with similar parking configurations to the proposed parking garage including valet services and vehicle lifts. Tim Haahs parking consultants were engaged to evaluate similar parking structures in the area. The Hyatt Centric South Beach located at 1600 Collins Ave, in Miami Beach was chosen as the closest available site to study.

Tim Haahs observed typical operations during the AM and PM Peak Periods for a weekday of a non-holiday week. No external queue was observed during the observations, however detailed measurements and data was collected relating to the operations of the elevator lifts and valet services. Using the data collected during the observations, Tim Haahs calculated the typical service times associated with the proposed project for each parking level proposed. It was concluded that the typical time for retrieval would range from 2 minutes to a maximum of 5 minutes 40 seconds for the upper parking levels.

The data collected by Tim Haahs supports the calculations provided in the original queue analysis which concluded that with service times under 6 minutes, the queue would not exceed the available staging and stacking area for the proposed project.

Attached you will find the documentation from Tim Haahs. I hope this additional information is helpful, if you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,
CPH, Inc.

Sandra L. Gorman, P.E.
Senior Traffic Engineer

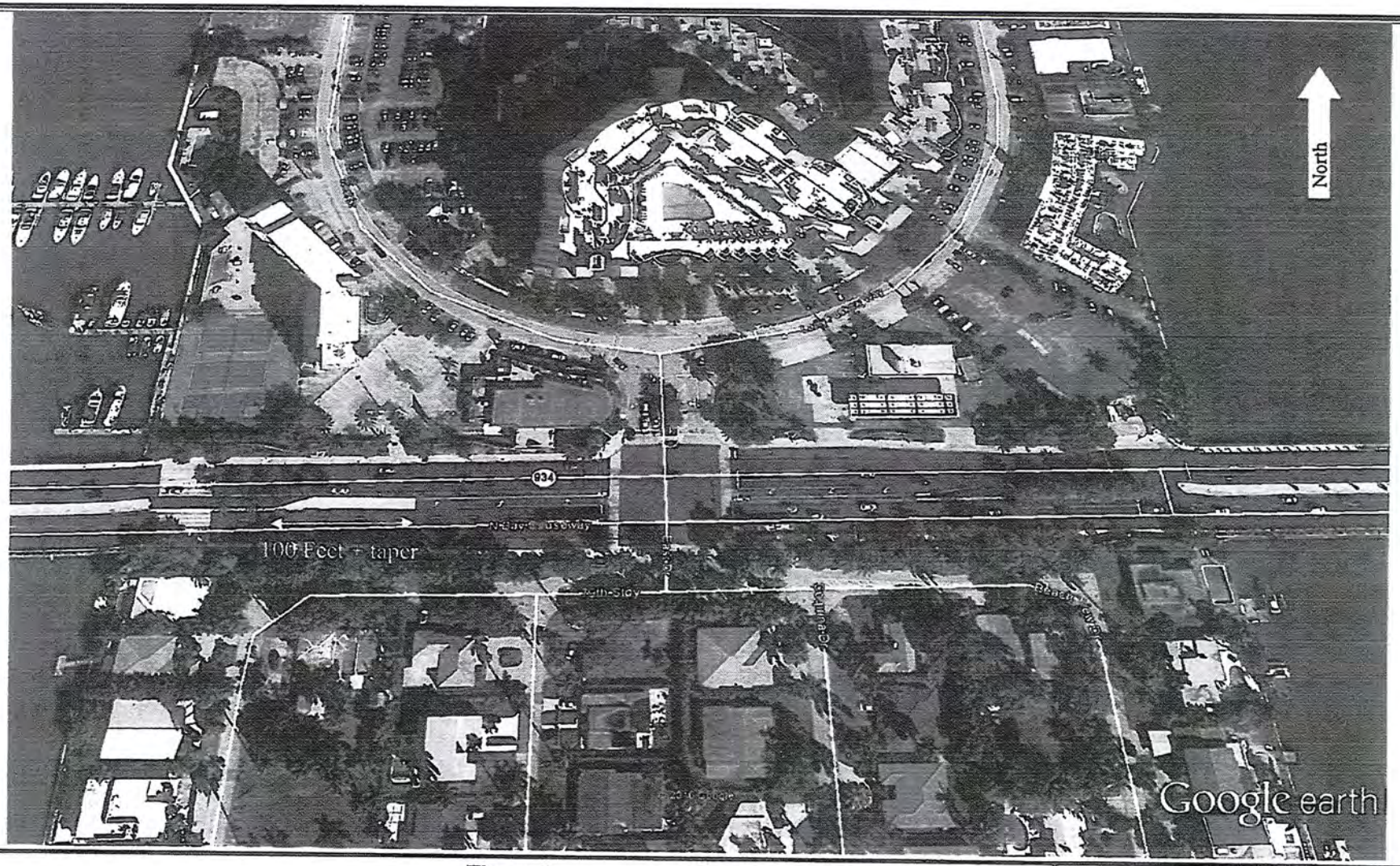

Figure 1
Proposed Traffic Mitigation
7914 West Drive Residential
(Not to Scale)

cph
Engineers
Architects
Planners
Landscape Architects
Transportation/Traffic
Surveyors
Environmental Scientists
Construction Management

TimHaahs

Study

PROJECT:	**7918 North Bay Village**	PROJECT NUMBER:	MIA 16109.00
DATE:	October 21, 2016	COMPANY:	P&O GLOBAL TECHNOLOGIES
PROJECT MANAGER:	Javier Sanchez, AIA	CLIENT CONTACT:	Maurizio Pejoves Director

ANALYSIS OF QUEUING FOR THE VALET PARKING OPERATION OF THE 7918 NORTH BAY VILLAGE PROJECT.

SUBJECT PROJECT DESCRIPTION:

The proposed project at 7918 West Drive, North Bay Village is a residential building with 70 apartment units and a 4 level garage with 4 car elevators and car lifts on all the levels. The garage will be Valet operated.

The garage levels are accessed via 4 independent car elevators and the parking count per level is as follows:

Level	Total Spaces	Car Lifts	Surface Spaces
• Ground Level	37 Parking Spaces	14(x2) Stackers	9 Surface Spaces
• Second Level	99 Parking Spaces	33(x3) Stackers	
• Third Level	66 Parking Spaces	33(x2) Stackers	
• Fourth Level	66 Parking Spaces	33(x2) Stackers	
TOTAL	**268 Spaces**	259 Lift Spaces	9 Surface Spaces

PURPOSE:

The purpose of this study is to measure the queue wait times and amount of patrons waiting to drop off or pick up their vehicles at peak hours at a similar valet operation with car lifts in the Miami Dade area.

SAMPLE PROJECT:

The project selected to be compared due to its similarity to the subject project is The Hyatt Centric South Beach located at 1600 Collins Ave, in Miami Beach. It is a medium sized hotel with 107 rooms.This project has 2 levels of parking with 2 scissor elevators and 32 Klaus car lifts on the second floor. The ground level has 2 parking spaces (used mostly for larger SUVs and space for 6 cars in front of the scissor elevators. They also have 2 spaces of on street parking in front of the drop off area that they use for queuing. The second level has a capacity of 64 vehicles with 16 bays of tandem spaces with 32 car lifts (4 cars per bay). 10 of the bays are to the south of the scissor

elevator and 6 are to the north. The scissor elevators have doors to both sides. The scissor elevator takes about 1 minute to raise or lower a car once it is inside the lift.

The Hyatt Centric was studied on October 12th, 2016 during the hours of 8:00am – 10:30am and from 4:00pm – 7:00pm. During the observation periods there were no more than 2 guests at a time requesting cars from the second floor. There were never any queue lines to drop off car at the valet station during the observation period. The car that took the longest to retrieve was in the morning and the car was in a tandem space behind another car. It took the valet operators 6m 40s to bring the car down from the time of request to handing the key to the guest. Had this car been in a lift with cars in both tandem spaces it would have taken about a minute to move one additional car out and 30 seconds to bring the car down from the car lift. The worst case scenario for this facility, based on the measured information, is about 7m 10s to bring a car down from a lift in a tandem position with 2 cars at the bottom locations.

The efficiency of the operation of the Sample Project relies on the amount of Valet runners assigned to it and that is determined on the expected demand for the operation. In this case the Valet Company has assigned 2 runners during the day shift (7:00am – 3:00pm) and 3 runners during the night shift (3:00pm – 11:00pm).

SUBJECT PROJECT 7918 North Bay Village:

The project at 7918 North Bay Village will have 4 independent car elevators which are substantially faster than the scissor elevators of the Sample Project. The car elevators that will be installed in the Subject Property don't require the valet runner to leave the vehicle and close the gate(s) before operating like a scissor elevator would. On the car elevator the valet runner stay inside the vehicle and operates the controls from inside the car with the elevator doors opening and closing automatically, much like a modern people elevator does. The car elevator is faster going up and down too. These car elevators were timed at the Marea Condominium visited earlier at 801 South Point Drive, Miami Beach and it takes the car elevator on that property 1 minute to go up to the 4th floor of the garage from the time of entry at the ground floor to the time of exit at the fourth floor, proportionately less for levels 2 and 3. These are the same elevators that will be used at the Subject Project.

The project at 7918 North Bay Village does not have any spaces in a tandem configuration, which will make the retrieval process easier than at the Hyatt Centric.

GROUND TIER

On the ground tier there are 9 surface spaces and 14 spaces with car lifts. The retrieval of the 23 spaces at grade should be the fastest of all the spaces in the building. The 14 on car lifts on the ground floor should add about 30 seconds to lower the car from a lift and about an additional minute if there is a car below that needs to be staged temporarily.

SECOND TIER

On the second tier there are 33 surface spaces, all of them with double car lifts, totaling 99 spaces. This level will be the most challenging in terms of managing the car lifts, at the same time this level is the best location in the building to have the double car lifts due to its capacity and it being the closest one to grade.

Bringing a car from the bottom location of a lift to the elevator will take about 1 minute, the elevator ride down to the ground level should be 20 seconds (assuming the elevator is at the second tier) and it should

Study

take another 40 seconds to drive the car out to the drop off area. In this (best case) scenario, it would take about 2 minutes from the moment the car is started to delivery at the drop off. Getting a car from the second or third car lift positions will add 30 seconds per car to bring down the lift and about 1 minute to drive the car out and stage it somewhere in the second floor, so 3m 30s and 5 minutes respectively from start of first car to delivery at the drop off area (again assuming the elevator is at the second floor). Additional time, 20-40 seconds, can be expected due to the elevator not being on this particular floor.

THIRD TIER

On the third tier there are 33 surface spaces, all of them with single car lifts, totaling 66 spaces.

Bringing a car from the bottom location of a lift to the elevator will take about 1 minute, the elevator ride down to the ground level should be 40 seconds (assuming the elevator is at the third tier) and it should take another 40 seconds to drive the car out to the drop off area. In this (best case) scenario, it would take about 2m 20s from the moment the car is started to delivery at the drop off. Getting a car from the second car lift position will add 30 seconds per car to bring down the lift and about 1 minute to drive the car below out and stage it somewhere in the third tier, so 3m 50s from start of first car to delivery at the drop off area (again assuming the elevator is at the third tier). Additional time, 20-40 seconds, can be expected due to the elevator not being on this particular floor.

FOURTH TIER

On the fourth tier there are 33 surface spaces, all of them with single car lifts, totaling 66 spaces.

Bringing a car from the bottom location of a lift to the elevator will take about 1 minute, the elevator ride down to the ground level should be 1 minute (assuming the elevator is at the fourth tier) and it should take another 40 seconds to drive the car out to the drop off area. In this (best) scenario, it would take about 2m 40s from the moment the car is started to delivery at the drop off. Getting a car from the second car lift position will add 30 seconds per car to bring down the lift and about 1 minute to drive the car below out and stage it somewhere in the fourth tier, so 4m 10s from start of first car to delivery at the drop off area (again assuming the elevator is at the fourth tier). Additional time, 20-60 seconds, can be expected due to the elevator not being on this particular floor.

CONCLUSION

The approximated times shown in this study are based on real world timing studies performed on projects in the Miami Beach area that have as similar characteristics as we could find to the subject property at 7918 North Bay Village. Estimated retrieval times on the upper tiers of the garage can run from 2 minutes to 5m 40s depending on the vehicle location, elevator(s) location and time it takes the valet runner(s) to get to the vehicle once it is requested. Proper management of the valet operation and assigned man power is essential to the successful operation of the proposed garage layout. Locating the vehicles with less demand in the 3rd level of the double car lifts on the second tier will greatly reduce retrieval time of vehicles with higher turnover.

Sincerely,

Javier Sanchez, AIA
Project Manager
TimHaahs
40 NW 3rd Street, Suite 1102
Miami, FL 33128
T 305 592 7123 x16
E jsanchez@timhaahs.com www.timhaahs.com

TimHaahs

7918 WEST DRIVE

NORTH BAY VILLAGE, FLORIDA

July 2nd, 2015

BASIC PACKET FOR NBV COMMISSION

POGT

224 Commercial Blvd.
Lauderdale-by-the-Sea

Matter Management LLC
2 NE 40th St #301, Miami, FL

Executive Summary

BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

Direct: 305-377-6229
E-Mail: gpenn@brzoninglaw.com

VIA HAND DELIVERY

June 30, 2015

Frank Rollason,
Village Manager
North Bay Village
1666 Kennedy Causeway, 3rd Floor
North Bay Village, Florida 33141

RE: 7918 West Drive Development Proposal.

Dear Mr. Rollason:

Our law firm represents P&O Global Technologies, Inc. (the "Developer"), the owner of 7914-7918 West Drive (the "Property"). Please consider this letter the Developer's letter outlining a development proposal for the Property that we believe will bring significant public benefits to the Village. I am enclosing a package that includes additional information on the proposal.

Proposed Development. The Developer is proposing to locate a seventy-seven (77) unit residential building on three vacant lots in the Village's RM-70 zoning district. As you know, the Property lies immediately to the south of the Village's Vogel Park, a small but very important recreational area in a portion of the Village that otherwise has no public recreational facilities. The Developer proposes to improve the park and expand the public access onto adjacent private property. At the same time, the project proposes to provide the Village with compensation for the residential units that hypothetically could be developed on the park.

Park Improvements. The Developer has committed to designing and constructing a package of improvements to Vogel Park at the time the 7918 West Drive project is being constructed. Subject to Village approval, those improvements will include a shoreline walkway, boardwalk, play area improvements, a splash area, and/or other recreational facilities chosen by the Village. The Developer will prepare the park design without seeking credits of impact fees or other City or County fees. The Developer will seek credits for the value of the construction of the improvements against the compensation due to the Village for the residential units transferred from the Park. The Developer in not proposing to remove any of the existing improvements or facilities from the Park.

Expansion of Public Area. Vogel Park is 22,400 square feet in size. The Developer proposes to provide the Village with an easement over the north 24 feet of the Property to allow that area to be incorporated into the park. The Developer will design this area of its Property so that it serves to extend the park further south. The grant of the easement would result in the park's useful space increasing in size by approximately 15% at no cost to the Village or taxpayers.

Required Steps. Even without the park improvements and functional expansion proposed by the developer, the 7918 West Drive project would represent a signature development for the Village. The proposed design of 7918 West Drive shows the benefits of taller and thinner construction in reducing visual impacts, which the Village has already recognized in its adopted the Bayview Overlay regulations.

In order to realize this unique vision, the Developer contemplates that the following steps would be necessary:

- Comprehensive plan text changes to add Vogel Park to the list of City's parcels from which residential units may be transferred.

- Adoption of zoning text changes to permit the transfer of development rights from Vogel Park to qualifying sites.
- Creation of a new overlay ordinance permitting certain developments within the RM-70 zone to reach 340 feet in height as long as the tower portion of the building does not exceed 45% of the lot width.
- Adoption of an ordinance allowing valet parking garages to include car elevators and mechanical lifts.
- Approval of a development agreement governing, among other things, the development of Vogel Park.
- Site plan and variance approvals.

We look forward to the Village's review of our proposal. If you have questions or concerns, please call me at (305) 377-6229.

Sincerely,

Graham Penn

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2.0 Park Improvements

3.0 Expansion of Public Area

4.0 Required Steps

5.0 Possible Uses for Vogel Park

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P 9: View from West Drive & Slender Building
P 12: Diagram and Zoning Application
P 13-14: Slender Building & Integrated Public Park
P 15: Integrated Setback Diagram
P 16-17: Possible Uses for Vogel Park

INTEGRATED PARK & BOARDWALK

PUBLIC BOARDWALK

VIEW FROM WEST DRIVE / SLENDER BUILDING

7918 West Drive

Public Benefits and Required Steps

• The 7918 West Drive project proposes to locate a seventy-seven (77) unit residential building on three vacant lots in the Village's RM-70 zoning district.

• The 7918 West Drive parcel is located immediately south of the Village's Vogel Park, a small but very important recreational area in a portion of the Village that otherwise has no public recreational facilities.

• The 7918 West Drive project proposes to improve the park and expand the public access onto adjacent private property at no cost to the Village or taxpayers. At the same time, the project proposes to provide the Village with compensation for the residential units that hypothetically could be developed on the park.

Park Improvements

• The 7918 West Drive developer has committed to designing and constructing a package of improvements to Vogel park at the time the 7914 West Drive project is being constructed.

• Subject to Village approval, those improvements will include a shoreline walkway, play area improvements, a splash area, and/or other recreational facilities chosen by the Village.

• The developer will prepare the park design without seeking credits of impact fees or other City or County fees. The developer will seek credits for the value of the construction of the improvements against the compensation due to the Village for the residential units transferred from the Park.

• The developer is not proposing to remove any of the existing improvements or facilities from the Park.

Expansion of Public Area

• Vogel Park is 22,400 square feet in size. The developer proposes to provide the Village with an easement over the north 24 feet of the developer's property to allow that area to be incorporated into the park.

• The developer would design this area of its property so that it serves to extend the park further south.

• The easement grant would result in the park's useful space increasing in size by approximately 15% at no cost to the Village or taxpayers.

Required Steps

- Even without the park improvements and functional expansion proposed by the developer, the 7918 West Drive project would represent a signature development for the village.
- The proposed design of 7918 West Drive shows the benefits of taller and thinner construction in reducing visual impacts, which the Village has already recognized in adopted the Bayview Overlay regulations.
- In order to realize this unique vision, the developer contemplates that the following steps would be necessary:

    a. Comprehensive plan text changes to add Vogel Park to the list of City's parcels from which residential units may be transferred.

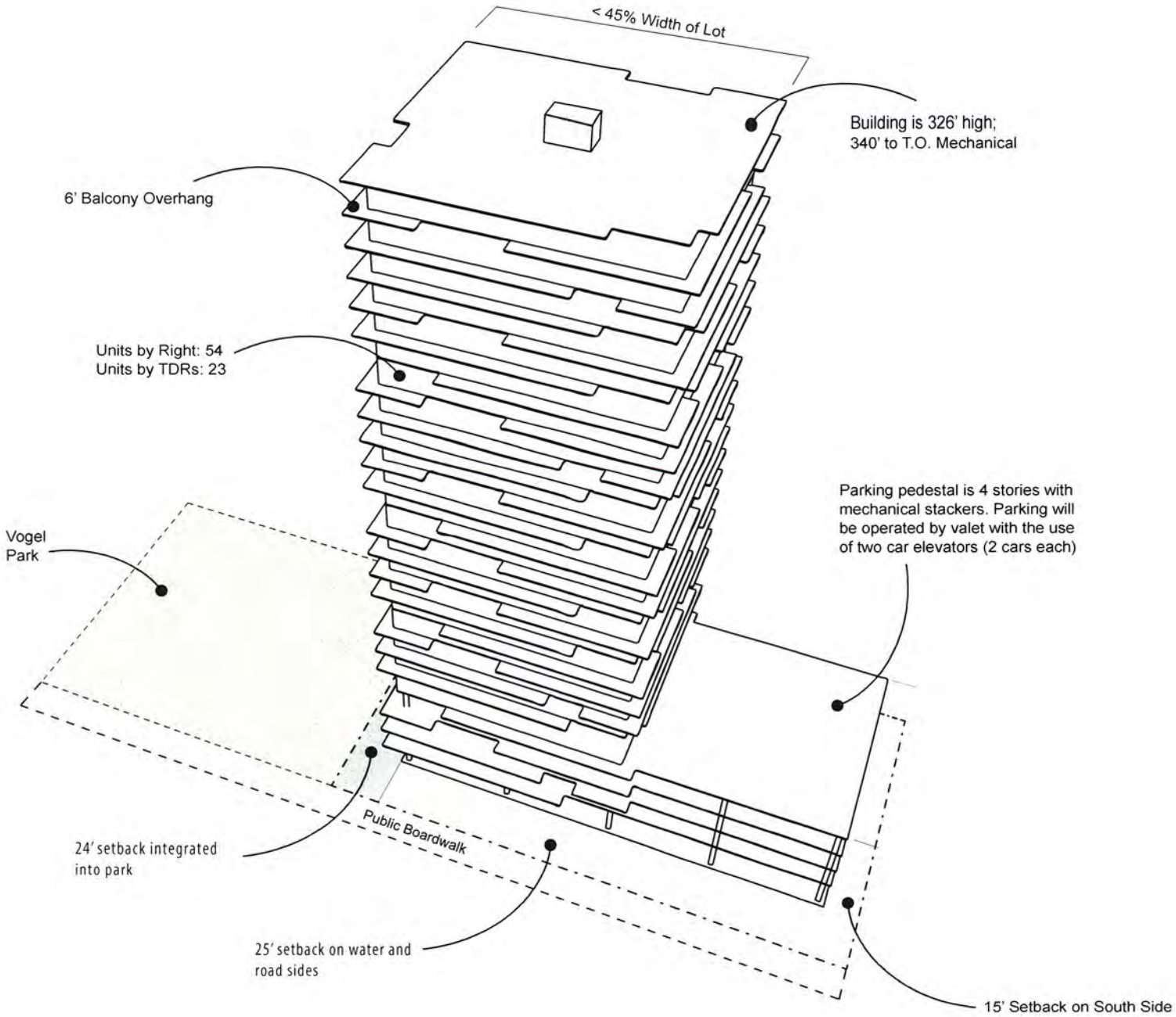
    b. Adoption of zoning text changes to permit the transfer of development rights from Vogel Park to qualifying sites.

    c. Creation of a new overlay ordinance permitting certain developments within the RM-70 zone to reach 340 feet in height as long as the tower portion of the building does not exceed 45% of the lot width.

    d. Adoption of an ordinance allowing valet parking garages to include car elevators and mechanical lifts.

    e. Approval of a development agreement governing, among other things, the development of Vogel Park.

    f. Site plan and variance approvals.


< 45% Width of Lot
Building is 326' high;
340' to T.O. Mechanical
6' Balcony Overhang
Units by Right: 54
Units by TDRs: 23
Vogel
Park
Parking pedestal is 4 stories with mechanical stackers. Parking will be operated by valet with the use of two car elevators (2 cars each)
Public Boardwalk
24' setback integrated into park
25' setback on water and road sides
15' Setback on South Side

SLENDER BUILDING & INTEGRATED PUBLIC PARK

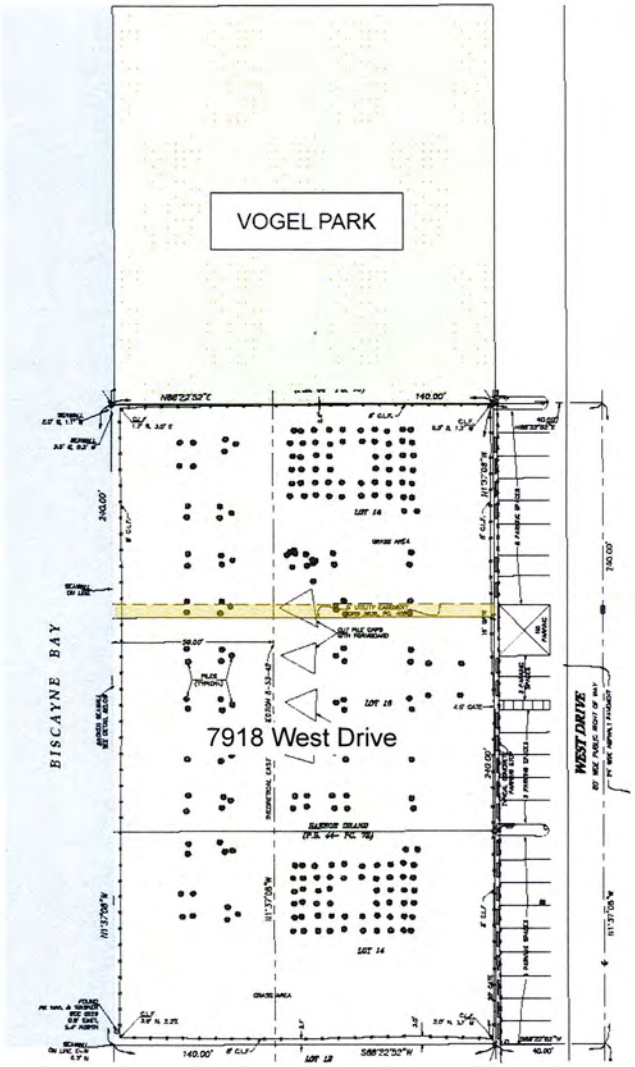
VIEW 02 | PARK & STREET

SLENDER BUILDING & INTEGRATED PUBLIC PARK

VIEW 03 | PARK

INTEGRATE SETBACK INTO VOGEL PARK

BEFORE



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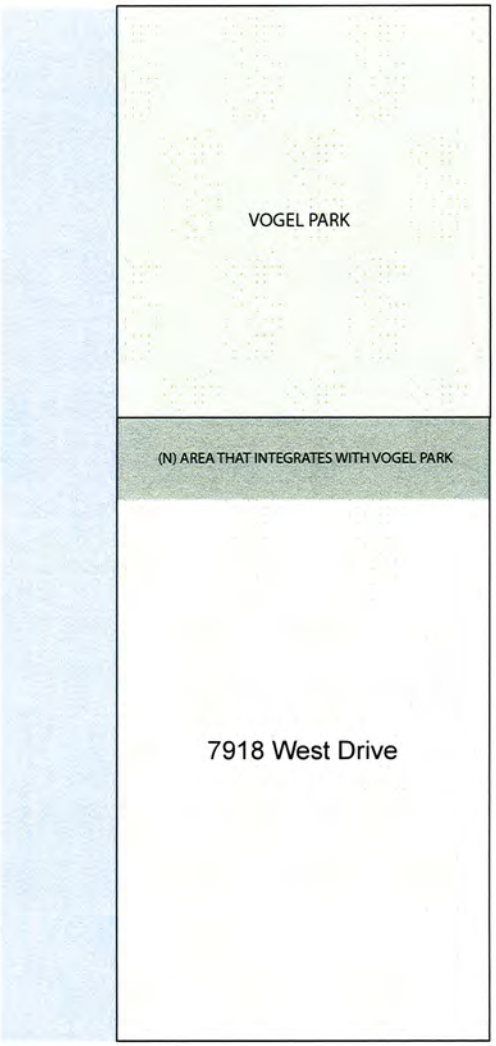
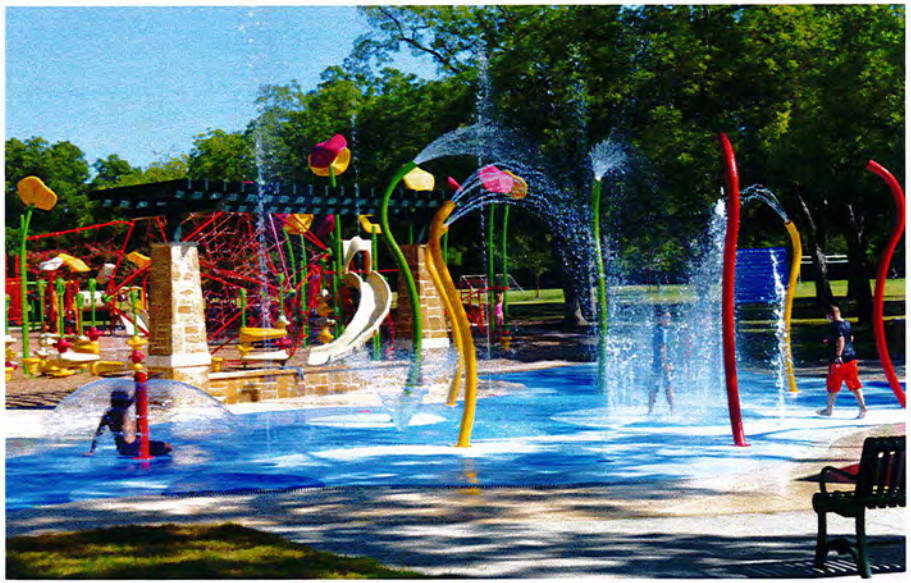


POSSIBLE PARK USE: **SPLASH PARK**



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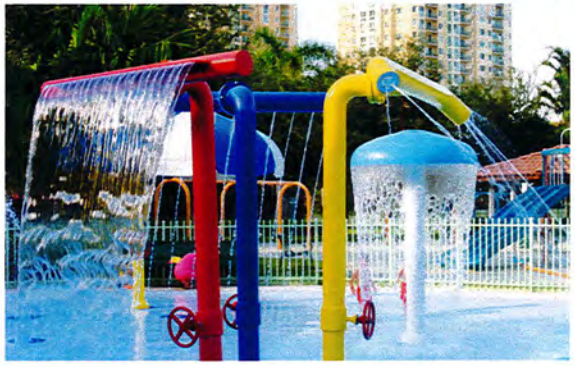

Splash Park in Aventura, FL

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 P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

A. AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK; TRANSFERRING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR. PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT; PROVIDING THAT SITE DENSITY ALLOWED SHALL NOT EXCEED 100 RESIDENTIAL DWELLING UNITS PER ACRE.

B. AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, CHAPTER 152, CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY; PERMITTING ADDITIONAL HEIGHT; REDUCED SIDE SETBACKS; AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.

C. AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.

I, Yvonne P. Hamilton, Village Clerk, hereby certify that that the petition filed hereto is correct.

Dated this 13th day of December 2016.

Yvonne P. Hamilton
Village Clerk

(North Bay Village Planning & Zoning Board Meeting – January 17, 2017)

Mayor	Commissioner	Commissioner	Commissioner
Connie Leon-Kreps	**Jose Alvarez**	**Andreana Jackson**	**Eddie Lim**

North Bay Village
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1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141
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I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on January 17, 2017 was posted at the above-referenced property on January 9, 2017.

Dated this 9th day of January 2017.

Yvonne P. Hamilton, CMC
Village Clerk

(North Bay Village Planning & Zoning Board Meeting-1-17-2017)

Mayor **Connie Leon-Kreps** | Vice Mayor **Jorge Gonzalez** | Commissioner **Dr. Richard Chervony** | Commissioner **Andreana Jackson** | Commissioner **Eddie Lim**

North Bay Village
Administrative Offices
1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141
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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 January 6, 2017.

Dated this 6th day of January 2017.

Yvonne P. Hamilton, CMC
Village Clerk

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 ***JANUARY 17, 2017 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 HEAR THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK; TRANSFERRING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR. PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT; PROVIDING THAT SITE DENSITY ALLOWED SHALL NOT EXCEED 100 RESIDENTIAL DWELLING UNITS PER ACRE.**

   B. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, CHAPTER 152, CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY; PERMITTING ADDITIONAL HEIGHT; REDUCED SIDE SETBACKS; AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.**

   C. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.**

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 VILLAGE 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. 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
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(JANUARY 5, 2017)

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N. BAY VILLAGE, FL 33141

OWNER/OCCUPANT
7910 WEST DR., APT 307
N. BAY VILLAGE, FL 33141

OWNER/OCCUPANT
7910 WEST DR., APT 308
N. BAY VILLAGE, FL 33141

OWNER/OCCUPANT
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OWNER/OCCUPANT
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N. BAY VILLAGE, FL 33141

OWNER/OCCUPANT
7910 WEST DR., APT 312
N. BAY VILLAGE, FL 33141

OWNER/OCCUPANT
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BUSINESS MANAGER
OFFICE
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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 ***JANUARY 17, 2017 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 HEAR THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK; TRANSFERRING UP TO 36 RESIDENTIAL DWELLING *UNITS FROM DR. PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION* TO PROVIDE MEANINGFUL PUBLIC BENEFIT; PROVIDING THAT SITE DENSITY ALLOWED SHALL NOT EXCEED 100 RESIDENTIAL DWELLING UNITS PER ACRE.**

   B. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, CHAPTER 152, CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY; PERMITTING ADDITIONAL HEIGHT; REDUCED SIDE SETBACKS; AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.**

   C. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.**

2. **AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE**

3. **AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, REPEALING ALL CHAPTERS OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING CHAPTER 1 GENERAL PROVISIONS, CHAPTER 2 ADMINISTRATIVE AND LEGISLATIVE PROCEDURES, CHAPTER 3 LAND USE, CHAPTER 4 CONSISTENCY AND CONCURRENCY DETERMINATIONS, CHAPTER 5 DESIGN STANDARDS AND CHAPTER 6 FLOOD DAMAGE PREVENTION; REPEALING APPENDICES OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING APPENDIX A APPLICATIONS, APPENDIX B BUILDING PERMIT APPLICATION, APPENDIX C DEPARTMENT OF COMMUNITY AFFAIRS LETTER, APPENDIX D SHORELINE REVIEW CHECKLIST AND QUESTIONNAIRE, APPENDIX E CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION, APPENDIX H FLOOD CONTROL; REPEALING LAND DEVELOPMENT CODE COMPARATIVE TABLE OF ORDINANCES, REPEALING CHAPTERS OF THE VILLAGE CODE OF ORDINANCES INCLUDING CHAPTER 152 ZONING AND CHAPTER 155 DESIGN GUIDELINE STANDARDS; REPEALING APPENDIX B OF THE VILLAGE CODE OF ORDINANCES ENTITLED SIGN ILLUSTRATION; ADOPTING A NEW UNIFIED LAND DEVELOPMENT CODE INCLUDING CHAPTER 1 GENERAL, CHAPTER 2 RELATIONSHIP TO THE COMPREHENSIVE PLAN, CHAPTER 3 DEFINITIONS, CHAPTER 4 ADMINISTRATION AND ENFORCEMENT, CHAPTER 5 PERMITS AND DEVELOPMENT APPROVALS, CHAPTER 6 NONCONFORMITIES, CHAPTER 7 VARIANCES, CHAPTER 8 ZONING, CHAPTER 9 GENERAL SITE DESIGN STANDARDS, CHAPTER 10 *FLOOD* DAMAGE PREVENTION, CHAPTER 11 SIGNS, CHAPTER 12 ADULT ENTERTAINMENT, CHAPTER 13 VACATION RENTAL LICENSE PROGRAM, CHAPTER 14 MARIJUANA DISPENSARIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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 VILLAGE 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. 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
(DECEMBER 15, 2016)

ORDINANCE NO. _____

AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, REPEALING ALL CHAPTERS OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING CHAPTER 1 GENERAL PROVISIONS, CHAPTER 2 ADMINISTRATIVE AND LEGISLATIVE PROCEDURES, CHAPTER 3 LAND USE, CHAPTER 4 CONSISTENCY AND CONCURRENCY DETERMINATIONS, CHAPTER 5 DESIGN STANDARDS AND CHAPTER 6 FLOOD DAMAGE PREVENTION; REPEALING APPENDICES OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING APPENDIX A APPLICATIONS, APPENDIX B BUILDING PERMIT APPLICATION, APPENDIX C DEPARTMENT OF COMMUNITY AFFAIRS LETTER, APPENDIX D SHORELINE REVIEW CHECKLIST AND QUESTIONNAIRE, APPENDIX E CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION, APPENDIX H FLOOD CONTROL; REPEALING LAND DEVELOPMENT CODE COMPARATIVE TABLE OF ORDINANCES, REPEALING CHAPTERS OF THE VILLAGE CODE OF ORDINANCES INCLUDING CHAPTER 152 ZONING AND CHAPTER 155 DESIGN GUIDELINE STANDARDS; REPEALING APPENDIX B OF THE VILLAGE CODE OF ORDINANCES ENTITLED SIGN ILLUSTRATION; ADOPTING A NEW UNIFIED LAND DEVELOPMENT CODE INCLUDING CHAPTER 1 GENERAL, CHAPTER 2 RELATIONSHIP TO THE COMPREHENSIVE PLAN, CHAPTER 3 DEFINITIONS, CHAPTER 4 ADMINISTRATION AND ENFORCEMENT, CHAPTER 5 PERMITS AND DEVELOPMENT APPROVALS, CHAPTER 6 NONCONFORMITIES, CHAPTER 7 VARIANCES, CHAPTER 8 ZONING, CHAPTER 9 GENERAL SITE DESIGN STANDARDS, CHAPTER 10 FLOOD DAMAGE PREVENTION, CHAPTER 11 SIGNS, CHAPTER 12 ADULT ENTERTAINMENT, CHAPTER 13 VACATION RENTAL LICENSE PROGRAM, CHAPTER 14 MARIJUANA DISPENSARIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. ***(INTRODUCED BY VILLAGE MANAGER FRANK ROLLASON)***

WHEREAS, Florida Statute 166.01 authorizes cities to establish, coordinate and enforce zoning and development laws that are necessary for the protection of the public; and

WHEREAS, the North Bay Village (the Village) desires to unite separate land development regulations into a comprehensive Unified Land Development Code; and

WHEREAS, the North Bay Village Unified Land Development Code is wholly consistent with the Village's Comprehensive Plan and the Florida Comprehensive Planning Act; and

NOW, THEREFORE, BE IT ENACTED BY THE VILLAGE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** Each of the above stated recitals is true and correct and incorporated herein by this reference.

Section 2. Village Code Amended. North Bay Village Code of Ordinances is hereby revised as follows:

Attachment A: Consolidated Land Development Regulations are hereby repealed.
Attachment B: Code of Ordinances Chapter 152 – Zoning and Chapter 155 - Design Guideline Standards, are hereby repealed.
Attachment C: Unified Land Development Code is hereby created.

Section 3. Repeal. All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 4. Severability. The provisions of this Ordinance are declared to be non-severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall render this Ordinance void in its entirety.

Section 5. Inclusion in the Code. It is the intention of the Village Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

A motion to approve the foregoing Ordinance on first reading on_____ was offered by _____, seconded by_____.

The Votes were as follows:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

A motion to adopt the foregoing Ordinance was offered by _____, seconded by_____.

FINAL VOTES AT ADOPTION:

Mayor Connie Leon-Kreps _____
Commissioner Jose R. Alvarez _____
Commissioner Dr. Douglas N. Hornsby _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

DULY PASSED AND ADOPTED __ day of _____ 2017.

_____
Connie Leon-Kreps
Mayor

ATTEST:

_____

Yvonne P. Hamilton, CMC
Village Clerk

APPROVED AS TO FORM FOR THE USE OF NORTH BAY VILLAGE ONLY:

_____

Robert L. Switkes & Associates, P.A.
Village Attorney

LaRue Planning
& Management Services, Inc.

Memorandum

To: Planning & Zoning Board
From: James G. LaRue, AICP
Date: January 3, 2017
Subject: The Proposed Land Development Code Re-write

The Land Development Code (LDC) re-write has been an ongoing process for the last several years, with numerous sessions before the Planning & Zoning (P&Z) Board in 2014 and 2015. Additionally, issues arose over the last year which required short term fixes in the Village LDC. Those code revisions have been incorporated into the new unified LDC and it is now even more important for us to focus on the long-term impact of adopting a better and more comprehensive Land Development Code that will replace our current disjointed land development regulations. The public hearing at the meeting on January 17, 2017 will be the official P&Z review of the unified LDC prior to the Commission's adoption hearings.

To briefly summarize, there are several reasons for adopting a unified LDC, including contradictions in our current land use regulations, existing unclear or ambiguous language, the need for processes to be streamlined, outdated references, duplications, and current issues that require legislative responses.

The source of the content for our new unified LDC comes mainly from zoning Chapter 152, Chapter 155 and the consolidated Chapters 1-6. The format of the new code will be in chapter format similar to our current consolidated regulations. Chapters 152, 155, and 1 – 6, can all be removed concurrently with the adoption of the new unified LDC.

At the January 17th meeting, we will describe the format of our new proposed code, highlight the major differences between our new code and the existing regulations, and highlight the major areas of the current land use regulations we are changing.

We have enclosed the proposed LDC document for your review. In addition, the following pages outline the significant changes by Chapter.

Ch. I –GENERAL

Reestablished one Village Land Development Code consistent with the Comprehensive Plan state requirements.

Ch. II – RELATIONSHIP TO THE COMPREHENSIVE PLAN

Modified text to more appropriately describe the relationship between the Comp Plan and the LDC.

- The Government Use District is consistent with the Public Buildings and Grounds Future Land Use Category (FLUC)
- RS-2 District is consistent with the Educational FLUC
- RM-40 District is consistent with the Recreational FLUC

Ch. III – DEFINITIONS

Specialized definitions necessary for: grow house, marijuana, marijuana based product, marijuana dispensary, mobile marijuana dispensary. (Other definitions will be included in the final process of the LDC.)

Ch. IV – ADMINISTRATION AND ENFORCEMENT

Included:

- More detailed purpose and intent statement
- Detailed procedure for obtaining an official interpretation of the LDC

Changed terms:

- "non-use exception" to "use exception"
- "non-use variance" to "non-hardship variance for single-family properties"

Changed §4.15 to reference and be consistent with the Community Planning Act (HB 7207)

Ch. V – PERMITS AND DEVELOPMENT APPROVALS

Added a new §5.14C covering the handling of permits that are erroneously issued.

Added new section covering vacation of streets, alleys, easements & public rights-of-way.

Ch. VI – NONCONFORMITIES

Added a new §6.5B to address nonconforming lots in the CG District.

Changed §6.6B to:

- Replace provision allowing changing a nonconforming use to a "more restrictive category of nonconforming use" to prohibit changing a nonconforming use to any other nonconforming use.
- Replace allowed destruction of nonconforming use from "more than 50%" to "50% or less".
- Clarify what is not allowed when a nonconforming use is destroyed and replaced.

Ch. VII – VARIANCES

Changed §7.4A to:

- Replace the term "non use variance" to "non-hardship variance for single-family properties"
- Identify those characteristics of use for which such variances may be granted.
- Limit these non-hardship variances only to single-family uses.
- Clarify that such variances will be heard at Public Hearings before the Planning and Zoning Board and then the Village Commission.

Added provisions in §§7.4B & C and §§ 7.5 & 7.6 that:

- Include criteria for the P&Z Board recommendation and Village Commission approval of a non-hardship variance on a single-family property.
- Extend the time of expiration of a variance from one to two years, consistent with the date of site plan expirations. (§7.5)
- Require at least one year before reapplication for a variance that was disapproved (§7.6).

Ch. VIII – ZONING

Recommending:

- Eliminating the CL District and rezoning all CL properties to CG.
- Adding uses now allowed in the CL, but not the CG District, to be added to the new combined CG District.

Simplifying text now in §8.10,A,4,c and §8.10,B,4,c (max. height in the RS-1 and RS-2) to simply state that the maximum allowable height is three stories not to exceed 35 feet above FEMA base flood elevation.

Modified the minimum required lot area/unit for efficiency and 1-bedroom units so that density does not exceed 70.0 dwelling units/acre and eliminated the four-story limit for garage structures.

Simplified the RM-70 lot size provision by removing the reference to another section of the LDC and listing the actual minimum area and frontage numbers

Rewritten the confusing "Flex setback" provisions so that they are more understandable.

Added a digital model on a DVD as an alternative to the required architectural model.

Modified the CG District

- It is the result of the merging the current CG and CL regulations (including rezoning all CL properties to CG).
- The current CG regulations form the basis for the new CG district and ensures that property owners are not adversely affected by the merging of the two existing Districts.

Fast-food restaurants without drive-thru or drive-in service are proposed to be a permitted use.

Other logical commercial uses have been added as "uses by right".

All drive-thru or drive-in service, regardless of the use to which they are attached are proposed to be special uses subject to use exception provisions.

Changed the term "special use exception" to "use exception" throughout the LDC and added provisions for:

- Extend the time of expiration of a use exception from one to two years, consistent with the date of site plan expirations.
- A minimum of one year for reapplication for a use exception that has been denied.

Per the P&Z Board, accessory storage structures are limited to a height of 12 feet.
The prohibition of wood and vinyl clad fencing within front yard is proposed to be eliminated.

Ch. IX – GENERAL SITE DESIGN STANDARDS

Included:

- 9x18 requirements for parking from §5.1 and §5.2
- Parking requirements for pharmacy and marijuana dispensary
- Requires valet parking if compact car spaces are used
- Docks under 25 ft in length can be approved administratively
- Chapter 155 design criteria

Ch. X – FLOOD DAMAGE PROTECTION

Remains as written.

Ch. XI – SIGNS

- Needs full review for design and site standards by Signage Review Committee
- Reestablished non-conforming amortization time period
- Allows LED signs
- Sign regulations have been removed from other zoning districts.
- Temporary sign regulations have been made consistent with Supreme Court decision.
- Specialized definition necessary for: temporary signs

Ch. XII – ADULT ENTERTAINMENT

Remains with current language unchanged.

Ch. XIII – VACATION RENTAL LICENSE PROGRAM

- Incorporates 2016 separate North Bay Ordinance.
- Specialized definition necessary for: vacation rentals.
- Vacation rental regulations are proposed to apply in Multi-Family Zoning Districts

Ch. XIV – MARIJUANA DISPENSARIES

Includes recently adopted regulations.

In summary, the following key items are the major revisions of our proposed Unified Land Development Code:

A. Collapsing the Limited Commercial Zoning District into the General Commercial Zoning District
B. Revising the maximum building height allowed in Single Family Zoning District
C. Changing the criteria for non-hardship variances in Single Family Zoning District
D. Site plan approvals will require only one public hearing before the Commission
E. Docks under 25 ft in length can be approved administratively
F. Allowance of new zoning uses such as: pharmacies, day care, and urgent care facilities
G. Removal of compact spaces as special exceptions.
H. Fence standards for vacant properties adopted.
I. Removal of requirement of internal access to commercial facilities in multi-family developments.

UNIFIED LAND DEVELOPMENT CODE

Proposed: January 2017

Prepared by:

LaRue Planning
& Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366
Serving Florida Local Governments Since 1988

CHAPTER 1, GENERAL

§ 1.1 - Title.

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

§ 1.2 - Authority.

The North Bay Village Unified Land Development Code is enacted pursuant to Chapter 163, Part II, and Chapter 125, Florida Statutes.

§ 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 Unified 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 Unified 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 ULDC is hereby repealed.

CHAPTER 2, RELATIONSHIP TO THE COMPREHENSIVE PLAN

§ 2.1 - Purpose and intent.

The Future Land Use Element of the adopted Comprehensive Plan for North Bay Village describes the future land use categories within the Village. These land use 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 Unified Land Development Code is intended to implement the Comprehensive Plan. In the event of a conflict between the Comprehensive Plan and the Unified Land Development Code , or any other Village regulation, the provisions of the Comprehensive Plan shall take precedence.

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

The future land use categories defined in the future land use element and delineated on the future land use map in said element shall be the determinants of permissible activities on any parcel of land within the Village. 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 Unified 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 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 dwelling units used or intended to be used for permanent housing.

1. The single-family residential category 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 allows for residential density from seven (7) up to 40 dwelling units per acre. 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. RM-70 is the only zoning district consistent with this future land use category.

B. *Commercial future land use category.*

This category 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. *Institutional future land use category.*

The purpose of this category is to provide an area for either nonprofit or for profit institutional facilities 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.

D. *Public buildings/grounds future land use category.*

This category 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. The Government Use zoning district is consistent with this land use category.

E. *Educational future land use category.*

This category provides sites for public schools, associated facilities, and grounds.

F. *Recreation and open space future land use category.*

This category is intended to provide for permanent public parks and open spaces for recreational use, protection of natural resources, and urban buffers.

CHAPTER 3, DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Accessory building. A detached subordinate building or a portion thereof, the use of which is incidental to or customary in connection with the main building or use and which is located on the same lot with such main building.

Accessory use. A subordinate use, which is incidental to or customary in connection with the main building or use and is located on the same lot with such main building use.

Acre, gross. 43,560 square feet.

Acre, net. That portion of a gross acre exclusive of dedication for official rights-of-way and other easements.

Assisted living facility: Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator

Advertising structure. Any rigid or semi-rigid material, with or without a sign displayed thereon, situated on or attached to real property or mobile objects and vehicles outdoors for the purpose of furnishing a background, base, or support on which a sign may be posted or displayed.

Aggregate area or aggregate width. The sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.

Alcoholic beverage. As defined by Section 561.01(4), Florida Statutes.

Alley. A public or private road which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.

Amusement center. Any indoor place or enclosure which contains three or more amusement devices of any description, including but not limited to pinball games, computer games, or games of chance for the public amusement, patronage or recreation.

Apartment. A room or group of rooms within a multifamily dwelling arranged or designed to be used as a home or residence for one family, with kitchen or kitchenette and bathroom for the exclusive use of the one family.

Apartment, efficiency. A dwelling unit consisting of not more than one habitable room, with kitchen or kitchenette and bathroom.

Apartment hotel. A multi-family residential building designed for or containing both apartments and individual guest rooms or rental units under resident supervision, and which maintains an inner lobby through which all tenants must pass to gain access to apartments, rooms, or units.

Arterial street. A street designated as a major arterial street on the circulation plan for the Village.

Auction market. Any premises on which are held, either regularly or periodically, auction sales of merchandise or personal property.

Automobile rental agency. An establishment whose primary purpose is the renting or leasing of passenger vehicles to the public.

Awning. A detachable, roof like cloth or metal cover, supported from the walls of a building for protection from sun or weather.

Bar. An establishment devoted to selling or dispensing any alcoholic beverages, or any place where a sign is displayed indicating that alcoholic beverages are obtainable for consumption on the premises, and where, if entertainment is provided, it is by no more than one person at a time.

Barrier. A fence, dwelling wall or non-dwelling wall or any combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool, especially access from the residence or from the yard outside the barrier.

Barrier requirements. Swimming pools shall comply with all the requirements set forth under the building and zoning requirements as set forth in the Village's ordinances and the Florida Building Code.

Basement. That portion of a building between the floor and ceiling which has at least one-half of its height below the grade of the adjoining ground, and the ceiling of which is not more than four feet six inches above grade.

Beer. As defined in Section 563.01, Florida Statutes.

Biscayne Bay: Encompasses all of Biscayne Bay and all associated tributaries of the Bay within the Village limits of North Bay Village.

Block. The length of a street between two street intersections.

Board. The Planning and Zoning Board, which is that duly, designated advisory board charged with reviewing Village planning, zoning, and beautification matters.

Boundary of district. The centerline of a street or right-of-way; also the centerline of the alleyway between the side or rear property lines, or where no alleyway or passageway exists, the rear or side property lines of all lots bordering on any district limits.

Breezeway. A covered passageway or space between the main building and an accessory building open on two sides, and the roof of which is structurally integrated with the buildings it separates.

Building. Any structure having a roof supported by columns or walls for the shelter or enclosure of persons on property.

Building width. The width of the lot left to be built upon after the required side yards are provided.

Building. Any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

Building completely enclosed. A building having no outside openings other than ordinary doors, windows, and ventilators.

Building line. That line between which and the distance on the lot parallel and back from the street line, in which no building or part thereof may be erected, except as provided in these regulations.

Building Official. The Village official responsible for building inspection and the issuance of permits in this respect, or a duly authorized person acting in the same capacity.

Bulk. A term used in these regulations to describe the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

Bulkhead. A wall constructed along the bay to retain or resist lateral displacement of any material back of it. For the purpose of this chapter, the bayside face of the established bulkhead cap shall be regarded as the point of measurement for setback requirements of all structures fronting on the bay.

Cabana. An accessory structure, usually in connection with a swimming pool.

Cabaret. A bar, which provides entertainment and which may or may not serve food, and which, is accessory to a hotel, motel, or other building as provided in these regulations.

Cafeteria. See Restaurant.

Canopy. A detachable, roof like cloth or metal cover supported from the ground, deck, or floor of a building, and from the walls of a building, for protection from sun or weather.

Carwash. Any building or structure, which uses specialized mechanical devices for the washing of motor vehicles.

Centerline, street. A line parallel or nearly parallel to the right-of-way lines of a street and halfway between them as established by the Building and Zoning Official.

Certified survey. A survey, sketch, plan, map, or other exhibit is said to be certified when a written statement regarding its accuracy or conformity to specified standards is signed by the specific professional engineer, registered surveyor, architect, or other legally recognized person.

Child care. See Day care nursery.

Clinic. An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together. The term does not include a place for the treatment of animals.

Club, private. Building and a facilities or premises used or operated by an organization or association for some common purpose, such as but not limited to a fraternal, social, educational, or recreational purpose, but not including clubs organized primarily for profit or to render a service, which is customarily carried on as a business. Such organizations and associations shall be incorporated under the laws as a non-profit corporation and the major purpose of such corporations shall not be for the purpose of serving alcoholic beverages to its members or others.

Coffee shop, Snack bar, or Sandwich shop. An establishment where sandwiches, coffee, soft drinks, tea, or similar foods are served, but having no kitchen facilities.

Commercial school. A training institution operated on a profit or non-profit basis offering instruction in stenographic, secretarial, bookkeeping, and related business skills; offering training in electronic data a processing techniques, skills, or equipment repair; or offering training leading to proficiency in a vocational skill.

Concurrency. State law requiring that infrastructure be in place before development occurs.

Convalescent home. A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.

Customer service area. Inside/outside seating areas for restaurants, bars, lounges exclusive of kitchen, office, hallways, storage, and similar building areas.

Day care nursery. An establishment providing care of children during the day, but not overnight, including four or more children not members of the resident family; nurseries for children of working mothers; kindergartens; nursery schools for children under the minimum age for admission to public schools, or for after-school care of school children; and other establishments of a similar nature.

District. Any section of the Village within which the zoning regulations are uniform.

Drive-in or *Drive-through*. An establishment that, by design, physical facilities, service, or packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dwelling. A building or portion thereof, designed or used exclusively for residential occupancy, but not including mobile homes.

Dwelling, single-family. A private residence building used or intended to be used as a home in which all living areas are accessible to each other from within the building, and which shall have sleeping quarters, kitchen facilities, bathroom, ventilation, and lighting under control of and designed for the exclusive use of one family.

Dwelling, single-family detached. A single-family dwelling surrounded by yards or other open spaces on the same lot.

Dwelling, multifamily. A building designed for or occupied by three or more families.

Dwelling, efficiency. A residential unit, which is comprised of a single room for sleeping and cooking, exclusive of a bathroom.

Dwelling, hotel room. A residential unit, which is used on a temporary basis by transient guests.

Dwelling, hotel suite. A group of hotel rooms connected together.

Dwelling unit. A room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household, or by a person living alone.

Essential services. The erection, construction, alteration, or maintenance by a public utility or municipal agency of underground or overhead transmission, distribution, or collection systems necessary for the furnishing of adequate service by that utility or agency to the use on the same lot or the surrounding neighborhood of, for the public health, safety, or general welfare.

Family. An individual or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Fast order food. Food which is primarily included for immediate consumption; available upon a short waiting line; packaged or preserved in such a manner that it can be readily eaten outside the premises where it is sold; served on paper plates or in paper or styrofoam containers; and of a self-service nature, that is, no waiters or waitresses are involved. Patrons phone in or place their order at a counter and take it to a table on the premises or leave the premises.

Fence. A structure forming a physical barrier which is so constructed that no less than 50% of the vertical surface is open to permit the transmission of light, air, and vision through the surface in a horizontal plane. (For board and other solid barriers, see Wall)

Floor area. The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. However, for the purposes of those regulations, the Gross floor area of a building shall not include:

A. Basement space; however, basement space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

B. Accessory water tanks or cooling towers.

C. Uncovered steps and exterior balconies.

D. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.

E. Terraces, breezeways, screen enclosures, or open porches.

F. Floor space used for permitted or required accessory off-street parking, in any building except single-family and two-family dwellings or buildings accessory thereto.

Frontage, lot. The distance for which the front lot line and the street line are coincident.

Garage, parking. A building or portion thereof used for indoor parking of private passenger vehicles for use of residents in the vicinity.

Garage, repair. An establishment or portion thereof used for the equipping, servicing, repairing, hiring, selling, storing, or parking of motor-driven vehicles. The term Repairing shall not include an automotive body repair shop or the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, storage. A building or portion thereof, designed or used exclusively for term storage of motor-driven vehicles, as distinguished from daily storage, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

Grade. The highest elevation of a paved street in front of any property.

Grow house. A grow house is a property, usually located in a residential neighborhood, that is primarily used for the production of marijuana but may also be used as a dwelling. The houses are typically outfitted with equipment to provide water, food, and light to the marijuana plants, and the houses themselves are usually kept in good condition to blend in with the neighborhood. Illegal electrical hookups are a common feature of grow houses, to both save money and to make it harder for authorities to identify them due to their unusually high electrical usage.

Guest house. Living quarters within a detached accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

Hardship, necessary. Restrictions upon the uses of a particular property which promote the objectives of these regulations, provided such restrictions apply to all land within the same district (e.g. if commercial uses are prohibited in a district, this may result in a hardship to the property owners; but it is a hardship which is necessary to the purpose of this chapter in the first place).

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.

Hedge. A row of bushes or small trees planted close together in such a manner as to form a boundary or barrier.

Height of building. The vertical distance from the grade to: the highest point of a flat roof; the deck line of a mansard roof; the average height between eaves and ridge or gable, hip, and gambrel roofs; or the average height between high and low points of a shed roof.

Home occupation. Any activity for which an occupational license of the Village is required by law, which is conducted within a dwelling unit in a residential district.

Hospital. A building or group of buildings having room facilities for one or more overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, and training facilities. A central service facility must be an integral part of the hospital operations.

Hotel. A building in which lodging is provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times.

House of worship. A church, synagogue, or other structure used on a permanent basis primarily for the worship of God.

Kennel. The keeping of more than three dogs or other animals for breeding, training, sale, or boarding.

Kitchen facilities. Any form or mechanical refrigeration or cooking equipment except a portable mini-refrigerator, portable microwave oven and coffee-maker.

Junkyard or Salvage yard. Any area or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing, or trading in used or discarded metal, glass, cordage, or any used or disabled fixtures, vehicles, or equipment of any kind.

Loading space. A space within the main building or in the same lot providing for the standing, loading, or unloading of trucks.

Lot. Land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory buildings, and the yards, loading, and parking spaces required herein and having its principal frontage upon a street or upon an officially approved place.

Lot area. The total horizontal area within the lot lines of the lot.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot coverage or Ground coverage. The area of the lot occupied by the ground floor of all buildings, main and accessory, measured from the exterior faces of exterior walls, or from the exterior faces of supporting exterior columns for any portion of the ground floor not enclosed by exterior walls or from the centerline of walls separating two buildings.

Lot depth. The mean horizontal distance between the front and rear lot lines.

Lot, interior. A lot, other than a corner lot.

Lot line. The boundary line of a lot.

Lot of record. A parcel of land shown on a recorded plat or any parcel of land described by a legally recorded deed.

Lot, through (double frontage). An interior lot having frontages on two parallel or approximately parallel streets.

Lot width. The horizontal distance between the side lot lines measured at the required front yard line and parallel to the front street line.

Lumen. A unit of luminous flux equal to the light emitted in a unit solid angle by a uniform point source of one candle.

Marijuana. Marijuana is defined as Cannabis, meaning all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

Marijuana-based product. A marijuana-based product means a product that contains marijuana or any of its derivatives, including, but not limited to, tonics, tinctures, balms, salves, lotions, sprays, ointments, drinks, foods, and pills.

Marijuana dispensary. A marijuana dispensary is a facility where marijuana or marijuana-based products are made available for medical purposes in accordance with Florida law. A marijuana dispensary may also be defined as a "dispensing organization" as provided in Section 381.986(1), Florida Statutes. Any medical marijuana treatment center at which marijuana or marijuana-based products are dispensed as part of a program of medical treatment shall be included within the definition of a marijuana dispensary.

Marina. Any area where one or more sites or locations are rented or offered for rent for the location or dockage of boats, vessels, or house boats in water, or to be used for living quarters either temporarily or on a permanent basis.

Mezzanine. An intermediate floor in any story or room with a floor area not exceeding one-third the total floor area in that room or story in which the mezzanine occurs and with a clear height above or below the mezzanine floor construction of not less than seven feet.

Mixed occupancy or use. Occupancy of a building or land for more than one use.

Mobile home. Any unit used for living or sleeping purposes which is equipped with wheels or some device for the purpose of transporting the unit from place to place, whether by motive power or other means, or any unit used for temporary living or sleeping purposes temporarily located in the locality, whether it is on blocks, posts, or any other type of foundation.

Mobile marijuana dispensary. A mobile marijuana dispensary is any legal entity, clinic, cooperative, club, business, or group which transports, delivers, or arranges the transportation or delivery, of marijuana or marijuana-based products to any person.

Motel. A building in which lodging is provided and offered to the public for compensation. Accommodations are usually designed to serve tourists traveling by automobile. Ingress and egress to rooms need not be through a lobby or office, and parking usually is adjacent to the guest room.

Nightclub. An establishment defined by section 111.01 of this Code.

Nonconforming use. The lawful use of land or a building or portion thereof, which use does not conform with the use regulations of the district in which it is located.

Nursing home facility: Any facility which provides nursing services as defined in part I of Florida Statute chapter 464 and which is licensed according to this part.

Occupancy. A condition of an activity or use being upon a lot and/or within a building.

Official rights-of-way. A right-of-way established by ordinance.

Open space. That portion of a lot which:

A. Is open and unobstructed from grade upward.

B. Is accessible without restrictions except as may be required for safety.

C. Is of a pervious nature.

Outdoor dining. A use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main restaurant for consumption on the premises. The term also include outdoor bars and outdoor ice cream parlors.

Parcel. A piece of land assembled for a single purpose.

Parking space, off-street. An all-weather surfaced area, exclusive of streets, alleys, and driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by an all-weather surfaced driveway, which affords ingress and egress for a vehicle without requiring another vehicle to be moved. When developing single lot sites under the PRD regulations found in Section 8.10(D)(9), mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

Penthouse. Any structure above the main roof of a building used for residential, professional, or commercial purposes, or for housing elevator machinery and water storage tanks. Each story of a penthouse, except when used for machinery or a storage for water, is considered as an additional story to the height of the building.

Permit, building. A certificate issued by the Building Official authorizing the construction, reconstruction, remodeling, alteration, or repair of a building or other structure, upon approval of the submitted application and plans.

Pervious area. The surface area of a parcel, which is capable of being penetrated by water.

Planning and zoning board. The Planning and Zoning Board of the Village, as established by this chapter.

Premises. A lot, together with all buildings and structures thereon.

Principal building. The building within which the principal, predominant, or main use or activity upon the lot is conducted. In the event more than one building is upon one lot, the one containing the greatest floor area is the "principal building."

Principal use. The predominant activity or use conducted within a particular building or upon a particular lot.

Public use. Any public building, structure, or land used primarily for public or quasi-public purposes where the building, structure, or land is not privately owned or operated.

Regulations. The whole body of regulations, charts, tables, diagrams, maps, notations, references, and symbols, contained in or referred to in this chapter.

Restaurant. An establishment in which food is prepared and served for compensation.

Right-of-way. See Street line.

Screen enclosure. A frame of metal, wood, or other approved structural material supporting no roof or walls, with only approved insect screening, which screening possesses at least 50 percent open area per square inch.

Service station. An establishment devoted to the retail sale of motor vehicle fuels, oils, or accessories or for the servicing or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting.

Setback. The minimum horizontal distance between the street and the building; the lot bulkhead or water line and the building; or the side lot lines and the building.

Shopping center. One or more retail stores, commercial buildings, or an office complex with a unified plan or architectural scheme, on a single parcel of land or on separate parcels contiguously arranged.

Story. That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor next above it, then the space between the floor and the ceiling next above it.

Story, half. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished for use. A half-story containing independent apartments or living quarters shall be counted as a full story.

Street. A public thoroughfare which affords the principal means of access to abutting property.

Street, collector. A public thoroughfare which collects traffic from residential areas for distribution to a major arterial, as defined on the North Bay Village Circulation Plan.

Street or right-of-way line. A dividing line between a lot and a contiguous street.

Structural alterations. Any change, except those required by law or ordinance, which would prolong the life or change the shape or size of any portion of a building or structure or of the supporting members of a building or structure, such as bearing walls, columns, beams, arches, floor or roof joists, or girders, not including openings in bearing walls as permitted by other ordinances.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing: signs, backstops for tennis courts, fences, screen enclosures, and pergolas.

Subdivision. Shall be interpreted as defined in the subdivision regulations of Dade County or, if not so defined, then a Subdivision shall be the division of land into two or more lots, or other division of land into parcels of five acres or less for the purpose, whether immediate or of transfer of ownership or building development.

Swimming pool. Any portable, pool or permanent structure containing a body of water 18 inches or more in depth and 250 square feet or more of water surface area located in a residential area that is intended for swimming or recreational bathing and containing 18 inches or more in depth, including but not limited to in-ground, aboveground, and on-ground swimming pools, hot tubs, and non-portable spas, but not including an ornamental reflecting pool or fish pond, unless it is located and designed so as to create a hazard or be used for swimming or wading.

Tent. A canvas or other cloth shelter from sun or weather supported by a wood or metal frame or by poles, stakes, and ropes, or both, and not attached to any building.

Time-sharing condominiums. Any structure, service, improvement, or real property, which is made available to purchasers of a time sharing plan.

Trailer, utility. A vehicle lacking a means of self-propulsion intended to be towed by another vehicle and designed to be used for the transport or hauling of chattel.

Trash. Cuttings from vegetation, refuse, paper, bottles, rags, bulk trash, discarded furniture, etc.

Utilities. Structures of public or municipal utility in excess of lines, piping, conduit, transformers, or other essential utilities. A substation, pumping station, storage yard, or similar installation. Normally a significant structure or combination of structures often enclosed within a building.

Use. Any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; any occupation, business, activity, or operation to be carried on or intended to be carried on in a building or other structure or on land; or a name of a building or other structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained, or occupied.

Use, commercial. Any use which is operated as or is accessory to a business.

Use, residential. A use, which accommodates persons, not institutional in character, such as a single-family dwelling or multifamily dwelling, including apartments and hotel or motel rooms.

Variance. A dispensation permitted on individual parcels of property as a method of relieving an unnecessary hardship, by allowing a reasonable use of the building, structure, or property, which, because of unusual or unique circumstances, is denied by the provisions of this chapter.

Vehicle, commercial. Any vehicle designed, intended, or used for the transportation of people, goods, or things, other than private passenger vehicles and trailers for private non-profit transport of goods and/or boats.

Wall. A structure forming a physical barrier which is so constructed that less than 50 percent of the vertical surface is open to permit the transmission of light, air, and vision through such surface in a horizontal plane.

Waterfront. Any site shall be considered as waterfront premises provided any or all of its lot lines abut on or are contiguous to any body of water.

Wine. Shall be as defined in Section 561.01(4), Florida Statutes.

Yard. An open area, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.

Yard, front. A yard across the full width of the lot extending from the nearest line of any main or accessory building to the front street right-of-way line of the lot.

Yard, rear. A yard across the full width of the lot extending from the nearest line of any main or accessory building to the rear line of the: lot.

Yard, side. A yard extending from the front yard to the rear yard, between the side lot line and the nearest line of any main or accessory building.

CHAPTER 4, ADMINISTRATION AND ENFORCEMENT

DIVISION 1, GENERALLY

§ 4.1 - Purpose and intent.

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 Unified 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 Unified Land Development Code and Comprehensive Plan, for the effective and equitable implementation and enforcement of the Unified Land Development Code.

§ 4.2 – General petition procedure.

A petition for an amendment, variance, 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 Unified Land Development Code.

When an individual wants an official interpretation of a regulation contained within the Unified Land Development Code as defined in Chapter 1, Section 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 Village Clerk's department), the request shall be accompanied by payment of the fee as established and set forth in Section 5.12, and shall include the following information:

1. Identification of the section or sections of the Unified 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 Planning and Zoning Official to make a reasoned determination as to how the ULDC affects that specific property. It shall be the planning and zoning 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 Section 5.12, shall be paid at least five days prior to said meeting. The final cost of the meeting, calculated as set forth in Section 5.12, 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 Unified Land Development Code, and shall forward said opinion by email or U.S. Mail to the applicant.

f. The time for the Planning and Zoning Official's response may be extended to 30 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 Unified 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 Unified Land Development Code shall not be considered official interpretations of the Unified 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.

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 the Unified 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 Unified Land Development Code;

   c. Amendments to boundaries of the Zoning District Map;

   d. Variances;

   e. 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, 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 Section 166.041(3)(a) and (c), Florida Statutes.

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 Section 166.041(3)(c)1 Florida Statutes.

   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, 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	H
All other amendments		
Transmittal stage	H	H
Adoption stage		2H
Amendments to the Unified Land Development Code		
Zoning district map	H	2H
Text amendment	H	2H
Others		
Minor Development (1)		
Major Development (2)	H	H
Variances	H	H
Non-hardship variance for single-family properties	H	H
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.

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 Unified Land Development Code;
   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. 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 Village Commission for relief following a recommendation by the Planning & Zoning Board. 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, COMMISSION, BOARD, 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 Unified Land Development Code of North Bay Village and the North Bay Village Code of Ordinances.
5. Approve variances to Unified Land Development Code of North Bay Village.
6. Take such other action as the Commissioners may deem necessary to implement the provisions of the Unified Land Development Code and the Comprehensive Plan.

B. *Action by Village Commission.*

1. Before action is taken by the Village Commission on any petition 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 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.
3. If the Planning and Zoning Board recommends, after a public hearing as described above, that the proposed amendment, supplement, change, variance, or use exception be disapproved by a unanimous vote of the full Planning and Zoning Board, such amendment, supplement, change, variance, or 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 § 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.
8. At maximum intervals of five years, review the recommendations of the Planning & Zoning Board in regard to their review of the provisions of the Unified Land Development Code, the Comprehensive Plan and land use maps and the Zoning District Map, and adopt the necessary revisions.

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, special exceptions, or variances thereto.
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 Unified 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 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 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 Planning and Zoning Official.

The Planning and Zoning Official shall serve as head of the planning and zoning 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, permits, and amendments to the Comprehensive Plan and Unified Land Development Code.
5. Ensure appropriate interdepartmental coordination regarding the review and approval of tentative and final plats, final development orders, and final development permits.

§ 4.14 Building Official.

The building official shall serve as head of the building department. As such, his duties shall include overseeing the appropriate application of the provisions of the building code and county and state laws as they pertain to the building code. ~~the following:~~

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

§ 4.15 Amendments in general.

A. *General.*

The Village Commission may, from time to time, after 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 this Unified 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 Sections 4.16.B or 4.16.C as applicable and 4.16.D
5. After the hearing, the report and recommendation of the Planning and Zoning Board will be transmitted to the Village Commission.

§ 4.16 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 Section 163.3184 Florida Statutes (Community Planning Act).

B. *Village initiated changes.*

1. The Village Commission may initiate amendments to the Comprehensive Plan pursuant to the provisions of Section 163.3184, Florida Statutes.
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 Section 163.3187(1), Florida Statutes.

(1) If the requested change qualifies as a small scale development activity plan amendment under the provisions of Section 163.3187(1), Florida Statutes 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 the application submission is found to be complete. 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 Section 163.3187(1), Florida Statutes 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 the application submission is found to be complete. 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 dis-approval 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.

§ 4.17 Amendments to the Unified-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 of the characteristics set forth in subsections a – c.

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 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 proposed change is not in conformity with the Comprehensive Plan.

c. 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 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 Unified 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 5, 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 Section 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 Unified 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 Unified 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 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. *Minor development 1.*

1. A development will be designated a minor development 1if 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.

Five (5) 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 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, Sections 5.17 through 5.20).

G. Filing fees. See Section 5.12 for copy of fee schedule.

§ 5.6 –Major development application requirements.

In addition to the basic application requirements of Section 5.5, five (5) 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 whether or not the information is complete and if incomplete 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, 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 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 view 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. Any computer or architectural model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that 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 Section 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.

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 approval of 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 § 4.2 and § 5.8 may be approved by the Village Manager upon recommendation of the Village 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 North Bay Village's Unified 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 North Bay Village's Unified 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 Unified 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 North Bay Village's Unified 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 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 North Bay Village's Land Development Code or any applicable state of 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 Planning and Zoning Official pursuant to Section 5.9 shall be subject to the following limitations:

1. Any modification to an approved site plan not expressly authorized 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 Section 5.8.

2. Modifications to an approved site plan approved pursuant to Section 5.9 shall take effect upon approval by the Village Manager, upon recommendation of the Village Planning and Zoning Official.

C. Courtesy notification of approved site plan modification review will be given to property owners

subject to the requirements of Section 4.4,A, hearing and notices, of the North Bay Village's Unified 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. 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.

A. Authority.7.1

The South Florida Building Code has been adopted by 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 § 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 set forth in Section 5.12.

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

A. *Consultants.*

1. The Village Manager and/or his/her designee as part of the review of any development application presented to the Village, may refer any such application to such engineering, planning, legal, technical, environmental, or other professional(s) consultants employed or retained by the Village ("consultant(s)") as the manager shall deem reasonably necessary to enable him/her to review such application as required by law.
2. Charges made by such consultants shall be made in accordance 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 the consultant.
3. The consultant's services shall be charged at the hourly rates specified in the particular consultant's agreement with the Village. The Village shall provide the applicant with a copy of the consultant's invoice for any services charged against the applicant's cost recovery deposit.

B. *Cost recovery established.*

1. The applicant shall reimburse the Village for the actual cost of Consultant or employed professional review services pursuant to the cost recovery procedures and requirements of subsection C below.
2. Payment in full by the applicant to the Village of the Village's actual expenditures for review of the application shall be a written condition of any development order. These cost recovery deposits fees shall be in addition to any and all other fees required by law, rule, or regulation of the Village Code.

C. Cost recovery procedure.

1. At the time of submission of any application for development approval, the applicant shall pay the minimum cost recovery deposit fee outlined in the development approval fee and cost recovery deposit schedule set forth in this section, which funds shall be deposited into a cost recovery escrow account established for this purpose. Withdrawals shall be made to reimburse the Village for the cost of consultant services.
2. The Village shall provide the applicant with a copy of the consultant's invoice for any services charged against the applicant's cost recovery escrow account.
3. When the balance in the Village's cost recovery escrow account is reduced to one-half (½) 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 30 calendar days after the applicant is notified, in writing, of the requirement of such additional deposit, the Village may shall suspend its review of the application and the application shall be deemed withdrawn.
4. If an application is suspended due to nonpayment of the additional escrow deposit specified in subsection 3, a resubmission fee shall be paid and the cost recovery deposit shall be replenished to a minimum of one-half of the original deposit amount before the application will be reviewed.
5. Prior to the scheduling or noticing of any board or commission hearing, the Village Manager's review of the application shall be complete and the cost recovery escrow account balance shall be replenished to equal at least one-half of the initial deposit amount.

D. *Review of consultant's charges.* Upon a determination by the Village Manager or his/her designee that there has been a miscalculation concerning a consultant's fees, the Village Manager or his/her

designee is authorized to review the charges and issue a credit or refund a portion of the cost recovery deposit.

E. *Schedule of fees and cost recovery deposits.* No new development application shall be accepted and no building permit or certificate of occupancy shall be issued for any 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. All fees and cost recovery deposits shall be paid according to the development approval fee and cost recovery deposit schedule below:

Development Approval Fee and Cost Recovery Deposit Schedule

Type of Request	Filing Fee	Cost Recovery Deposit*
Amendments		
Comprehensive Plan Text Amendment	$2,000	$10,000
Comprehensive Plan Future Land Use Map Amendment	$2,000	$10,000
Zoning Map Amendment	$2,000	$10,000
Unified Land Development Code Amendment	$2,000	$10,000
Site Plan Review		
Single Family Residential and Existing Non-Residential	$1,000	$2,000
Multifamily Residential and New Non-Residential - Base Fee**	$1,000	$6,000
Multifamily Residential with 2-19 Dwelling Units - Additional Fee	$900	
Multifamily Residential with 20-100 Dwelling Units - Additional Fee	$1,500	
Multifamily Residential with 101-199 Dwelling Units - Additional Fee	$2,500	
Multifamily Residential with 200 or more Dwelling Units - Additional Fee	$3,500	
Non-Residential 399 Square Feet and Under - Additional Fee	$700	
Non-Residential 400-19,999 Square Feet - Additional Fee	$1,100	
Non-Residential 20,000-99,999 Square Feet and Under - Additional Fee	$2,500	
Non-Residential 100,000 Square Feet and Over - Additional Fee	$3,500	
Site Plan Modification		
Single Family Residential and Existing Non-Residential	$1,000	$2,000
Multifamily Residential and New Non-Residential	$1,000	$6,000
Administrative Site Plan Modification (no commission review)		
Single Family Residential and Existing Non-Residential	$600	$1,000
Multifamily Residential and New Non-Residential	$600	$4,000
Variances (per variance)		
Single Family Residential and Existing Non-Residential	$200	$1,000
Multifamily Residential and New Non-Residential	$600	$2,000
Sign Variance	$600	$2,000
Alcoholic Beverage Sales Variance	$600	$2,000
Use Exceptions		
Single Family Residential and Existing Non-Residential	$600	$2,000
Multifamily Residential and New Non-Residential	$600	$4,000
Renewals of Site Plans, Variances, and Use Exceptions		
Single Family Residential and Existing Non-Residential	50% of original filing fee	$1,000
Multifamily Residential and New Non-Residential	50% of original filing fee	$2,000

Other Requests		
Dock Waiver	$300	$,2000
Appeal of Administrative Decision	$600	$2,000
Plat	$1,000	$10,000
Waiver of Plat	$1,000	$4,000
*The applicant is responsible for the actual cost of professional review services including but not limited to: engineering, planning, legal, technical, environmental, etc. These review costs shall be deducted from the cost recovery deposit. Depending on the level of expenses, the applicant shall be required to replenish the cost recovery deposit or if the cost recovery deposit is not entirely expended, the remaining balance will be refunded to the applicant.		
** Add base fee to the appropriate additional fee for the total filing fee.		
Note: In addition to application fees and cost recovery deposits, advertising and mailing costs shall be paid by the applicant separately.		

F. *Additional review fees.* The following fees are required as part of the review process in addition to required filing fees and cost recovery deposits:

1. Advertising; and
2. Mailing costs.

G. *Subsequent review and resubmission fees.*

1. A resubmission fee shall be required to be submitted by the applicant as specified in this section.
2. If an application is deemed incomplete, is withdrawn prior to the hearing by the board or commission, is deemed withdrawn for failure to respond to a request for information necessary for review, or suspended for nonpayment of required additional cost recovery fees within the required timeframe, any subsequent submission shall be accompanied by a resubmission fee of 50 percent of the original application filing fee.
3. Should the project be substantially changed or modified so that, in the opinion of the Village Manager or his/her designee it represents a new project on the same property, the resubmission fee shall be equal to the original filing fee appropriate to the particular project.

H. *Refund.*

1. *Fees.* All fees shall be deemed nonrefundable unless the refund request has been received prior to administrative review or public advertisement.
2. *Cost recovery escrow account.* Upon final approval or denial of an application, expiration of any applicable appeal period, and payment of all consultant charges, the Village shall refund to the applicant any funds remaining in the cost recovery escrow account.

§ 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.

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 ULDC. No permit presuming to give the authority to violate or cancel the provisions of this ULDC 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 ULDC, or any ordinance of the Village.

C. When permits are issued through administrative error, it shall be called to the attention of the permit holder as soon as it is discovered. The situation shall be voluntarily corrected by the permit holder to the satisfaction of the Village Administration. In the event of an unresolved dispute between the permit holder and the Administration, the permit holder shall have the right to an administrative appeal according to the procedures set forth in Section 4.5.

§ 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 or final 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 of a single family residence 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 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

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 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 the ULDC 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 Section 163.3220, Florida Statutes or an agreement or development order pursuant to Chapter 380, Florida Statutes.

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

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 Element of the North Bay Village Comprehensive Plan:

Type of Facility	Peak Hour Level of Service

Arterial roadways	D
Collector roadways	D
Limited access roadways	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 and/or county.

D. *Drainage system.*

No new development shall be approved unless there is sufficient available capacity to sustain 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.*

No new development shall be approved unless there is sufficient available capacity to sustain 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

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 Chapter 177, Florida Statutes.

B. *Procedures.*

1. Fifteen 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 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 plat as well as the Resolution accepting the (re)subdivision.

CHAPTER 6, NONCONFORMITIES

§ 6.1 –Defined.

For purposes of this 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 chapter.

6.2. Purpose and intent.

A. It is the purpose and intent of this 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 chapter or future amendment thereto.

B. This 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 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 North Bay Village, prior to the effective date of this chapter any more than is necessary for the proper exercise of police powers relating to the general public welfare of the residents 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 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 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 chapter and upon which actual building construction has been carried on diligently.

B. For the purposes of this 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 chapter, 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 or frontage that are applicable in the zoning district in which the lot, parcel, or tract is located.
2. 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 7 of this Unified 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 chapter, and if all or part of the lots do not meet the requirements established for lot areas 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 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 Unified 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 7 of this Unified 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.

§ 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 or use exception 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 chapter or an amendment thereto, although such uses do not conform to provisions of the Unified 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 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 chapter are not permitted.

4. 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 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 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 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 the Unified 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. 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 Unified 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 any existing nonconforming structure is destroyed by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy by fifty percent (50%) or less of its total appraised 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 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 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 shall render the nonconforming status of the specific nonconforming structure null and void.

§ 6.8 – Nonconforming characteristics of use.

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 Unified 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.

§ 6.9 – Nonconforming lots, uses, structures, and characteristics of use in combination.

If on the effective date of this chapter, a lot of record, structure, use or characteristics of use, in any combination thereof, exists that would not be permitted under the terms of this-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 chapter. Sections 6.6 through 6.9 shall apply to all nonconforming lots or record, structures, uses and characteristics of use, and any combination thereof.

CHAPTER 7, VARIANCES

§ 7.1 – Purpose and intent.

The purpose and intent of this chapter is to provide flexibility in the administration of the Unified Land Development Code when the strict enforcement of the provisions of the Unified 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 the Unified 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 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 for the Planning and Zoning Board to recommend approval, and for the Village Commission to grant approval, of a variance request, both must make an affirmative finding with respect to all seven (7) of the following criteria:

1. That there are 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 self-created by any person having an interest in the property.
3. That the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought; and would

involve an unnecessary hardship for the applicant.

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Unified 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 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 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 Village 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, upon application duly made upon an application form to be provided by the Village the Planning and Zoning Board will hold a public hearing to consider requests by single-family property owners for a non-hardship variance to setback lines, lot size, restrictions and yard requirements for the location and construction of fences, nonpermanent carports, screen enclosures, sheds, awnings, air conditioning compressors, generators, swimming pool pumps and pool heating equipment, and make its recommendation to the Village Commission. After receiving the recommendation from the Planning and Zoning Board, the Village Commission will hold a public hearing to consider the request for the non-hardship variance.

B. The Planning and Zoning Board may make a recommendation for approval to the Village Commission if the Board 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. 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.

§ 7.5 –Expiration of hardship and non-hardship variance.

After the Village Commission has granted a hardship or non-hardship variance, the variance so approved or granted shall expire after two years, 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 variance was granted.

§ 7.6 –Reapplication for a hardship and non-hardship variance.

No application for a hardship or non-hardship variance shall be filed less than one year after the date of disapproval by the Village Commission of an application for a variance involving the same land or any portion thereof.

CHAPTER 8, ZONING

DIVISION 1, ZONING DISTRICTS ESTABLISHED; ZONING MAP

§ 8.1 –Title.

This chapter shall be known as the "Zoning Regulations for North Bay Village, Florida; 2017 Revision."

§ 8.2 – Purpose and 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 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 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 this intent, the regulations and districts and 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 Section 8.10.A).
2. RS-2 Medium Density Single-Family Residential District (See Section 8.10.B)

B. *Multiple Family Residential Districts.*

1. RM-40 Medium Density Multiple Family Residential District (See Section 8.10.C).
2. RM-70 High Density Multiple Family Residential District (See Section 8.10.D).

C. *CG General Commercial District* (See Section 8.10.E).

D. Bay View Overlay District (See Section 8.10F)

E. Government Use District (See Section 8.10G)

§ 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 Village, dated and certified by the 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 Village Manager or his designee. These regulations shall be similarly dated, filed, and made available for public reference.

§ 8.6 – Publication of district maps.

A. The Village Manager or his 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 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 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 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 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 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 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 Section 8.11*

4. Prohibited uses.

   a. Facility or base for mobile marijuana dispensing.

   b. Grow house.

   c. Marijuana Dispensary.

   d. All other uses not specifically or provisionally permitted herein.

5. *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, 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 Section 8.11*

4. Prohibited uses.

a. Facility or base for mobile marijuana dispensing.

b. Grow house.

c. Marijuana Dispensary.

d. All other uses not specifically or provisionally permitted herein.

5. *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, 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. Prohibited uses.

a. Facility or base for mobile marijuana dispensing.

b. Grow house.

c. Marijuana Dispensary.

d. All other uses not specifically or provisionally permitted herein.

4. 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 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	1,320	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) 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

5. Single-family homes approved under the provisions of Section *8.11* consistent with the setback provisions of the RS-1 (Low Density Single-Family Residential District).

6. Use exceptions as may be approved under Section 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 including duly licensed home occupation.

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;

(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 Section 11.2 of the ULDC.

3. Prohibited uses.

a. Facility or base for mobile marijuana dispensing.

b. Grow house.

c. Marijuana Dispensary.

d. All other uses not specifically or provisionally permitted herein.

4. Site development standards.

a. Minimum lot size.

Area—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
Total side setback area free of structures at ground level	60

c. 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. 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.

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 shoreline access areas.

5. 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 subsections 8.10.D.5.c(1) through (6) are incorporated into proposed project and the incorporated alternatives are subsequently approved by the 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 Section 5.8.B.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 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 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 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 Village-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.

6. Density bonus.

a. Each parcel shall have the ability to purchase additional buildable units from North Bay Village in the following manner:

(1) for a price of $40,000.00 per unit; or

(2) provision of two (2) parking spaces per bonus unit, said spaces to be in the form of surface parking, or ground floor parking within a garage, located on the parcel and such parking spaces shall be labeled as being available at all times to the general public.

b. These units shall be derived from land currently owned by the Village, which will not be developed into residential buildings in the future.

c. Any money realized by the Village for such units shall be utilized for future Village parks and for the purchase of land for additional open green space.

d. These units are to come from the development rights of 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 North Bay Village within 90 days of site plan approval by the Village Commission. After payment of the monies due or construction and approval by the Village of the public parking spaces, the appropriate number of units will be included in the maximum number of units buildable on ~~deemed to~~ the property. This fee shall be set towards a Village Park Fund.

7. Allocation of funds.

Funds paid to North Bay Village as a result of the bonus participation program shall be transferred between all accounts created for the purposes listed herein.

8. 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 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.

9. Special exceptions 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 Section 8.10D4a. to permit a building to be erected, converted, enlarged, reconstructed, moved or structurally altered. 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 Village's Comprehensive 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 Section 8.10.D.2

c. Site development standards:

(1) Minimum lot size:

Area —10,800 square feet

Frontage—30 feet

(2) Minimum yard setbacks shall be the same as specified in Section 8.10.D.4.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) hereafter.

(3) Maximum density shall be as prescribed in Section 8.10.D.4.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 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.

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 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 ULDC, 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: 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 Section 8.10.D.4.5

(7) Offstreet parking: The offstreet parking requirements as set forth in Sections 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 shall be fully applicable to buildings under this section.

10. Planned Residential Development (PRD) Zoning Overlay.

a. Purpose and intent.

The purpose and intent of the Planned Residential Development (PRD) Overlay Zoning District to create a living environment that is responsive to the needs of its residents; to provide flexibility in planning, design, and development consistent with the Village's Comprehensive Plan; to encourage innovative approaches for the design of community environments; to provide for an efficient use of land, to provide an environment compatible with surrounding land use; to adapt the zoning process to changes in development and construction technology; to encourage infill and the redevelopment of the Village's multi-family areas; and to promote the public health, safety and general welfare of North Bay Village. The PRD shall be deemed an Overlay Zoning District and shall be approved only after public hearings for a specific site.

b. Compatibility with existing zoning and existing development.

When applying the terms and conditions imposed by this section, the Planning and Zoning Board and the Village Commission shall determine compatibility with already existing zoning for the property subject to the application and shall require applicants for PRD approval to demonstrate compatibility with already existing or approved developments adjacent to the ~~application~~ property for which the PRD approval is being sought.

c. Ownership requirements.

The applicant for approval of a PRD shall be either the owner(s) or the contract purchaser or lessee of the entire property encompassed by the PRD application. If the applicant is the contract purchaser or a lessee, then the owner of the entire property shall execute a notarized consent to the filing of the application. The application for approval of a PRD shall not be assignable or transferable to other parties.

d. Development parameters.

All applications for PRD shall comply with the following applicable development parameters:

(1) The subject property shall be zoned for RM-70 multi-family use;

(2) The subject property shall contain a minimum of one legally platted lot for the construction of no less than ten (10)residential units and twenty (20) off-street parking spaces, or two (2), but not more than three (3), platted lots contiguous, as of the effective date of this section [Jan. 22, 2002];

(3) The subject property shall be deemed one (1) parcel of land and in the event that two (2) or more platted lots shall constitute a PRD, the applicant shall submit a Unity of Title in a form acceptable to the Village Attorney;

(4) The following definitions shall apply to this section:

(a) *Floor area ratio (FAR).* Total gross area of a building or buildings, excluding parking garage structure, on any lot divided by the area of the lots.

(b) *Gross floor area.* Total area of all floors of a building that are enclosed including common areas such as elevators (area of shafts at ground floor only), stairs (except open stairways and enclosed stairways which are means of egress required by the fire department), corridors, interior recreation areas, storage, cabana, lobby, restrooms, etc. All these items are excluded: The garage structure with any required means of egress, and any open but covered walkways, exterior balconies, open decks, and terraces at the recreational area.

(c) *Pedestal. Portion of a building that contains the parking level entry lobby, office, manager's unit, storage, mechanical room, recreational facilities, and parking structures.*

(d) Tower. Portion of the building that contains residential units, parking structures, and may also include recreational facilities.

(5) *Restrictions on floor area.*

(a) No structure shall contain a FAR of greater than 3.0 for one lot; 3.75 for two lots; and 4.00 for three lots.

(b) No more than one-half of a floor area used for amenities can be allocated for dwelling units.

e. Permitted uses. Multifamily residential and recreational facilities ancillary ~~thereof~~ thereto.

f. Site development standards.

(1) Standard Building Setbacks.

(a) Setbacks for a new building without pedestal and tower design shall be as set forth in the following table:

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
Total side setback area free of structures at ground level	60

(b) For buildings with pedestal and tower design, the following setbacks shall apply:

i. Front pedestal—20 feet

ii. Front tower—25 feet

iii. Rear pedestal/tower—25 feet

iv. Sides pedestal—Ten feet

- Tower—One side—15 feet
- Tower—Other side—20 percent of frontage

(2) *Flex setback.*

Designer has the option to offer creative design solutions to the building configurations and the Village will allow the tower (and pedestal for sites involving only one lot) to encroach into the setbacks as per the following "flex box" criteria.

i. The aggregate square footage of the floor area encroaching into the setback must be adjusted by deducting it from the buildable "box" allowed under the preceding standard setback regulations

ii. Up to 25 percent (25%) of the square footage of all balconies shown on the plan as encroaching into the setback may be excluded from the calculation of the total square footage of the encroachment.

iii. ~~and~~ In no instance is the designer allowed to build more area per floor than what is permitted under ~~this~~ the standard buildable "box".

iv. In no instance may any wall length, which encroaches into any side yard setback, be longer than one-third of the length of a wall which is permitted under the buildable "box" and the standard setback regulations. Balconies with railings or other physical containment, which do not exceed 42 inches in height are not included in the measurement of the wall length.

v. The length of wall measurement shall be made at the point of maximum encroachment into the flex setback area.

(3) *Building height.*

(a) No structure shall exceed 170 feet in overall height above base flood elevation (BFE) including all structures for stairways, storage, mechanical, elevator, recreational uses, et cetera.

i. The total area of ~~these uses~~ stairways, storage, mechanical, elevator, recreational uses, et cetera shall not exceed 30 percent of the footprint of the last residential floor.

(b) No structure shall exceed 150 feet from base flood elevation to the roof of the last residential floor and 160 feet for the overall height of the structure except that an elevator shaft may exceed 160 feet in height based on evidence of necessity as a result of requirements for elevator construction.

(c) No Pedestal shall exceed 30 feet in height from grade.

(4) *Off-street parking for multiple lot sites.*

(a) Off-street parking shall be required as set forth for residential uses under Section 9.3.C.

(b) All parking spaces must be screened from ground level view.

(c) All parking spaces must be designed to meet the requirements of Section 9.3.E.

(d) The driveway required in 90-degree parking shall be a minimum of 22 feet zero inches wide.

(5) Off-street parking for single lot sites only

(a) Driveways and maneuvering areas shall be designed in order to ensure safe travel in and out of the garage structure. Drives and access ramps are permitted to be smaller than twenty-two (22) feet in width if they are either limited to one-way traffic

or designed so that gates or other barriers prevent the entry of more than one vehicle at a time. No drive aisle may be less than 10.5 feet in width.

(b) Notwithstanding the above or the requirements of Section 9.3(E), mechanical parking lifts may be permitted in an enclosed garage structure if approved by the Village Commission through the PRD site plan review process, during which time, the Village Commission shall have the right to determine whether a valet parking program will be required for any new development utilizing mechanical parking lifts. A mechanical parking lift is an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion. Both parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces. A mechanical parking structure may be permitted if it meets the following standards:

i. The mechanical parking lifts and the garage structure shall be designed so that the noise or vibration from the operation of the lifts shall not be plainly audible to, or felt by, any individual standing outside on property adjacent to the garage structure. Noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions.

ii. All mechanical parking lifts must be installed by the manufacturer or a manufacturer approved installer.

iii. All lifts must be maintained and kept in good working order and must be inspected by a licensed mechanical engineer at least once every six months. A copy of the inspection report must be provided to the Village.

iv. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.

v. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.

vi. All mechanical lift components shall be Underwriters Laboratories (UL) approved.

vii. All non-mechanical parking spaces in the garage structure must measure at least nine (9) feet in width by eighteen (18) feet in depth.

viii. The building owner or condominium association must maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of lifts. Proof of the service contract must be provided to the Village annually.

ix. The ceiling height of any parking level with parking lifts within a garage shall be a minimum of 11 feet 6 inches.

x. The parking lift platform must be sealed and of a sufficient width and length to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.

(6) *Entrance feature/porte cochere.*

(a) A covered/sheltered entrance feature with a vertical clearance of at least fourteen (14) feet shall be permitted to be located up to the front property line.

(b) If loading spaces are provided at this location, 14½ feet of vertical clearance shall be provided.

(c) Columns may be provided to support a porte cochere.

(7) *Balconies.*

(a) Exterior balconies/terraces and covered walkways, excluding rooftops and other non-covered areas, may extend into setbacks a maximum of 25 percent of the allowable setback measurement but may not extend beyond the pedestal setback.

(b) Balconies projecting into setbacks shall be deemed as encroachments herein, but shall not be calculated as part of the floor area ratio.

(c) Notwithstanding anything herein to the contrary, in no event shall the total square footage of balconies exceed more than 25 percent of the total square footage of the buildable box.

(8) Landscape requirements. (Refer also to Ch. 18, Miami-Dade Landscape Code.)

(a) A minimum of 30 percent of the exposed roof deck of the pedestal and any open areas with amenities shall be landscaped,

(b) In addition "hardscape" (pavers, fountains, awnings, etc.) may be permitted if approved by the Village.

(c) An applicant shall be required to submit a detailed landscape plan to the Village. The landscape plan shall be sensitive to surrounding properties and shall be utilized to enhance the subject property.

(9) *Minimum Unit size.* All units shall comply with the minimum size requirements as follows:

Unit Type	**Floor Area (Sq. Ft.)**
Efficiency	600
One-bedroom	900
Two-bedroom	1,200
Three-bedroom or larger	1,350

g. Application procedure. The applicant shall submit an application to the Village Manager, or his/her designee, on a form(s) prescribed by the Village Manager. The Village Manager shall require at least the following information which shall be considered the PRD application:

(1) *Letter of intent;*

(2) *Payment of $5,000.00 development review application fee for each application submitted. Fees* incurred by the Village for special planning and/or legal consultant services during the development plan approval process shall be reimbursed to the Village by the applicant;

(3) A detailed site plan showing dimensions of building(s), structure(s), setback(s), open space(s), landscaping and off-street parking. The landscaping plan shall provide buffering and/or masking of all parking facilities;

(4) Proposed floor plans and elevations (including signage) for all buildings and structures encompassing the size, placement and number of units;

(5) A complete list of uses and the square footage for each use;

(6) A certified copy of a land survey;

(7) Detailed calculations of water consumption increase and calculation of wastewater;

(8) Any other documentation as the Village Manager, or his/her designee, reasonably determines is necessary to properly review the proposed project; and

(9) Within ten days prior to the Planning and Zoning Board public hearing, the applicant shall furnish to the Village Manager, or his/her designee to make available for viewing

(a) an architectural model built to scale and photographs depicting same or a

(b) digital model on DVD depicting the proposed lot and structure including elevations all in relation to adjoining properties and structures thereon.

(c) Said model shall be retrieved by the developer within thirty (30) calendar days following the final public hearing before the Village Commission, and the DVD and photographs depicting the model shall become a part of the public records.

(d) Said model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that all setbacks for the new structure shall not conflict with the existing or approved structure on either side of the proposed structure.

h. Public hearing procedure. At a public hearing, the applicant shall have the burden of proof in demonstrating that the PRD application complies with the purpose and intent of the PRD ordinance. In determining whether to grant approval of the PRD application, with or without appropriate and necessary conditions and safeguards, the Planning and Zoning Board and Village Commission shall determine whether the application complies with the purpose and intent of this section and shall make the following findings:

(1) Whether the application is consistent with the Village's Comprehensive Plan.

(2) Whether the proposed development will have a favorable effect on the economy of the Village.

(3) Whether the proposed development application will generate or result in excessive noise or traffic.

(4) Whether the proposed development will cause an undue or excessive burden on public facilities and services, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities, which have been constructed, or which are planned or budgeted for construction.

(5) Whether the proposed development will tend to create a fire hazard or other dangerous conditions.

(6) Whether the proposed development will cause excessive overcrowding or concentration of people or population that would create evacuation concerns.

(7) Whether the proposed development will be compatible with the surrounding area and its development, and will demonstrate innovative design in order to minimize impact on surrounding properties.

(8) Whether the proposed development is a reasonable use of the property and results in a public benefit including, but not limited to, the enhancement of the subject real property and/or the redevelopment of structures in deteriorated or poor condition.

i. Legal effect of PRD.

(1) Notwithstanding anything in the Code to the contrary, the approval of a PRD application shall be deemed an Overlay Zoning District to the existing zoning of the property.

(2) The approved PRD application shall encompass the approved development and the development regulations applicable to the property, and shall not be subject to any variances as may be required by other sections of this Code.

(3) However, the Village Commission shall be prohibited from approving a PRD application that would increase the intensity, density or height above that which is permitted in these PRD regulations.

(4) In the event that the owner wishes to modify an approved PRD application in any fashion which would increase the amount of square footage of the building(s) or lessen landscaping or open space, or create an undue burden on any public facilities, a new PRD application shall be filed and shall be subject to the terms and conditions of this section.

(5) In the further event that the owner shall not begin development pursuant to the approved PRD application for a period exceeding 12 months, the PRD designation shall lapse and the Overlay Zoning District for the subject property shall terminate.

(6) The Village Commission shall have full authority to approve, approve with modifications, or deny a PRD application based upon its legislative determination that the application, as proposed or modified, serves and protects or does not serve and protect the public health, safety and welfare to at least an equivalent degree as the underlying zoning. Likewise, the Village Commission shall have authority to impose reasonable conditions and safeguards necessary to protect the public health, safety and welfare upon the approval of any PRD application.

(7) Nothing contained in this section shall supersede or abrogate the express provisions of the Village's Comprehensive Plan, and all development orders issued by the Village shall not exceed the density limitations imposed by the Village's Comprehensive Plan. It shall be the duty of the Village Manager, or his/her designee, to advise the Village Commission whether any individual application will cause the density to exceed any density restrictions imposed by the Village's Comprehensive Plan.

E. *CG General Commercial District*

1. *Purpose and intent.* The purpose of this district is to encourage the development of general office, retail, service commercial, tourist accommodations, and commercial-residential mixed use.

2. *Uses permitted:*

(a) Bank or financial institution.

(b) Clinic, urgent care, or hospital.

(c) Dry cleaning substation or laundromat.

(d) Lounge or nightclub (subject to the provisions of Chapter 111 of the Village Code).

(e) Medical or dental office/laboratory.

(f) Personal services establishments, including but not limited to shoe repair, barber and beauty shop, stock brokerage, employment agency, travel bureau, and messenger service.

(g) Post office.

(h) Professional offices, including but not limited to architecture, accounting, engineering, investigative, investment and tax counseling law, medicine, and real estate.

(i) Multi-family residential dwellings.

(j) Tourist accommodations including hotels, motels, vacation rentals, and time sharing units.

(k) Restaurants, coffee shops, delicatessens and fast order food establishments (excluding any form of drive-in or drive-thru service regardless of the type of establishment; see subsection E.3.a).

(l) Outdoor seating/dining shall be subject to the following requirements and conditions:

(1) An application must be filed with the Village Manager, or his/her designee, for administrative review and approval, which shall include layout of all tables, chairs, benches, and other furniture; pedestrian ingress and egress; location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating/ dining use and area (all drawings must be titled, indicate orientation, and be at an acceptable scale).

(2) Outdoor seating/dining areas and uses of the public right-of-way and/or any private property may be approved, denied, or approved with conditions, modifications, safeguards, or stipulations appropriately and reasonably related to the intent, purposes, standards, and requirements of the related regulations by the Village Manager. Such permit shall not be transferable in any manner and is strictly a conditional use permit, issued for a period of one year, renewable annually via payment of the annual occupational license fee for such outdoor seating/dining uses.

(3) The fee for outdoor dining/seating use and area will be charged annually in the amount of $250.00; the permit fee shall be added to the occupational license fee for the main business.

(4) The applicant shall provide an indemnity agreement that is acceptable to the Village Manager. This agreement will include specification of liability insurance provided.

(5) The conditional use permitting of outdoor seating/dining use and area may be revoked by the Village Manager or his/her designee, upon finding that one or more conditions of these regulations have been violated, or that the outdoor seating/dining area and use are being operated in a manner that constitutes a public nuisance, or in any way that constitutes a reasonable risk of potential liability to the Village.

(6) Outdoor seating/dining use and area may be temporarily suspended by the Village for public use/purpose, utility, sidewalk or road repairs, emergency situations, or violations of provisions contained herein. The length of suspension shall be determined by the Village Manager as necessary. Removal of all street furniture and related obstructions shall be the responsibility of the owner/operator of the outdoor seating/dining.

(7) Outdoor seating/dining area shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris. The applicant shall be responsible for daily cleaning and sweeping of the outdoor seating/dining area and for the cleanliness and maintenance of any outdoor planters immediately adjacent to the outdoor seating/dining area. Use of Village sidewalks for trash and garbage removal shall be prohibited.

(8) Outdoor seating/dining use and area shall not interfere with the free and unobstructed pedestrian or vehicular circulation of traffic, public access to any street intersections, crosswalks, public seating areas and conveniences, bus stops, alleys, service easements, handicap facilities, or access to any other commercial establishments. The

width and location of the sidewalk pedestrian passage shall be as follows:

If there is seating on one side of the sidewalk, a minimum of five feet of sidewalk must remain clear and unobstructed for pedestrian passage;

(9) Outdoor seating/dining area on the public rights-of-way shall be open and unenclosed. No building structures of any kind shall be allowed in and over any portion of the outdoor seating/dining area located on public property.

(10) Tables, chairs and all other furniture used in the operation of an outdoor seating/dining area shall not be anchored or restrained in any manner. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating/dining area and where applicable, shall have a minimum clearance height of seven feet above grade.

(11) Outdoor seating/dining use and area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe or other establishment

(12) Outdoor seating/dining area shall be at the same elevation as the adjoining sidewalk or public right-of-way.

(13) Carts and trays for serving food are permitted in the outdoor seating/dining area.

(14) Outdoor seating/dining use and area shall not be provided with amplified sound of any kind.

(15) Outdoor seating/dining areas may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only; provided no entertainment of any kind is furnished. No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.

(16) Any administrative decision may be appealed to the Village Commission in accordance with the requirements of this Code.

(17) The hours of operation shall coincide with that of the primary restaurant.

(m) Retail sales establishments, including but not limited to the sale of appliances, books, stationery, drugs, hardware, liquor, groceries, meats, produce and fish; however, such retail sales shall be restricted to merchandise stored and displayed within the main structure.

(n) Radio and television transmitting station and studio.

(o) Storage facilities in connection with permitted uses or non-industrial mini-storage facilities in conjunction with other retail, commercial or mixed uses, including the rental of motor vehicles and trailers consistent with off-street parking restrictions (Section 9.6(A)) for self-hauling purposes and the storage of said vehicles on premises, subject to site plan approval by the Village Commission; provided, however, that all such material, including waste and cooling systems and the above described motor vehicles and trailers shall be stored or erected entirely within the walls of a building. Such rental vehicles shall not be over 30 feet in length. Parking shall be provided for the storage facility portion of any mixed use facility at the rate of one space for every 8,000 square feet of storage area.

(p) Studios for artists, photographers, sculptors, or musicians, including: the teaching of art, music, dancing, or artistic instruction.

(q) Marijuana dispensary meeting the requirements of Chapter 14.

(r) Daycare or nursery

(s) Repair service establishments (shoes, watches, appliances, and other similar uses)

(t) Gym or fitness center

(u) Commercial parking lot

(v) Business, vocational, and trade schools

(w) Pharmacy

(x) Animal hospital, grooming, and/or kennel

(y) Funeral home or mortuary

(z) Art gallery

aa Religious institution

bb Lodges, fraternal organizations, and union halls

3. *Special uses permitted.* Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions (See Section 8.11).

a. Drive-thru or drive-in service.

b. Marinas, provided that the following provisions are adhered to:

(1) No docks or piers, including mooring piles, catwalks, and other appurtenances, shall be constructed closer than 7.5 feet to any adjacent property line.

(2) In no case shall a dock or pier project more than ten percent into the width of any waterway.

(3) Where a marina is constructed separately from any other use, 50 square feet of landscaped open space shall be required per boat slip, 50 percent of which shall be pervious area.

(4) Fire prevention and fire control equipment shall be provided as required by Chapter 3805.5 through 3807.26 of the South Florida Building Code.

(5) In conjunction with the dockage of moorage of vessels, the following water-related activities, vessels and structures are prohibited:

(a) Commercial vessels.

(b) Haul-out facilities for major boat repair or overhaul work.

(c) Unscreened storage of boating supplies or accessories in the required front yard setback area.

(d) Permanent live-aboard vessels except as required for work or security purposes.

(6) All the requirements, standards, and regulations of Sections 150.01 through 150.03, 150.10 through 150.12 and 150.15 through 15.21 of the Village Code of Ordinances shall be complied with.

c. Mixed-use commercial and multifamily structures, provided they conform with the following requirements and standards:

(1) Minimum lot size of 27,000 square feet.

(2) Minimum setbacks:

Location	Distance (Feet)
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25
Side, (each)	15, plus five feet for each story over three
Second side	20% of lot width
Adjacent to single-family district	100
Total side setback area free structure at the ground level shall be at least 60 feet.	

(3) Maximum building height: 150 feet or 15 stories, whichever is less, a maximum of four stories may be utilized for a parking structure.

(4) Minimum pervious area: 20 percent of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.

(5) Maximum density: 70 efficiency or one 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 (sf/unit)	Density (Units/Acre)
Hotel or motel room with or without kitchen facilities	440	99.0
Efficiency	622	70.0
One-bedroom	622	70.0
Two-bedroom	685	63.6
Three or more bedrooms	750	58.1

(6) Minimum floor area.

Unit Type	Floor area (sf)
Efficiency or hotel room	400
One-bedroom	750
Two-bedroom	1,000
Three or more bedrooms	1,150

(7) Minimum boardwalk/baywalk accessibility criteria: 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. These properties shall also provide a connective public

easement connecting contiguous properties and the public right-of-way to these building shoreline access areas.

(8) Height bonus. The following maximum building height bonuses are permitted in the RM-70 District when any of the design bonus alternatives listed in 8(A) through 8(H) are incorporated into proposed project and the incorporated alternatives are subsequently approved by the Village Commission upon recommendation of the Planning & Zoning Board. Bonus approval shall be done at the time of Site Plan Review as required by Section 5.8. Each bonus alternative may be claimed once for a development and multiple awards for the same bonus feature shall not be permitted.

The 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 Village's Comprehensive Plan.

(a). *Twenty-foot height bonus.* An additional impact fee of $1,500.00 per unit in the building shall be paid to 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

(b) *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 Village-wide boardwalk. This fee shall be set towards a Boardwalk Fund and/or

(c). 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

(d)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

(e)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

(f)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

(g) Reserved

(9) D*ensity bonus.* Each parcel shall have the ability to purchase additional buildable units from North Bay Village for a price of $40,000.00 per unit. These units shall be derived from land currently owned by the Village, which will not be developed into residential buildings in the future. The money from these units shall be utilized for future Village parks and for the purchase of land for additional open green space. These units are to come from the development rights of Village Hall as well as the public works property on Treasure Island. The total buildable units are: 129 Efficiencies; 129 1-Bedroom Units; 117 2-Bedroom Units; 106 3-Bedroom Units. Monies due from development under the bonus participation program shall be paid to North Bay Village within 90 days of site plan approval by the Village Commission. Thereafter, the appropriate number of units will be

deemed to the property. {This fee shall be set towards a Village Park Fund}.

(10) Other requirements:

(a) A Public access boardwalk as required by the Miami Dade County Shoreline Review Committee. (Developer shall dedicate an easement to the 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.

(11) Funds paid to North Bay Village as a result of any bonus participation program shall be transferred between all accounts created for the purposes listed herein.

(d) Printing and publishing establishments, including blueprinting and photostating, provided that no such use shall occupy more than 1,500 square feet of gross floor area.

(e) Service stations, provided that the following provisions are adhered to:

(1) All structures shall be designed in a manner that is compatible with the overall environmental and architectural design goals of the community.

(2) All properties shall have at least 150 feet of frontage.

(3) All new and used merchandise shall be stored and displayed within the main structure except tires, accessories, and lubrication items, which may be maintained in movable or enclosed cabinets.

(4) No used or discarded automotive parts or equipment or permanently disabled or wrecked vehicles shall be located outside the main structure except within an enclosed trash storage area.

(5) Major repairs or engine overhauling or transmission repair, painting, body and fender repair, and tire recapping is not permitted.

(6) The rental of heavy equipment and the sale or rental of merchandise not related to the motoring public, other than as specified herein, is excluded.

(7) The storage of up to ten rental trailers or automobiles is permitted, provided that the trailers or automobiles are backed up against a six-foot high wall, and located not less than 20 feet from any sidewalk, street, or driveway.

(8) Car washes are permitted as an ancillary use subject to being located 200 feet from residential uses and subject to hours of operation.

(9) Trash shall be stored in areas shielded from public view. Storage trash containers shall be enclosed and covered.

(10) Any lights provided to illuminate or advertise the service station, shall be installed and maintained in a manner so as not to create an undue glare on adjacent properties.

(11) Structures shall not occupy more than 30 percent of the total lot area.

(12) Driveways shall be permitted at the intersections of primary and secondary arterials, provided the construction of driveway entrances is within the curb return, but shall be at least five feet beyond the end of the curb return. At all intersections, whenever possible, combine driveways servicing both service station and adjacent uses, shall be designated and provided.

(13) Planter areas and tree wells shall be constructed and equipped with irrigation and drainage facilities and landscaped prior to final building inspection.

(14) Whenever the use abuts a residential district, a wall shall be erected along the property line eight feet in height.

(15) Service stations shall not be permitted within 300 feet of the property line of any church, synagogue, hospital, and school.

(16) No more than four service stations shall be permitted within the Village at any one time.

(f) Theaters for the showing of motion pictures shall provide no less than 400 fixed seats. When the theater is to be used solely for activities of a performing art, or an event of a cultural or civic nature, a lesser number of seats may be required by the Commission.

(g) Yacht clubs, provided they have a minimum of 150 feet of water frontage and no main building is less than 4,000 square feet in gross floor area.

4. *Prohibited uses.* Boat storage facilities utilized for the purpose of storing boats shall be prohibited in the CG (General Commercial) District.

5. *Site development standards.*

a. Minimum lot size:

Area—10,000 sf

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
Side, (each)	15, plus five feet for each story over three

c. Maximum building height: 130 feet or 12 stories, whichever is less, two stories of which may be utilized for a parking structure.

d. Minimum pervious area: 20 percent of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.

e. Refer also to Miami-Dade Landscaping requirements.

F. Bay View Overlay (BVO) District.

1. General requirements.

a. Purpose and intent. The BVO District is intended to encourage taller, narrower, mixed use buildings on commercial lots on the north side of Kennedy Causeway where such lots front directly on, and provide unimpeded views north to Biscayne Bay. As such, this district provides the opportunity for development and redevelopment of mixed use residential buildings at greater heights than are otherwise permitted in the CG Zoning District if certain requirements are met. In order to provide incentives for re-development and streamline the development approval process, the BVO District has been pre-designated on the official zoning map. Application of the development incentives available in the BVO District to individual properties will be reviewed and approved by the Planning and Zoning Board and Village Commission concurrently with the site plan approval process.

b. Applicability.

(1) The BVO District provides for an optional set of development regulations that may be voluntarily employed in the mixed use development of lands located within geographic limits of the BVO District shown on the official zoning map.

(2) All regulations of the underlying zoning district that are not otherwise addressed in these regulations shall apply. Where the underlying zoning district and the BVO District both apply, the BVO District shall govern.

(3) If a property owner should elect not to develop under these optional regulations, only the regulations of the underlying zoning district shall apply.

c. Procedure.

(1) BVO standards review. Applications to use the development standards provided in the BVO District shall be processed concurrently with all other required development applications. At a minimum, the following applications are necessary and shall be considered in the following order:

(a) Use exception review required;

(b) Building height bonus review to 240 feet pursuant to Section 8.10.D.5;

(c) Bay View Overlay District standards review; and

(d.) Site plan review required.

(2) Approval. Applications require approval by the Village Commission following a single public hearing and a recommendation from the Planning and Zoning Board. In order to approve an application, the Village Commission shall find that the development proposed:

(a) Is compatible with surrounding intensities and densities of development;

(b) Provides access to adequate light and air for surrounding properties; and

(c) Preserves views of, and view corridors to, Biscayne Bay consistent with the Village's 2007 Master Charrette Plan.

2. Allowable uses. All uses listed as permitted or special exception uses in the underlying zoning district shall be permitted equally in the BVO District, and such use shall be subject to all conditions, requirements or limitations applicable to the use in the underlying zoning district,

except as may otherwise be set forth in this section.

3. Building heights. A building height of up to a maximum of 340 feet may be proposed under the following conditions:

   a. Lots over 500 feet in depth. For parcels where the lot depth is more than 500 feet, the following conditions shall apply:

      (1) The property is approved for a building height of 240 feet under the building height bonus provisions of Section 8.10.D.5.

      (2) The portion of any building that is more than 240 feet in height must be set back from the front property line by a distance that is not less than the height of said portion of the building.

      (3) If any portion of a building on the site exceeds 240 feet in height, no part of any building on the site may be closer to either side property line than a distance equal to 20 percent of the width of the lot.

   b. Lots under 500 feet in depth. For parcels where the lot depth is less than 500 feet, the following conditions shall apply:

      (1) The property is approved for a building height of 240 feet under the building height bonus provisions of Section 8.10.D.5.

      (2) The entire portion of a building that is more than 240 feet in height must be set back from the front property line by a distance that is at least 40 feet, plus two feet for each foot of the highest building height in excess of 240 feet.

      (3) If any portion of a building on the site exceeds 240 feet in height, the two side yards together must total 60 percent of the width of the lot, provided the smallest side yard may not be less than 20 percent of the width of the lot.

G. Government Use District

1. *Purpose and intent*. The Government Use Zoning District is intended for federal, state and local government activities, transportation facilities, public facilities and utilities and other similar facilities owned or operated by government that generally serve and benefit the community.

2. Uses permitted:

   a. Government owned facilities

   b. Government operated facilities

3. *Special uses permitted*. Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions.

4. Site development standards

   a. Minimum lot size

      (1) Area: no minimum lot size

      (2) Frontage: no minimum frontage

   b. Minimum yard setbacks

      (1) Kennedy Causeway: 20 feet

(2) Other street frontages: 10 feet

(3) Rear: 10 feet

(4) Abutting commercial zoning district: 5 feet

(5) Abutting multi-family zoning district: 7 feet

(6) Abutting single-family zoning district: 15 feet

c. Maximum building height: 150 feet

d. Minimum pervious area: Fifteen percent of the total parcel

§ 8.11 – Use exceptions

A. *Purpose and intent.*

In order to provide for adjustment in the relative locations of uses and buildings of the same or of different classifications; to promote the usefulness of these regulations as instruments for fact-finding, interpretation, application, and adjustment; and to supply the necessary flexibility to their efficient operation, use exceptions are permitted by these regulations.

B. *Use exceptions permitted.*

The Village Commission may permit the following buildings and uses as use exceptions, provided there are clear indications that such exceptions will not substantially affect adversely the uses permitted in these regulations of adjacent property.

1.. Structural alterations to special uses, after these uses are approved by the Village Commission.

2. Other special uses as may be enumerated in specific zoning districts.

3. Assisted living facility or nursing facility.

4. Temporary sales/marketing office approval for no more than 12 months.

5. Farmers' market

C. Expiration of use exception.

After the Village Commission has approved a use exception, the use exception shall expire after two years, 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 use exception was granted.

D. Reapplication for use exception.

No application for a use exception shall be filed less than one year after the date of disapproval by the Village Commission of an application for a use exception involving the same land or any portion thereof.

DIVISION 3, SUPPLEMENTAL USE REGULATIONS

§ 8.12 – Supplemental Use Regulations

A. Accessory uses and structures.

The following accessory uses and structures shall be permitted when such uses or structures are ancillary, in connection with, and incidental to, the principal use or structure allowed within the zoning district in ~~question~~ in which the principal use or structure is located.

1. Permitted accessory uses by zoning district

   a. In all residential districts:

      (1) Private garages or carports provided:

         (a) No solid wall exterior facades or enclosures are allowed;

         (b) Enclosures must create window facades proportional to the existing windows at the front of the home;

         (c) A landscaped area is created in front of the enclosed garage to a depth of 24" inches and covering the width of the original garage opening; and

         d) Such greenspace shall be cut out from any existing driveway material that may run up to the new enclosure, or enclosure may maintain a garage door facade.

      (2) Private swimming pools, cabanas, whirlpools, saunas, spas and hot tubs.

      (3) Private tennis, basketball or volleyball courts or other similar outdoor recreational uses.

   b. In all zoning districts

      (1) Television and radio antenna structures, except for those of a microwave relay or transmission nature, subject to the provisions of Section 8.13(N).

      (2) Caretaker or watchman quarters when such quarters are associated with an active construction project.

      (3) Storage structures, provided no structure exceeds 150 square feet in gross floor area and is not more than 12 feet high from grade.

      (4) Doghouse, pens, and other similar structures for the keeping of commonly accepted household pets, provided, however, the requirements of Sections 91.03 and 91.10 through 91.12 of the Village Code of Ordinances are complied with.

      (5) Disaster Shelters

2. Special Regulations. The following regulations shall apply to all accessory uses and structures:

   a. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

   b. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which they are located

   c. All accessory uses and structures shall comply with the site development standards applicable in the zoning district in which they are located, unless specifically authorized otherwise herein.

   d. All accessory uses shall be arranged and maintained so as not to encroach into any required yard setback area, unless specifically authorized otherwise within the provisions of this chapter.

e. All accessory structures shall comply with all provisions of the South Florida Building Code, as amended.

DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS

§ 8.13 – Supplemental Development Standards

A. *Awnings and canopies.*

1. Pedestrian related concerns are a priority in the creation of a successful development. Overhead protection from rain and sun should be provided for pedestrians. Awnings have an impact on the appearance of the storefront and building and tend to bring pedestrians closer to shop windows and entrances. Consideration shall be given to the following where applicable:

   a. Buildings/storefronts should have awnings or other means to provide pedestrians with sun/rain protection unless physically unsuited.

   b. Continuous awnings over several stores are prohibited.

   c. Individual awnings should be distinct from its adjacent neighbor. When multiple awnings are attached to one building, awnings shall be of identical height and depth.

   d. High gloss vinyl (plastic) awnings, backlit, and metal awnings are prohibited. These awnings, because of their high visibility, become attention getting devices - such as a sign, rather than means to provide comfort and protection for the pedestrian. Such awnings overwhelm the appearance of the buildings they are attached to, detracting from architectural qualities. Awnings that incorporate subtle down-lighting in a manner which creates a discreet peripheral washing of the awning, may be appropriate in some instances.

   e. Metal awnings should be contemporary in design and shall be subject to the same restrictions and guidelines as other awning materials.

   f. Awnings shall be maintained in good repair, free from tears, fading or peeling.

   g. Awnings may be supported by poles and connected to the building underneath.

   h. Awnings needing vertical support columns are prohibited in the setback area.

   i. The awnings on corner buildings shall continue around the corner for compatibility with building form and pedestrian patterns, wherever possible.

   j. Awnings shall not to be used where there is an existing projecting concrete sunscreen, except that a vertical awning valance may be suspended below the sunscreen with a clear height of eight feet above the sidewalk.

   k. Awnings should utilize color schemes that blend with those of neighboring developments as well as consistency in color schemes for the site. Accent colors should be chosen to enhance architectural details. Solid color and broad striped fabric patterns are preferred.

B. *Boats, docks and piers.* Dockage space and facilities for the mooring of pleasure boats, yachts and other noncommercial watercraft may be permitted in any residential district on any waterway as an accessory use, provided that:

1. No boat may be used or maintained for overnight sleeping or living purposes or as a place of residence. ~~or for any commercial purpose~~

2. No boat may be used for any commercial purpose.

3. No docks, piers, mooring posts, or combinations thereof, may project more than 25 feet from

any bulkhead line, nor extend nearer than seven and one-half feet to any adjacent property line. A waiver may be granted by the Village Commission pursuant to Section 150.11(A), upon completion of a marine survey demonstrating the minimum distances from the seawall necessary to meet the minimum depth requirements, approved by DERM, and completed by a licensed professional surveyor and mapper registered to practice in the State of Florida.

4. Temporary piers, floating docks, or similar temporary moorings are prohibited.

5. All the regulations, standards, and requirements of Chapter 150 of the Village Code shall be complied with.

6. Barges and vessels shall be permitted in residential districts only for loading, unloading and on-site construction, in compliance with Chapter 150.

C. *Clotheslines.*

No clotheslines, drying racks, poles, railings, or other similar devices for hanging clothes, rags, or other fabrics shall be erected or maintained in a front or corner side yard.

D. *Construction materials on premises before permit issued; removal of materials.*

1. Construction materials and equipment shall not be deposited on any premises, lot, or proposed building site in any district prior to the obtaining of a building permit as required herein.

2. Surplus materials and construction equipment shall be removed from the premises if the job is abandoned, and before occupancy of the completed structure will be permitted.

E. *Dumpster enclosures.*

1. Mechanical equipment is necessary to the function of the buildings, which comprise a successful development. Unfortunately, space must be found for components that are sometimes large, noisy and unsightly. Mechanical equipment, particularly when added after the building is in use, can interrupt the streetscape and public views, decreasing the comfort and livability throughout the area. Enclosures and mechanical rooms shall conform to the following criteria:

   a. When associated with new construction or rehabilitation valued at more than 30 percent of the building value as determined by the building official:

      (1) Restaurant and/or drinking uses, trash and garbage facilities shall be within an enclosed, air-conditioned garbage room; and

      (2) Commercial, office or multifamily uses, trash and garbage facilities shall be within an enclosed, cross-ventilated garbage room.

   b. When located outside of the building, the trash and garbage facilities shall be enclosed within a decorative CBS, wood, metal or recycled products material, opaque structure. The structure (including opaque gates) shall be painted or finished to match the building appearance. No such containers shall be kept, utilized, left stored or maintained in front of any principal structure, except on collection day.

   c. Dumpster enclosures shall be located in visually obscure areas of the site and shall be designed in a manner as to visually screen the dumpster from adjacent view, and shall include a dumpster locking device on containers that include food waste to prevent access to the dumpster by birds or rodents.

   d. Dumpster enclosures shall be placed in such a manner as to allow sanitation trucks to pick up garbage in a manner they are designed for.

   e. 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.

f. All service bays, mechanical (HVAC) equipment and delivery areas should be located away from and not visible from the streets, waterways, sidewalks, and adjacent properties.

g. Service bays, ground-mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.

h. Exterior service bays and delivery areas should not be used for the storage of vehicles or materials.

F. *Fences, walls and hedges.*

1. When required

a. An eight-foot high wall, hedge, or fence shall be required along all side and rear commercial property lines which are contiguous to a residential zoned property, subject to vision clearance requirements established elsewhere in this section.

b. All permitted outdoor storage areas in multifamily residential and commercial zones shall be visually screened from public view by an eight-foot high solid wood or masonry fence or wall.

c. Fences or walls to be built in connection with other permitted recreational uses such as baseball backstops, tennis courts, handball courts, and the like shall be permitted at the height necessary for the particular use.

d. All vacant lots adjacent to Kennedy Causeway shall be hedged along that portion of the lot which is adjacent to Kennedy Causeway.

(1) The hedge shall not exceed four feet in height and not be lower than two feet in height and shall be of sufficient thickness and density so as to provide a physical barrier similar in effect to a fence.

(2) The hedges shall be continuously and regularly trimmed, and any dead plants, or plants which fail to bear leaves, shall be regularly and timely replaced.

(3) The remainder of the lots shall be fenced or hedged so as to prevent the unauthorized entry of motor vehicles thereon.

e. Concrete Block Walls. No fence, solid contiguous wall or ledge consisting of blocks or concrete shall be erected, constructed, installed or maintained in any manner parallel to the 79th Street Causeway.

2. Prohibitions

a. No fence, wall, or hedge may be constructed, installed, or maintained within six feet of any fire hydrant or other emergency apparatus.

b. No fence, wall, or hedge may be constructed, installed, or maintained which in any manner creates a visual obstruction to vehicular traffic. In no event shall any fence which obstructs or obscures vision, or any wall or hedge exceed four feet in height within 30 feet of the intersection of official right-of-way lines.

c. No wall or fence shall exceed five feet in height within any required front yard setback, provided such fence or wall does not create a visual obstruction to pedestrian or vehicular traffic. Additionally:

(1) Landscaping shall be required on the street side of any such wall or fence;

(2) Any concrete wall or concrete block wall shall be sustained in a finished condition.

d. Hedge heights shall not exceed twelve (12) feet in height in the front, rear and side setbacks in the RS-1 and RS-2 Districts, provided that:

(1) Such hedges do not interfere with vehicular traffic or visibility on public rights-of-way;

(2) Such hedges are neatly trimmed;

(3) The property owner responsible for planting the hedge shall maintain the entire hedge, including the sides facing the neighboring properties in order avoid any hindrance to said neighboring property.

(4) Hedge planting is strictly prohibited within the Village right-of-way or easement area.

e. Walls and fences in the rear and side setbacks shall not exceed-a height of six feet.

f. No chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, will be permitted within front setbacks. (This includes all areas past the front edge of the house running towards the street.)

g. Ornamental entrances, fountains, plant containers, and similar architectural features exceeding the wall height restriction will be permitted, provided that:

(1) No such feature shall exceed in height the wall height restriction for that district plus three feet; and

(2) There shall be only one such feature in any front, side or rear yard, except that there may be two entrance gates.

h. Planting of vegetation in easement areas shall conform to the following:

(1) No trees may be planted within any easement or public right-of-way area as shown on the recorded plats of the various subdivisions of the Village ("easement areas").

(a) Nothing in this section shall be construed to prohibit the planting of low growth landscaping in the easement or right-of-way areas ("easement landscaping").

(b) Easement or right-of-way landscaping is subject to removal by the Village without notice in the event that this landscaping impedes access to these areas. The Village shall not be responsible for damage to the removed landscaping;

(c) Prior to planting such easement landscaping in easement areas, the property owner shall execute a permission for removal, release and indemnification agreement, in a form acceptable to the Village, pertaining to such easement.

i. North Bay Island. The linear footage of any property's street front Village easement or right-of-way area must maintain a greenspace (pervious) area whereby the permissible paved area is to be limited to only 40 percent of that total linear footage.

(1) The protected greenspace shall be restricted from any paving materials including but not limited to asphalt, concrete, brick, pavers, gravel or solid cover of mulch.

(2) The depth of that protected pervious area must be maintained at full easement depth from the street to the property boundaries.

(3) Any paving of the property frontage beyond the easement area (within front yard), and greater than 40 percent of the permitted linear footage must create a green landscape facade to decrease the sight line of that paved surface from the street view.

j. All islands.

(1) Front yard area may be paved up to 40 percent of the total linear footage.

(2) The balance of footage may only be paved if a greenspace is created between the Village's sidewalk and the paved area, for a depth of no less than 48 inches, and heavily landscaped to create green landscape facade to decrease the sight line of that paved surface from the street.

k. Nonconforming uses of land. The lawful use of land existing at the time of the passage of this ordinance or an amendment thereto, although such uses do not conform to the provisions of this ordinance, may be continued subject to the following provisions:

(1) Front yard areas may not be increased in paved areas.

(2) All rights and obligations subject to the nonconforming use of the 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.

3. General requirements

a. Construction and materials.

(1) No fence or wall may be constructed of materials which will be hazardous to the health, safety, or welfare of persons or animals.

(2) Fences which are erected with sheathing, pickets or slats on one side only shall have such materials placed on the side of the fence facing the adjacent property in such a manner as to conceal the structural elements of the fence from off premises view.

(3) Walls or fences constructed of concrete block shall be constructed so that the side facing away from the property on which the wall or fence is located shall be finished with stucco or some other approved material.

b. Maintenance. All fences, walls, and hedges shall be maintained in a safe, attractive, and non-hazardous condition.

(1) Hedges shall not extend over or into the public right-of-way for the full height of the hedge.

(2) Maximum height.

(a) No fence or wall shall exceed six feet in height and no hedge shall exceed six feet except as may be permitted or further restricted elsewhere in this section.

(b) The height of a wall, fence, or hedge shall be the vertical distance measured from the average elevation of the finished building site to the top of the wall, fence, or hedge.

(c) The average elevation shall be measured along the wall, fence, or hedge line that the same is to be placed.

(d) The land within the area which the wall, fence, or hedge is to be placed may not be increased or decreased to effect the permitted height unless the entire building site is to be graded to level off this area.

4. Temporary fence around construction site. Nothing in this section shall be deemed to prohibit the erection and maintenance of a temporary fence around construction sites on which actual construction activity is taking place pursuant to a valid active building permit.

a. The fence may exceed the height limitations in this zoning code if the fence is constructed of solid wood (or plywood) and is decorated in an attractive and artful design as shall be determined by the Village Commission or appropriately designated board.

b. In no event shall the fence exceed eight feet in height.

c. Chain link fences shall not be the permitted around construction sites unless screening is used with the chain link to conceal construction materials from outside view.

5. Existing nonconforming fences and/or walls; removal.

a. Intent. It is the intent of this division to recognize that the eventual elimination of existing fences, that do not conform with the provisions of this chapter, in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new fences that would violate the provisions of these regulations. It is also the intent of this division that there shall not be any unreasonable burden upon established private property rights.

b. Continuance. Subject to the amortization schedule below, a nonconforming fence may be continued and shall be maintained in good condition, but shall not be:

(1) Enlarged or changed to another nonconforming fence.

(2) Reestablished after its removal.

(3) Reestablished after being damaged or deteriorated whereby the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost.

c. It shall be the responsibility of the Code Enforcement Officer to make an inventory and a record of all nonconforming fences and to serve notice on the owners or users of such fences within 30 days after the adoption of these regulations. The period of nonconformity shall nonetheless begin as of the date of the passing of this division. The inventory shall include the following:

(1) Owner.

(2) Type of fence

(3) Location.

(4) Reason for classification as nonconforming.

5) Date fence was erected.

G. *Height exceptions.*

Church steeples, bell towers, chimneys, tanks, decorative features, elevator lift housing, air conditioning units, or other mechanical or functional features may exceed zoning district height requirements, except as may be otherwise stipulated herein.

H. *Outdoor dining and sidewalk cafes.*

1. Café tables in the right-of-way can bring activity to the street. They can provide a wonderful means of people-watching for diners and pedestrians. Consideration should be given to unification of these elements within a block from street to street.

2. Restaurants and bars are also encouraged to provide outdoor service in courtyards or arcades.

3. Sidewalk cafés on the public right-of-way may be allowed upon approval by the Village Commission.

4. Outdoor restaurants, bars or sidewalk cafés must be associated with an adjacent licensed restaurant and comply with all other zoning regulations and conform to the following criteria:

a. An application must be filed with the Village Manager, or his/her designee, for administrative review and approval, which shall include:

(1) Layout of all tables, chairs, benches, and other furniture;

(2) Pedestrian ingress and egress;

(3) Location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating/dining use and area (all drawings must be titled, indicate orientation, and be at an acceptable scale).

b. Outdoor seating/dining areas and uses of the public right-of-way and/or any private property may be approved, denied, or approved with conditions, modifications, safeguards, or stipulations appropriately and reasonably related to the intent, purposes, standards, and requirements of the related regulations by the Village Manager.

(1) Such permit shall not be transferable in any manner and is strictly a conditional use permit, issued for a period of one year, renewable annually via payment of the annual occupational license fee for such outdoor seating/dining uses.

(2) The fee for outdoor dining/seating use and area will be charged annually in the amount of $250.00; the permit fee shall be added to the occupational license fee for the main business.

c. The applicant shall provide an indemnity agreement that is acceptable to the Village Manager. This agreement will include specification of liability insurance to be provided.

d. The conditional use permitting of outdoor seating/dining use and area may be revoked by the Village Manager or his/her designee, upon finding that:

(1) One or more conditions of these regulations have been violated, or

(2) That the outdoor seating/dining area and use are being operated in a manner that constitutes a public nuisance, or in any way that constitutes a reasonable risk of potential liability to the Village.

e. Outdoor seating/dining use and area may be temporarily suspended by the Village for public use/purpose, utility, sidewalk or road repairs, emergency situations, or violations of provisions contained herein.

f. The length of suspension shall be determined by the Village Manager as necessary.

g. Removal of all street furniture and related obstructions shall be the responsibility of the owner/operator of the outdoor seating/dining.

h. Outdoor seating/dining area shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris. The applicant shall be responsible for daily cleaning and sweeping of the outdoor seating/dining area and for the cleanliness and maintenance of any outdoor planters immediately adjacent to the outdoor seating/dining area.

i. Use of Village sidewalks for trash and garbage removal shall be prohibited.

j. Outdoor seating/dining use and area shall not interfere with the free and unobstructed pedestrian or vehicular circulation of traffic, public access to any street intersections, crosswalks, public seating areas and conveniences, bus stops, alleys, service easements, handicap facilities, or access to any other commercial establishments.

k. If there is seating on one side of the sidewalk, a minimum of five feet of sidewalk must remain clear and unobstructed for pedestrian passage;

l. Outdoor seating/dining area on the public rights-of-way shall be open and unenclosed. No building structures of any kind shall be allowed in and over any portion of the outdoor seating/dining area located on public property.

m. Tables, chairs and all other furniture used in the operation of an outdoor seating/dining area shall not be anchored or restrained in any manner.

n. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating/dining area and where applicable, shall have a minimum clearance height of seven feet above grade.

o. Outdoor seating/dining use and area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe or other establishment

p. Outdoor seating/dining area shall be at the same elevation as the adjoining sidewalk or public right-of-way.

q. Carts and trays for serving food are permitted in the outdoor seating/dining area.

r. Outdoor seating/dining use and area shall not be provided with amplified sound of any kind.

s. Outdoor seating/dining areas may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only; provided:

(1) No entertainment of any kind is furnished.

(2) No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.

t. Any administrative decision may be appealed to the Village Commission in accordance with the requirements of this Code.

u. The hours of operation shall coincide with that of the primary restaurant.

v. Placement of tables, chairs and related equipment shall be situated to ensure that a minimum of five feet straight pathway on the sidewalk is maintained at all times as an unobstructed pedestrian path.

w. Serving through windows is not permitted.

x. Food preparation shall only occur in the enclosed restaurant.

y. Because tables provide sufficient advertisement, no additional signs for sidewalk café are permitted.

z. Outdoor furniture shall be substantial enough not to blow over with normal winds.

aa. All outdoor furniture and fixtures shall be tastefully compatible and approved by the Planning and Zoning Official.

bb. All disposable table materials such as plates, glasses, and napkins shall be imprinted with the name of the café (stickers may be used). This regulation is to control litter.

cc. Sidewalk cafés shall receive a revocable permit subject to the procedures established by the Village.

l. *Recreational and camping equipment.*

Recreational and camping equipment in the form of travel and camping trailers, truck trailers, and motor travel homes, designed and used as temporary living quarters for recreation, camping, or travel use may be parked in the open on sites containing single-family residences, subject to the following conditions:

a. No more than one piece of recreation or camping equipment shall be parked on the site.

b. Such parking shall be limited to the equipment owned or leased by the owner-occupant or

occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-Dade County house guest of the occupant of the site concerned, with the parking of such equipment by the guest not to exceed 14 days.

c. The location for such parked equipment shall be to the rear of the front building line and behind the side street building line, in each case the building line referred to being that portion furthest from the street.

d. Such equipment and the area of parking shall be maintained in a clean, neat, and presentable manner and the equipment shall be in a usable condition at all times.

e. Such equipment shall, at all times, have attached a current vehicle registration license tag.

f. No major repairs or overhaul work on such equipment shall be made or performed on the site or any other work performed thereon which would constitute a nuisance under existing ordinances.

g. When parked on the site, such equipment shall not:

(1) Be used for living or sleeping quarters, or

(2) Be used for housekeeping or storage purposes and

(3) Shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment.

h. The maximum length permitted for such equipment shall not exceed 30 feet and the maximum height shall not exceed ten feet.

i. Such equipment shall be so secured that it will not be a hazard or menace during high winds or a hurricane.

J. *Safe and sanitary dwelling unit standards.*

The following shall be the minimum standards to be enforced in North Bay Village relative to the safe and sanitary maintenance of dwellings and dwelling units:

1. All foundation walls shall be structurally sound, reasonably rodent-proof, and maintained in good repair.

2. Foundation walls shall be considered to be sound if they are capable of bearing imposed loads and are not deteriorated.

3. Every dwelling unit shall be reasonably weathertight, watertight, and rodent-proof.

a. Floors, walls, ceilings, and roofs shall be capable of affording adequate shelter and privacy and shall be kept in good repair.

b. Windows and exterior doors shall be reasonably weathertight, watertight and rodent proof, and shall be maintained in good working condition.

c. All parts of the structure that show evidence of rot or other deterioration shall be repaired or replaced.

4. Every inside and outside stairway, porch, and every appurtenance thereto, shall be maintained in a safe condition and be capable of supporting loads which normal use may impose.

5. Every chimney and smoke pipe, and all flue and vent attachments thereto, shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the dwelling.

6. All exterior surfaces subject to deterioration shall be properly maintained and protected from the

elements by paint or other approved protective coating applied in a workmanlike fashion.

7. Every plumbing fixture, water pipe, waste pipe, and drain shall be maintained in good sanitary working condition, free from defects, leaks, and obstructions.

8. The floor surface of every water closet compartment, bathroom, and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

9. Every supplied facility, piece of equipment, or utility shall be maintained in a safe and satisfactory working condition.

10. No owner or occupant shall cause any service, facility, equipment, or utility required to be removed from or discontinued for any occupied dwelling or dwelling unit except for such temporary interruption as may be necessary while actual repairs, replacement, or alterations are in process.

11. For these purposes, every owner of a building containing three or more dwelling units, shall provide the continuing service of a person or persons solely to assure that the minimum requirements of maintenance and sanitation, as provided herein are maintained on the premises at all times.

12. The provisions of the Dade County Minimum Housing Code shall apply as a minimum standard for Village enforcement.

K. *Security guards.*

1. Definitions: The term security guards shall be synonymous with burglar guards and shall refer to steel bars commonly installed on the exterior or interior of doors or entryways and windows or breezeways or private residences, including free standing as well as multifamily residences and commercial and industrial buildings.

2. No security guards may be installed on the exterior of doors and entryways, windows and breezeways on front and side elevations of buildings which face a street or public right-of-way.

3. Continuance and removal of nonconforming security guards.

   a. A nonconforming security guard (one which is in existence at the effective date of this section) may be maintained and continued in use as a legal nonconforming use.

   b. However, no such security guard may be enlarged or replaced by another nonconforming device.

   c. At such time as title to the property changes, all nonconforming security guards shall be removed.

   d. Title change shall be defined to mean any change of record ownership, other than by survival or by inheritance of a tenant by the entreaties.

L. *Setback encroachments.*

Every part of every required front, side, and rear yard setback shall be open and unobstructed from the ground to the sky except as herein provided.

1. Cornices, roof overhangs, window air conditioning units, awnings, chimneys, and sills may extend into a required side or rear yard, provided any such extension does not exceed 36 inches into the required yard.

2. Balconies shall be permitted to project to a distance of 48 inches into the required yard, provided there is a seven-foot clear span.

3. A canopy shall be permitted to extend from the entrance door to the street line of any main building in multi-family residential districts provided:

   a. Where a sidewalk and curb exist, the canopy may extend to within 18 inches of the curb line.

   b. Such canopies shall not exceed 15 feet in width or 12 feet in height or be screened or enclosed in any manner.

   c. Such canopies shall provide an unobstructed, clear space between the grade and the bottom of the valance of at least six and one-half feet.

   d. Such canopies shall be required to be removed during hurricane warning periods.

4. A "garden window" is defined for this subsection as a pre-manufactured window unit constructed to form an interior shelf or shelves enclosed by glass to serve as a miniature greenhouse for the cultivation of small potted plants.

5. A garden window shall be permitted to extend outward from the building into a setback-a perpendicular distance not to exceed 24 inches.

6. In the single-family zoning districts, ground mounted mechanical equipment, including air conditioning equipment, pool equipment, heat pumps, water heaters, generators and other similar equipment, may be placed in a side yard setback area; provided:

   a. The unobstructed side setback area is not reduced by more than 50 percent of what is required in the zoning district regulations; and

   b. The equipment placed in the setback area does not operate above 70 decibels; and

   c. The equipment placed in the setback area does not exceed a height of 48 inches above ground level.

M. *Swimming pools.*

1. Purpose and intent. The Legislature finds that drowning is the leading cause of death of young children in this state and is also a significant cause of death for medically frail elderly persons in this state, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa or hot tub will reduce drowning and near-drowning incident.

   In addition to the incalculable human cost of the submersion incidents, the health care costs, loss of lifetime productivity and legal and administrative expenses associated with drowning of young children and medically frail elderly persons in this state each year and the lifetime costs for the care and treatment of young children who have suffered brain disability due to near-drowning incident each year is enormous.

2. Standards and requirements.

   a. Any swimming pool operated by a residential homeowner, ~~or~~ condominium association, or by the resident of a single-family dwelling shall be permitted as an accessory use and shall exist only in conjunction with the principal use on the same lot, subject to the regulations stated herein.

b. A swimming pool may be permitted in any rear yard; however, in no instance shall it be located nearer than the following distances from any property line or structure:

Setback	Distance (Feet)
Front	25
Side (interior)	7.5
Rear or Easement	7.5
Structure	5
Side (corner)	15

c. Access. Exterior access to a swimming pool shall be through a self-closing and self-latching gate with latches placed at least four feet above grade and operable from the pool area only.

d. Drainage. If a patio is provided adjacent to or surrounding a swimming pool, it shall be designed so as to be self-draining away from the pool.

e. Lighting. Artificial lighting used to illuminate the premises shall be shielded and directed away from adjacent properties and streets, shining only on the subject site.

f. Height. Swimming pools and appurtenances shall not exceed a height of two feet above grade.

g. Additional requirements. In addition to the foregoing requirements, all regulations and standards of Sections 151.01 through 151.18 of the Village's Code of Ordinances, and the Florida Building Code shall be complied with.

3. Barriers for swimming pools, spas and hot tubs required.

Barriers must be placed around the perimeter of the pool, spa or hot tub and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, spa or hot tub that is being used as part of the barrier, and meets the barrier requirements of this chapter, chapter 151 of this Code, and the Florida Building Code.

a. Barrier construction

(1) A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide direct access from the home to the swimming pool, spa or hot tub.

(2) Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:

(a) All doors and windows providing direct access from the home to the pool, spa or hot tub shall be equipped with an exit alarm complying with this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code that has a minimum sound pressure rating of 85 dB.

(b) At 10 feet the exit alarm shall produce a continuous audible warning when the door and its screen are opened.

i. The alarm shall sound immediately after the door is opened and be capable of being heard throughout the house during normal household activities.

ii. The alarm shall be equipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than 15 seconds.

iii. The deactivation switch shall be located at least 54 inches above the threshold of

the door.

iv. Separate alarms are not required for each door or window if sensors wired to a central alarm sound when contact is broken at any opening.

(c) All doors providing direct access form the home to the pool, spa or hot but must be equipped with a self-closing, self-latching device with positive mechanical latching/locking installed a minimum of 54 inches above the threshold, which is approved by the authority having jurisdiction.

(d) Exceptions:

i. Screened or protected windows having a bottom sill height of 48 inches or more measured from the interior finished floor at the pool, spa or hot tub access level.

ii. Windows facing the pool, spa or hot tub on floor above the first story. Screened or protected pass-through kitchen windows 42 inches or higher with a counter beneath.

(3) The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool, spa and/or hot tub.

(4) The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool, spa and/or hot tub.

(5) Where the top of the pool, spa or hot tub structure is above grade the barrier may be at ground level or mounted on top of the pool, spa or hot tub structure.

(6) Where the barrier is mounted on top of the pool, spa or hot tub structure, the maximum vertical clearance between the top of the pool, spa or hot tub structure and the bottom of the barrier shall be 4 inches.

(7) Maximum mesh size for chain link fences shall be a 2¼ inch square unless the fence is provided with slats fastened at the top or bottom which reduce the openings to no more than 1¾ inches. A mesh safety barrier meeting the following minimum requirements shall be considered a barrier as defined in this section:

(a) Individual component vertical support posts shall be capable of resisting a minimum of 52 pounds (229 N) of horizontal force prior to breakage when measured at a 36-inch height above grade.

(b) Vertical posts of the child mesh safety barrier shall extend a minimum of 3 inches below deck level and shall be spaced no greater than 36 inches apart.

(c) The mesh utilized in the barrier shall have a minimum tensile strength according to ASTM D 5034 of 100 lbf., and a minimum ball burst strength according to ASTM D 3787 of 150 lbf. The mesh shall not be capable of deformation such that a ¼ inch round object could pass through the mesh. The mesh shall receive a descriptive performance rating of no less than "trace discoloration" or "slight discoloration" when tested according to ASTM G 53 (Weatherability, 1,200 hours).

(d) When using a molding strip to attach the mesh to the vertical posts, this strip shall contain, at a minimum, #8 by percent-inch screws with a minimum of two screws at the top and two at the bottom with the remaining screws spaced a maximum of 6 inches apart on center.

(e) Patio deck sleeves (vertical post receptacles) placed inside the patio surface shall be of a nonconductive material.

(f) A latching device shall attach each barrier section at a height no lower than 45 inches above grade. Common latching devices which include, but are not limited to, devices that provide the security equal to or greater than that of a hook and eye type latch incorporating a spring actuated retaining level (commonly referred to as a safety gate hook).

(g) The bottom of the child mesh safety barrier shall not be more than 1 inch above the deck or installed surface (grade).

(8) The barrier may not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier as herein described below.

(9) One end of a removable child barrier shall not be removable without the aid of tools. Openings in any barrier shall not allow passage of a 4-inch-diameter sphere.

(10) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool, spa or hot tub side of the fence.

(11) Spacing between vertical members shall not exceed 1¾ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.

(12) Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than 1¾ inches.

(13) Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

(14) Where an aboveground pool, spa or hot tub structure is used as a barrier or where the barrier is mounted on top of the pool, spa or hot tub structure, and the means of access is a ladder or steps;

(a) The ladder or steps either shall be capable of being secured, locked or removed to prevent access, or

(b) The ladder or steps shall be surrounded by a barrier which meets the requirements of this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code.

(c) When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter sphere.

(15) Any permitted swimming pool may be enclosed by a screen enclosure, provided the enclosure is constructed of material which is 90 percent screening.

(16) Screen enclosures shall have the same minimum side setbacks as those stated above for swimming pools.

(17) Standard screen enclosures which meet the requirements of the Florida Building Code, may be utilized as part of or all of the "barrier" and shall be considered a "non-dwelling" wall.

(18) Removable child barriers shall have one end of the barrier non-removable without the aid of tools.

(19) Removable child barriers must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may manage to penetrate the

barrier from immediately falling into the water.

(a) Sufficiently away from the water's edge shall mean no less than 20 inches from the barrier to the water's edge.

(b) Dwelling or non-dwelling walls including screen enclosures, when used as part or all of the "barrier" and meeting the other barrier requirements, may be as close to the water's edge as permitted by this Code.

(20) A barrier may not be located in a way that allows any permanent structure, equipment, or window that opens to provide access from the home to the swimming pool, spa and/or hot tub.

b. Access to swimming pools, spas and hot tubs.

Access gates, when provided, shall be self-closing and ~~shall comply with the requirements of this chapter and chapter 151 of this Village's Code and~~ shall be equipped with a self-latching locking device located on the pool, spa or hot tub side of the gate.

(1) Where the device release is located no less than 54 inches from the bottom of the gate, the device release mechanism may be located on either side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap from the outside.

(2) Gates that provide access to the swimming pool, spa or hot tub must open outward away from the pool, spa or hot tub.

(3) The gates and barrier shall have no opening greater than ½ inch within 18 inches of the release mechanism.

c. Adjacent waterways as barriers.

(1) Permanent natural or permanent man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a public or private swimming pool, spa or hot tub may be permitted as a barrier when approved by the authority having jurisdiction.

(2) When evaluating such barrier features, the authority may perform on-site inspections and review evidence such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify, at a minimum, the following:

(a) The barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as provided by the code.

(b) The barrier feature clearly impedes, prohibits or restricts access to the swimming pool, spa or hot tub.

d. Schedule of penalties.

Failure to comply with the requirements of any section of this chapter may result in a penalty as provided in Section 153 of the North Bay Village Code.

N. *Towers, antennas, poles and masts.*

1. Generally.

Prior to the erection of a water tower, standpipe, windmill, tower, aerial, antenna, pole, mast, or other vertical structure over ten feet in height above the roof of a permitted structure, or over 20 feet in height if erected at grade, the requirements of this section and the South Florida Building Code shall be observed.

a. Plans and specification required.

Plans and specifications for the structures listed above shall be submitted to the Building Official showing:

(1) All dimensions, size, and kind of members, footings, and guy wires;

(2) The location, depth, and type of guy anchors and footings;

(3) The type and weight of the antenna, apparatus, or structure to be attached to or supported by the structure; and

(4) An application made for a permit.

b. Maximum height.

(1) The vertical height of any of the above structures shall not be greater than 90 percent of the horizontal distance from its base to the nearest adjacent street right-of-way line.

(2) Radio towers, where incidental to a business use in the commercial district, may extend to a height of 150 feet measured from ground elevation.

(3) Poles, masts, and towers for supporting antenna used in the operation of amateur radio stations, citizen band radio stations, and citizen band radio stations licensed by the Federal Communications Commission shall be excepted from the above regulations and shall be governed by the following requirements:

(a) All poles, masts, towers, and beam array antennas shall be placed not less than five feet from a public right-of-way line or adjacent property line, or nearer than one foot from any easement.

(b) All such installations shall conform to the requirements of the National Electrical Code and applicable FCC regulations, and be located not less than eight feet from any power line over 250 volts, including the beam elements or any part thereof.

(c) Permits shall be required for the installation of any poles, masts, or towers over 20 feet above the roof of any structure to which they may be attached, and for any installation over 35 feet in height when erected from grade. Applications for permits shall be accompanied by three copies of plans and specifications~~, three copies~~ showing:

(1) All dimensions, size and kind of members, f

(2) Footings and guy wires;

(3) The location, depth and type of guy anchors and footings; and

(4) The type and weight of the antenna, apparatus or structure to be attached to or supported by the structure.

(d) Poles shall be of an approved creosoted type or treated or painted with a chemical preservative and an outer coat of oil base paint before installation. The color shall match the surrounding development.

(e) The recommended depth of holes for various type poles shall be subject to acceptable engineering standards:

Pole Height Above-ground (feet)	Hole Depth in Firm Ground (feet)	Hole Depth in Rock Ground (feet)
16	3.5	3
20	4	3
25	5	3
35	6	4
50	7	0.5

(f) If the earth is damp or soggy, the depth of hole is to be increased by one foot.

(g) If carrying a beam, poles must be properly guyed, as is the case where the pulling effect of the wire antenna or weight of other installations will require guying.

(h) Wood masts shall be chemically treated, painted with an outside coat of oil base paint, and suitably guyed at the top and middle in at least three different directions.

(i) Masts to support a beam, whether of wood or metal pipe, shall comply with all the applicable regulations in regard to the location, guying and the like, and the maximum allowable weight of antenna, rotator and components shall not exceed 150 pounds.

(j) Towers of steel, iron or aluminum, whether of the rigid nondemountable type or the rigid, demountable type with the crank-up, crank-down and either the hinged base or swivel crank-over features shall carry no more weight on the top than specified by the manufacturers specifications.

(k) In calculating the height of demountable type towers, the top of the lower rigid section shall be considered the top for the purpose of this section.

(l) Beam array antennas shall be mounted so as to provide easy servicing and easy access for the removal at approach of hurricanes, or provide for the lowering of such beam.

2. Dish antennas.

a. Application. This section shall apply only to private noncommercial dish antennas as defined in subsection (B)(2) below. This section shall supplement and not repeal or modify the requirements of Section 8.10(E)(5).

b. Definitions:

(1) Dish antenna means a dish antenna intended for the purpose of receiving communications from orbiting satellites and other extraterrestrial sources, a low noise amplifier (L.N.A) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building.

(2) A private noncommercial dish antenna is a dish antenna for a single-family residence which is erected solely for the use of its owners. Said antenna shall not be used for the purpose of obtaining revenue.

c. Placement. Private noncommercial dish antennae may be permitted in North Bay Village provided:

(1) They are located in the rear yard.

(2) They are placed no closer to any property boundary line than a distance equal to their height as measured from ground level to the top of the antenna but in no event closer than ten feet to said property lines.

(3) On corner properties, no portion of the apparatus may extend beyond the imaginary extension of the line of the house structure.

(4) Roof-mounted dish antennae shall not be permitted except on two-story buildings with a flat roof, provided the antenna cannot be viewed from ground level, and in no instance is to exceed in height 15 [feet] above the roof.

d. Dimensions. The height of dish antennas, on the ground, shall not exceed 15 feet from ground level nor shall their diameter exceed 12 feet.

e. Number allowed; color. Only one dish antenna shall be allowed per single-family house, and antennas shall be neutral in color, and one color only.

f. Anchorage. All dish antennae shall be anchored securely to the ground or structure in compliance with the requirements of the South Florida Building Code relative to structures.

g. Permit required. No dish antenna shall be erected until a permit has been issued by North Bay Village. All applications for a permit shall be accompanied by a site plan showing the proposed location of the antenna, the type, color, height and diameter of the antenna and the proposed landscaping.

h. Screening. A private noncommercial dish antenna shall be screened by landscaping on its sides so as to obscure its visibility from the abutting properties' ground view.

i. Once installed, dish antennas and related appurtenances must be maintained in good and operable condition, and the surrounding landscaping shall likewise be continuously maintained for the intended screening purpose.

j. Nonconforming uses. All dish antennas that are legally existing on October 23, 1990, shall be allowed to remain until such time that they may be replaced, or the cost of repairs exceeds 50 percent of the replacement at which time they shall conform in all respects to this section.

3. Screening of mechanical equipment.

Lack of, or inadequate screening of, mechanical equipment can have negative visual impacts on the Village's streetscape, ambient landscape, and community image. Such impacts shall be minimized through compliance with the following requirements:

a. Mechanical equipment located on the ground, such as air conditioning units, heating units, satellite dishes, irrigation pumps, propane tank displays and refilling areas, utilities lift stations and the like shall be screened from public view. Screening shall, at a minimum be at the same height as the equipment. Structural screening shall be architecturally integrated into the overall project design and shall be compatible, in terms of style, construction materials, colors, and finish, with the principle structure(s). Landscaping may be substituted for structural screening if plantings are compatible with the landscape plan for the project and are of such size and maturity as to be able to provide a fully opaque screen at time of planting.

b. Equipment and appurtenances mounted on roof tops shall be kept to a minimum. All

exposed roof top mounted equipment and appurtenances shall be fully screened from view from any public right-of-way. All screening shall, at a minimum be at the same height as the equipment and appurtenances. Screening shall be an integral part of the design of the building(s) and shall be architecturally consistent with the style, colors, construction materials and finish of the building(s).

c. Painting of exposed appurtenances to blend with the color of adjacent materials of the building may be approved where utilization of approved roof designs precludes full screening of exposed surfaces.

CHAPTER 9, GENERAL SITE DESIGN STANDARDS

DIVISION 1, GENERALLY

§ 9.1 – Purpose and intent

A. Design guidelines are intended to implement and provide guidance on site and building design. The purpose of these guidelines is to provide direction to private property owners in preparing plans for review concerning property development or redevelopment. It is important to remember that all projects are also subject to the required reviews of North Bay Village. The primary intent of these guidelines is to establish and promote standards for development planning and urban design.

B. The standards and guidelines provide direction as to how private development should relate to framework of public amenities in a way that will serve the long term vision as well as accommodate immediate opportunities. They have been created to allow flexibility within the parameters of a clearly defined and supported vision that will provide lasting benefit to the citizens of North Bay Village.

C. The intent of the design standards are to utilize developed public spaces, such as streets, park and parkways, and bay-walks to organize and coordinate development, as well as to accommodate a broad mix of development types and alternate transportation, such as walking.

D. The general requirements outlined in this chapter shall serve to supplement the minimum aesthetic and design standards for all site development, buildings, structures, alterations or additions. All site development or redevelopment shall, where reasonable and practicable, show proper design concepts consistent with the standards outlined in these guidelines. Buildings or structures, which are a part of an existing or future group of buildings, shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole site. Harmony can be achieved through the proper consideration of scale, proportions, site planning, landscaping, materials, and color.

DIVISION 2, OFF-STREET PARKING AND LOADING

§ 9.2 – Purpose and intent

It is the purpose and intent of this subchapter to establish minimum space and design requirements for off-street parking and loading facilities to accommodate both public and private uses. The ever-increasing number of vehicles generated from and attracted to residential, commercial and public activities requires that adequate parking and loading facilities, which permit safe and efficient vehicle and pedestrian movement, be provided in order to protect the health, safety and welfare of the residents of the Village.

§ 9.3 – Off-street parking requirements

A. General requirements

1. Every use or structure shall provide off-street parking facilities for the use of occupants, employees, visitors or patrons. The provision of off-street parking spaces in conjunction with all land or building uses shall be completed prior to the issuance of a certificate of occupancy and such parking facilities shall be maintained as long as the use is continued.

2. No owner or operator of any use or structure shall discontinue or cause a discontinuance or reduction in required off-street parking facilities required by the applicable code provisions existing at the time of construction, use or occupancy without establishing alternate parking facilities which meet the requirements of this subchapter.
3. When any use or structure is altered or enlarged, with a resultant increase in floor area capacity, or space occupied, whatever necessary additional off-street parking that may be required shall be provided, and a revised site plan shall be submitted for review and approval.
4. Where a use or structure which existed at the effective date of this subchapter is changed in use or occupancy to a category of use or occupancy that requires more off-street parking facilities, the increased amount of those facilities shall be provided.

B. Plan required

1. All proposed off-street parking facilities shall be subject to site plan review and approval. Whenever site plan review is otherwise required in conjunction with a specific use, that review shall satisfy the requirements of this section.
2. Site plans shall include the following:
   a. All off-street parking facilities shall be designed with consideration given to surrounding street patterns, adjacent properties, and other neighborhood improvements. Consideration shall be given to the number of vehicles to be accommodated, hours of operation, and types of uses served.
   b. All site plans shall show the location, size, dimensions, and design of:
      (1) On-site buildings and structures.
      (2) Parking spaces, loading spaces, driveways, and accessways.
      (3) Directional markings, traffic-control devices, and signs.
      (4) Walls, fences, pervious areas, berms, changes of grade, and planting materials.
      (5) Number of parking spaces required and number provided, amount of landscaping required, and amount of landscaping provided.
      (6) Any other related information that may be reasonably required by the Village.
   c. When off-street parking facilities are located within an enclosed structure or upon the roof of a building, the site plan shall also include interior circulation patterns, slope of ramps, and location of interior structural columns.

C. Minimum number of off-street parking spaces required

1. Fractions of a space: All uses shall be subject to the following minimum space requirements unless additional spaces may be required as the condition for securing a permitted conditional use. All fractional space requirements shall be rounded off to the next highest number.
2. Residential uses
   a. Single-family: Two spaces for each dwelling unit.

b. Multifamily:

(1) One and one-half (1.5) space for each efficiency unit, two parking spaces for one and two-bedroom units, and three parking spaces for three-bedroom units or larger and two-bedroom units, which contain an enclosed den or other space convertible to a bedroom plus an additional ten) percent of the total number of required spaces for guest parking, which shall be identified as such.

(2) All of the required minimum number of parking spaces pursuant to these provisions, shall be conveyed for use by the developer to the condominium association, and then made available for use by the unity owners at no charge. Where spaces are indicated by a fraction, at least the whole number must be conveyed. This provision shall apply to development under the PRD Ordinance.

c. Hotels, motels, and other tourist accommodations: One space for each rental sleeping unit, plus an additional ten percent of the total number of required spaces.

3. Commercial uses

a. Banks and financial institutions: One space for each 300 feet of gross floor area, plus sufficient area for eight stacking spaces for each drive-thru window. Drive-thru lanes shall be designed so as to be totally separated from required off-street parking spaces and driveways.

b. Business, vocational, and trade schools: One space for each 100 square feet of gross floor area.

c. Lodges, fraternal organizations, and union halls: One space for each 100 square feet of gross floor area.

d. Offices (business, professional): One space for each 300 square feet of gross floor area.

e. Personal service establishments (dry cleaners, laundromats, gym, fitness center, and other similar uses): One space for each 200 square feet of gross floor area.

f. Repair service establishments (shoes, watches, appliances, and other similar uses): One space for each 200 square feet of gross floor area.

g. Restaurants, lounges, and nightclubs: One space for each 75 square feet of customer service area.

h. Retail sales establishments: One space for each 200 square feet of gross floor area, plus sufficient area for four stacking spaces for every drive-thru window. Drive-thru lanes shall be designed so as to be totally separated from required off-street parking spaces and driveways.

i. Service stations: Three spaces, plus three spaces for every service bay.

j. Theaters/Auditoriums: One space for each three seats or other accommodations provided. For benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

k. Vehicle sales, rental, repair, and service operations: One space for every 400 square feet of enclosed floor area for sales or rental display, plus two spaces for each service bay.

l. Offices (medical, dental, clinic): One space per 150 square feet of gross floor area.

m. Barber shops, hair salon, nail salon, spa, therapeutic massage center: Two spaces per station (chair, bed, etc).

n. Drugstores, pharmacies, and marijuana dispensaries: One space for each 200 square feet of gross floor area.

o. Funeral home or mortuary: One space for each four sears in the principal assembly area. For benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

p. Animal hospital, grooming, and/or kennel: One space per 300 square feet of gross floor area.

4. Community facilities

a. Assisted living facilities: Three-quarter space per living unit.

b. Churches, synagogues, and other houses for worship: One space for each four seats in the principal assembly area. For benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

c. Government offices and facilities: One space for every 300 square feet of gross floor area, plus one space for every four seats in any public assembly area.

d. Hospitals: One space for each patient bed.

e. Marinas: One space for every boat slip or berth, plus such additional spaces as may be required for permitted uses such as retail stores and restaurants.

f. Museums, art galleries, and libraries: One space for every 400 square feet of gross floor area.

g. Nursing ~~or convalescent~~ home facility: One-half (½) space for each bed.

h. Tennis, handball, and racquetball facilities (indoor or outdoor): Five spaces for every court, plus such additional spaces as may be required for permitted uses such as retail stores and restaurants.

5. Educational

a. Nursery, Daycare, Preschool, Elementary, and Middle School: 1 space/classroom plus one space per employee (excluding teachers), plus 1 space/100 students), plus 10 spaces for stacking/queuing, (student drop-off/pick-up).

b. High School: 1 space/classroom plus one space per 10 seats plus 5 spaces for auto stacking/queuing.

c. College/University: 1 space /classroom plus 3 spaces/100 sq. ft. of classroom. 3 spaces/4 beds for dormitories, fraternities, and sororities.

6. Uses not listed

Off-street parking requirements for those uses not enumerated but which are closely related and similar to the uses listed above shall be determined by the Planning and Zoning Board in accordance with the requirements for the listed similar use. Requirements for all nonsimilar uses shall be set by the Village Commission after a recommendation by the Planning and Zoning Board.

D. Exceptions to parking requirements

1. Off-site parking areas adjacent to or within a reasonable distance (the reasonableness of the distance to be determined by the Village Commission) from the premises on which parking areas are required by the parking regulations of this subchapter, where practical difficulties or unnecessary hardships are encountered in locating such parking area on the premises and where the purpose of these regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

2. Waiver or reduction of parking requirements: To waive or reduce the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.

E. Design standards

1. Definition: For the purpose of this subchapter an "off-street parking space" is an all-weather surfaced area, at grade or above, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. On single lot sites only, mechanical parking lifts, which may require another automobile to be moved, may be approved within enclosed garage structures in the PRD Overlay district, if they meet the standards of Section 8.10D10f(5). When developing under the PRD regulations found in Section 8.10D10, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

2. Paving and drainage:

   a. All off-street parking facilities shall be surfaced with a minimum of a rolled six-inch rock base and one-inch durable weatherproof asphaltic pavement. The occupancy or use of a given structure or premises shall be prohibited until the required off-street parking area has been improved, inspected and approved.

   b. All required off-street parking facilities shall be properly drained so that no nuisance will be caused to adjacent or nearby properties. All construction shall comply with design standards as established by all applicable laws, ordinances, and regulations.

3. Traffic control. Traffic control signs and pavement marking shall be used as necessary to ensure safe and efficient circulation within off-street parking areas. All traffic control measures located on private property shall be approved by the Village.

4. Parking space dimensions. Required and permitted off-street parking spaces shall be clear of columns or other obstructions and have the following minimum dimensions:

Type of Space	Length	Width
Standard	18	9
Handicapped	~~20~~18	13
Compact	16	8

5. Compact parking spaces

   a. Upon special approval by the Village Commission in accordance with the provisions on use exceptions, up to 20 percent of all required parking spaces may be designed specifically for small vehicles of the compact or foreign type, provided such spaces

are clearly marked "for compact cars only" and collectively located in a defined area.

b. Applicants seeking approval for the use of compact parking spaces shall provide valet parking services in perpetuity; and a Business Tax Receipt for valet parking services shall be required annually to ensure compliance with this requirement.

6. Handicapped accessible parking spaces

All required off-street parking facilities shall be developed in accordance with all applicable provisions of the most recent version of the Florida Accessibility Code.

7. Markings

All off-street parking spaces shall be marked by solid stripes of at least four inches in width along each side of the space, except those sides which permit vehicle entry or abut curbs.

8. Wheel stops

Wheel stops or continuous curbing shall be placed two feet from the front of all parking spaces, except those in a parallel configuration. Wheel stops shall be at least six feet in width and be of a design and material approved by the Village.

9. Illumination

All off-street parking facilities, except those which serve single-family residential dwellings, shall be illuminated according to the standards contained herein.

a. For the purpose of this section, open off-street parking facilities shall include the surface of open-to-the-sky parking spaces, driveways, and accessways. Enclosed off-street parking facilities shall include multi-level parking garages and covered grade-level parking facilities.

b. Intensity of illumination.

(1) Open parking facilities shall provide an average illumination intensity of one foot-candle equal to one lumen per square foot, and shall be well distributed on the pavement areas; however, at no point shall illumination be less than one-third foot-candles.

(2) Enclosed parking facilities shall provide an average illumination intensity of 50 foot-candles at the entrance, ten foot-candles in traffic lanes, and five foot-candles in vehicle storage areas.

(3) The most current edition of the IES Lighting Handbook, published by the Illumination Engineers Society, shall be used as a standard for the design and testing of parking facility lighting.

c. All site plans shall include a parking facility illumination plan. That plan shall be certified by a registered architect or engineer as providing illumination in accordance with the applicable minimum standards set forth above. Subsequent construction must comply with that lighting plan. If there exists a question concerning whether the work was done in accordance with specifications, the Village may require as a prerequisite to the issuance of a certificate of occupancy that the architect or engineer who prepared the plans certify that all work was done in accordance with specifications.

d. All required illumination shall be controlled by automatic devices.

(1) For commercial uses with open or enclosed parking facilities, the required illumination shall be provided at least 30 minutes after the closing time of any

establishment served by the parking facility.

(2) Any parking facility that serves a multifamily residential use must maintain the minimum levels of illumination established by this subchapter through the use of natural or artificial light 24 hours per day.

e. All lighting shall be shaded or screened and positioned in such a manner as to minimize offensiveness to any neighboring property.

f. All property owners and lessees shall be responsible for the replacement or repair of any light that becomes nonfunctional and reduces the illumination below the required standard.

g. All additional regulations, standards, and requirements stated in section 151.26 of the Village Code shall be complied with.

10. Landscaping

All parking areas shall be properly landscaped according to the provisions of the current Dade County landscaping ordinance.

11. Right-of-way setback

A minimum setback of 20 feet shall be required between a public street right-of-way line, exclusive of alleys, and the entrance to the nearest parking space.

12. Maintenance

a. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.

b. The surface shall be maintained in a structurally sound condition and free of potholes. A pothole is defined as crack, hole, aperture or opening in the surface which penetrates beneath the asphalt layer to any depth and is of any diameter.

13. Separation from walkways and streets

Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by an approved wall, fence, curbing, or other protective device.

14. Entrances and exits

Location and design of entrances and exits shall be in accordance with the requirements of the Village, based upon reasonable requirements for safety traffic regulations and standards. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

15. Interior drives

Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, as prescribed by the Village.

16. Back-out parking prohibited

All off-street parking spaces, except those relating to single-family residential dwellings, shall be designed so that no vehicle shall be required to back into a public street right-of-way to obtain egress.

17. Minimum aisle widths

a. Parallel parking maneuvering areas shall be at least

(1) 13 feet wide for one-way

(2) 23 feet wide for two-way

b. 90 degree parking maneuvering areas shall be at least

(1) 23 feet wide for one-way

(2) 23 feet wide for two way

c. 30 degree parking maneuvering areas shall be at least

(1) 11 feet wide for one-way

(2) 23 feet wide for two way

d. 45 degree parking maneuvering areas shall be at least

(1) 13 feet wide for one-way

(2) 23 feet wide for two way

e. 60 degree parking maneuvering areas shall be at least

(1) 18 feet wide for one-way

(2) 23 feet wide for two way

f. Accessway aisles shall be at least

(1) 13 feet wide for one-way

(2) 23 feet wide for two way

18. Additional design criteria

Minimum off-street parking and loading requirements shall conform to the Village Code relating to parking and loading requirements. Except for one-way drives and access ramps on single lot sites developed under ~~in~~ the PRD standards in Section 8.10D10, the following criteria shall also be considered:

a. Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient.

b. Parking and loading areas, aisles, pedestrian walks, landscaping, and open space shall be designed as integral parts of an overall development plan an shall be properly related to existing and proposed buildings.

c. Buildings, parking and loading areas, landscaping, and open spaces shall be designed so that pedestrians moving from parking areas to buildings and between buildings are not unreasonably exposed to vehicular traffic.

d. Landscaped, paved and gradually inclined or flat pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings. Pedestrian walks should be designed to discourage incursions into landscaped areas except at designate crossings.

e. Except for single-family and two-family residences, each off-street parking space shall open directly onto an aisle or driveway that is not a public street.

f. Aisles and driveways shall not be used for parking vehicles, (except that the driveway of a single-family or two-family residence shall be counted as a parking space for the dwelling unit) or as a number of parking spaces as determined by the Planning and Zoning Official, based on the size and accessibility of the driveway.

g. The design shall be based on a definite logical system of drive lanes to serve the parking and loading spaces.

h. Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.

i. No parking space shall be located as to block access by emergency vehicles

j. Compact car spaces should be located no more and no less conveniently than full-size car spaces and shall be grouped in identifiable clusters.

k. Parking lots and other vehicular use areas are to be designed to be functional and aesthetically enhance neighborhood building, group of buildings, or facility they serve.

l. Off-street loading areas shall be located where they will not disturb adjacent uses and should not be the visual focal point of a driveway, parking area, adjacent properties, or the right-of-way. This may be accomplished by providing any or a combination of the following: Masonry wall extensions of the building line, opaque landscape screening, berming, and through selective placement or orientation of the loading area.

m. Developments which include out-parcels shall be designed to provide safe and efficient vehicular and pedestrian circulation within the out-parcel, between the out-parcel and the principle development and off-site. All pedestrian connections should be well marked and lighted.

n. Sites requiring large areas of surface parking should attempt to distribute parking into smaller areas broken up by intervening areas of landscaping, open space and buildings where ever possible rather than aggregating parking into continuous street facing strips.

o. Parking areas must provide adequate drainage.

p. With the exception of temporary parking lots, the landscaped areas of an at-grade parking lot should be defined with a six-inch curb.

q. Parking garages and structures shall contain commercial use on the ground floor and architectural detailing so not to appear as a garage on elevations facing the street.

r. Multiple levels of parking structures should be parallel to grade on waterfront elevations.

s. Stairways and elevators should be glass enclosed or open clearly visible to the street or other populated areas to prevent vandalism.

t. Ramps, stairwells and any other portion of the garage should be buffered with the use of decorative grilles and screens.

F. Joint use of required off-street parking spaces

1. Location of spaces

All parking spaces required herein shall be located on the same parcel with the building or use served, except that where an increase in the number of spaces are provided collectively

or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the use being served.

2. Joint use for theaters, auditoriums, nightclubs, and churches

   Up to 50 percent of the parking spaces required for theaters, auditoriums and nightclubs, and up to 100 percent of the parking spaces required for churches may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as theaters, auditoriums, nightclubs or churches; however, a written agreement thereto shall be properly executed and filed as specified below.

3. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, approved as to form by the Village Attorney, shall be filed and recorded in the public records of Dade County, Florida.

§ 9.4 – Off-street loading and unloading requirements

A. General requirements

1. Off-street loading facilities required

   At the time of the erection of any multifamily residential or nonresidential use or at the time any such use is altered, enlarged, or increased in capacity by adding dwelling units or floor area, there shall be space provided and maintained for the loading and unloading of materials, goods, or supplies, and for delivery and shipping so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets, parking facilities, and alleys by pedestrians and other vehicles.

2. Continued provision of required loading facilities

   No owner or operator of any such structure or use shall discontinue, dispense with, or cause a discontinuance or reduction in required loading facilities required herein and existing at the time of construction, use, or occupancy without establishing alternate loading facilities which meet the requirements of this subchapter.

3. Modernization, alteration, conversion, or enlargement of structure or use

   When any such structure or use is modernized, altered, converted, or enlarged with a resultant increase in floor area, additional off-street loading spaces that may be required shall be provided, and a revised site plan shall be submitted for review and approval.

4. Restrictions

   No areas supplied to meet required off-street parking facilities shall be utilized for or deemed to meet the requirements for off-street loading facilities.

B. Number of loading spaces required

1. Retail, personal service, restaurant or wholesale operation

Gross Floor Area (sq ft)	Spaces Required
Under 10,000	0
10,000-20,000	1
20,000-40,000	2

40,000-60,000	3
Over 60,000	4

2. Multifamily residential, hotel/motel, office, hospital, spa, place of public assembly or similar use

Gross Floor Area (sq ft)	Spaces Required
Under 25,000	0
25,000-50,000	1
50,000-100,000	2
Over 100,000	3

C. Design standards

1. Space Dimensions

An off-street loading space shall include an area of at least 12-feet wide by 30-feet long with 14½ feet vertical clearance. Each off-street loading space shall be easily accessible and arranged for convenient and safe ingress and egress by motor truck or trailer combination.

2. Paving and drainage

Proposed grading and drainage for off-street loading facilities shall be approved by the Village. All loading areas shall be surfaced with a minimum of a rolled six-inch rock base and a one-inch durable weatherproof asphaltic pavement. Loading areas shall be maintained in a manner so as to not create a hazard or nuisance.

D. Joint usage

Combined or joint off-street loading spaces for two or more uses may be collectively provided if off-street loading facilities are equal in size and capacity to the combined requirements of the several uses and are so located and arranged as to be usable by all.

DIVISION 3, LIMITATIONS OF THE USE OF ON-STREET AND OFF-STREET PARKING AREAS

§ 9.5 – In residential zoning districts

A. Storage, sales or repair of merchandise or vehicles; display of signs or advertising devices; and storage or parking of commercial vehicles prohibited

The storage, sale or repair of merchandise or vehicles or the display of signs or advertising devices on vehicles, structures or land, and the storage and parking of commercial vehicles as defined in subparagraph (2)(a), shall not be permitted in any off-street residential parking areas. This provision shall not prohibit persons from parking vehicles in such areas that contain information that is required by any applicable laws, ordinances or regulations, if such information is provided only to the extent and in the manner required by such laws, ordinances or regulations, nor shall it prohibit the storage or parking of such commercial vehicles in such areas when such vehicles are owned or controlled by a resident of the appurtenant building and where such vehicles nor any part of them are not visible from the public right-of-way.

B. Limits on duration and time of parking of commercial vehicles

Except as herein provided, in any residential district, it shall be unlawful to park any commercial vehicle for a period of time in excess of two hours between 7:00 a.m. and 6:00 p.m. or at any time between 6:00 p.m. and 7:00 a.m.

The term "commercial vehicle," as herein used, shall mean a motor vehicle of one-ton capacity or more or a motor vehicle or trailer of any size or capacity which is used in commerce. A motor vehicle shall be conclusively presumed to be used in commerce if the vehicle bears a sign, insignia, trademark, tradename or business designation of any nature, wherever the same may be located on the vehicle; or the vehicle is used for the transportation of persons or property for compensation. A motor vehicle will be presumed to be used in commerce if, upon visual inspection, it contains equipment and other personal property regularly, normally and ordinarily used in commerce business or trade, such as, for example, construction tools and equipment, commercial lawn mowers, tractors, ladders, paint, auto mechanics' tools, such as hydraulic jacks, tire changing equipment and towing equipment. Such presumption shall be subject to rebuttal by competent evidence.

C. Exceptions to Section9.5B

The fact that a motor vehicle used in commerce as above-described is designed for private use or is only used commercially on a part-time basis shall not abrogate or reduce the presumption of use in commerce. Provided, however, that the placement of a temporary (magnetic or otherwise) cover over the sign, insignia, trademark, trade name or business designation shall cause the vehicle to be in compliance.

The foregoing prohibition shall not apply to vehicles used by licensed contractors or service establishments actually doing work on the premises reasonably proximate to the location where parked, nor to vehicles of less than one ton capacity containing federal, state or local government insignia.

§ 9.6 – In all zoning districts

A. Limitations on parking truck tractors, semitrailers, tandem trailer trucks and special mobile equipment

No truck tractor, semitrailer, tandem trailer truck or special mobile equipment as hereafter defined shall be parked or permitted on any parcel of land in any district zoned Parks or General Commercial ("GC") except for purposes of loading or unloading and except as provided elsewhere in this ULDC..

B. Definitions

The following terms shall have the following respective meanings:

1. Truck tractor. Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed to carry a load other than a part of the weight of the vehicle and load so drawn.
2. Semitrailer. Any vehicle with or without motive power other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its rests upon or is carried by another vehicle.
3. Tandem trailer truck. Any combination of a truck tractor, semitrailer and trailer coupled together so as to operate as a complete unit.
4. Special mobile equipment. Any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including,

but not limited to, ditch digging apparatus, well boring apparatus and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifies, earth moving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

C. Violations

Any person who parks, or permits parking of a truck tractor, semitrailer, tandem trailer truck or special mobile equipment in violation of section 9.3 shall be guilty of a civil infraction and subject to the procedures and penalties prescribed in chapter 153.

DIVISION 4, LANDSCAPING (Refer to Ch. 18A, Miami-Dade Landscaping Code)

§ 9.7 – Landscaping guidelines

A. Landscaping should compliment the old Florida/Maritime theme, using native plant materials and street furnishings that carry the theme, and provide continuity throughout the district. In addition, public safety will be a priority using the principles of CPTED (crime prevention through environmental design) to create high visibility areas and natural access control.

B. With regards to landscape design for both new construction and existing buildings, the following should apply:

1. Landscaping should compliment and enhance the overall architectural and design theme of the property, but not overpower it.
2. Rhythm should be maintained along public streets through the uniform placement of trees.
3. Blank walls greater than 25 feet in length and other unattractive areas of a site or building should be heavily screened with landscaping. Rooflines or storefronts of 25 feet or greater shall be broken by vertical landscaping materials. Shade and accent trees planted at 20-foot intervals shall be required to achieve this screening.
4. Large parking areas and driveways shall be heavily landscaped along the perimeter and with interior and terminal islands.
5. Landscape design should utilize the CPTED principles of natural surveillance, natural access control and territorial reinforcement.
6. The use of native trees, shrubs and ground covers is encouraged to be incorporated into the landscaping around proposed developments. Local flora will be maintained as part of the built environment and the demand on our local water resources will be minimized.
7. The placement and design of landscaping shall maximize visibility to provide natural surveillance.
8. Landscape design shall incorporate with design of other physical features, such as sidewalk, pavements, lighting and fences; to emphasize public entrances, define and reinforce ownership of property.
9. Tree and palm heights and spread shall allow sufficient visibility, not completely block views of/from doors, windows, and streets.
10. Shrubs and ground cover shall be planted along public rights-of-way or around parking, and

public open areas.

11. Landscape design will utilize principles of xeriscape landscaping, while retaining the tropical beach resort atmosphere.
12. Landscape plans must be drawn, signed and sealed by a Florida registered architect or landscape architect.
13. In addition to the design standards, all landscaping shall meet the standards of the Miami-Dade Landscape Code (Ch. 18A).
14. Landscaping in 15-foot line of site triangle at intersections of rights-of-way and at driveways shall conform to height clearances of bushes and trees, and maximum tree calipers in accordance with the Village Code.

C. Ornamental trees or palms should be placed in front of buildings in such a manner as to provide visual transparency. Shade trees and palms shall be used adjacent to open spaces, parking lots, and residential streets. Planting areas shall be designed with multi-layers of plant material including shrubs and ground covers.

§ 9.8 – Landscaping and open space in commercial districts

Trees improve air quality, reduce storm water runoff, provide cooling effects for the urban heat island, increase property values, and create urban wildlife habitat. They can greatly increase the quality of life in a community. For the purposes of developing a consistent landscape theme within the Village, designated street trees and recommended landscape technique are provided in this section.

A. Trees shall be provided along streets.

B. Provide a minimum of five-foot by five-foot by three and one-half-foot deep tree wells in existing or new sidewalks, provided there is a minimum 36-inch clear area in front of the tree to permit passing in compliance with ADA requirements. Trees may also be located in islands created in the parking zone.

C. Consider the use of continuous street tree trenches to provide maximum soil area for roots to spread, and water and air to penetrate.

D. Allow sufficient room for tree canopies to grow and develop without conflict to other building elements and overhead utilities.

E. Install irrigation systems to provide adequate water to establish and maintain trees.

F. In high pedestrian areas, install tree guards to protect the trunks from damage.

G. Select trees that are adapted to the harsh conditions of a dense urban environment.

H. Trees shall not be placed near overhead utility lines and shall conform to FPL requirements in terms of clearance and recommended tree species

§ 9.9 – Plant categories

Proposed landscape plans for development or redevelopment shall incorporate the following information into the plant list and summary:

Salt Tolerance	
High	Plants are highly resistant to salt drift and can be used in exposed environments.
Moderate	Plants tolerate some salt spray, but grow best when protected by buildings, fences, or plantings of salt tolerant species.
Low	Plants have poor salt tolerance and always should be used well back of exposed areas and be protected by buildings, fences, or more salt tolerant species.
None	Plants have extremely low to no salt tolerance and should not be used near exposed areas even if protected.
Light Requirements:	
FS	Full Sun; these conditions are generally required for maximum growth and flowering and are met in southern locations in the landscape.
FS-PS	Full Sun - Partial Shade; plants within this category are adaptable to a range of light conditions. Full sun should be provided, but filtered sun through overhead canopy trees is adequate. Eastern, western and southern locations provide these conditions.
FS-DS	Full Sun - Dense Shade; plants that are quite adaptable to varied light conditions and will grow well in any location in the landscape.
PS-DS	Partial Shade - Dense Shade; plants that require shaded conditions for best growth. These conditions are provided under overhead canopy trees and in northern locations of the landscape.
Foliage	
E	Evergreen
D	Deciduous
SEV	Semi-Evergreen

§ 9.10 – Tree removal and relocation

A. Before the Village issues a tree removal permit that allows the replacement of any tree, the applicant must demonstrate that relocation is not a viable alternative. Relocation shall occur either within the site or off-site with the concurrence of the Village where the site is public property. If any tree is to be relocated either on-site or off-site, a relocation plan shall be submitted in accordance with chapter 100 of the Village Code.

B. Methods for relocation. The following guidelines shall be utilized to ensure successful transplanting of trees:

1. Any tree being relocated shall not be unnecessarily damaged during removal, transport or replanting of that tree.
2. If the trees have a dormant period, they should be transplanted during that time. Trees should not be transplanted during periods of strong, dry winter winds or during droughts.
3. Provide adequate space for root and crown development.
4. Trees shall be root and canopy pruned according to sound arboricultural standards prior to transplanting.
5. During and following transplanting, the root ball and trunk shall be protected. The root ball

must be kept moist at all times.

DIVISION 5, DESIGN STANDARDS FOR COASTAL SITES

§ 9.11 – Dade County Shoreline Development Review

A. All development directly abutting North Bay Village's shoreline, except single-family and duplex development, is subject to the requirements of the Miami-Dade County Shoreline Development Review (Ordinance 85-14) which includes standards for setbacks and visual corridors.

B. An applicant requesting development within the shoreline development review boundary shall obtain approval from the Miami-Dade County Shoreline Development Review Committee, prior to the second public hearing before the Village Commission of North Bay Village.

C. Applications for shoreline development review are obtained from and submitted to the Miami-Dade County Development Impact Committee Department by the applicant. Prior to applying for shoreline development review, approval for construction or structural alteration of any dock, pier, piling, seawall, or any similar structure in or over the waters in the corporate limits of the Village, Village Commission approval shall be required. Prior to applying for shoreline development review for construction of any marina, approval from both the planning and zoning board and Village Commission shall be required.

D. Appendix D contains the shoreline development review manual, boundary map and shoreline review checklist and questionnaire.

§ 9.12 – Coastal Construction within Biscayne Bay (North Bay Village Approval)

A. Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. These definitions shall be in addition to the definitions contained in Section 327.02, Florida Statutes.

Dock. Any fixed or floating structure for securing boats, loading or unloading persons or property, or providing access to the water, and includes the term "pier," "wharf," "float" or any other landing facility.

Docking site. Any "slip," "berth," or space to accommodate a single boat, vessel, or houseboat.

Dolphin or mooring. Any appliance used to secure a boat or other vessel, other than to a pier, which is not carried aboard the boat or vessel as regular equipment when underway.

Houseboat or floating home. Any vessel in fact used or designed primarily to be occupied as living quarters and for any business or occupation whatsoever, or for any private or social club of whatsoever nature, including the use thereof for the entertainment or recreation of guests or tenants while same is moored or docked within the corporate limits of the Village, whether the vessel is self-propelled or not.

Marina. Any area within the Village where one or more sites or locations are rented or offered for rent for the location or dockage of boats, vessels, or houseboats on land or in water, or to be used for living quarters either permanently or on a temporary basis.

Riparian right-of-way. The water immediately adjacent to any real property located within the Village limits.

Utility hook-up. Any connection between the waterfront property or docks and piers appurtenant thereto located within the riparian right-of-way and any boat, vessel, or houseboat provided to conduct water, electricity, cable, telephone service, gas, or other utility or sewerage to or from the boat, vessel, or houseboat.

Village Manager. For purposes of this chapter, "Village Manager" means the Village Manager or authorized designee.

Waters of the Village. All waters within the corporate limits of North Bay Village, whether immediately tangent to one of the islands or a part of Biscayne Bay.

B. Construction and Structural Alteration

1. No person, firm, or corporation shall construct, reconstruct, or repair any docks, piers, dolphins, wharfs, pilings, boat lifts, or similar structures of any kind more than 25 feet perpendicular from the seawall or shoreline into any waterway within the corporate limits of the Village without first-obtaining a waiver from the Village Commission after a public hearing. However, the furthermost distance seaward from the seawall or shoreline shall not exceed 75 feet including all dolphins or pilings installed beyond the seaward most line of the dock or pier but not including required rip-rap.

2. Plans and specifications for construction, reconstruction, or repair of docks, piers, dolphins, wharfs, pilings, or similar structures shall comply with all provisions of the Village Code, shall be approved by the Village Manager, and shall be kept permanently in the records of the Village. Repair or reconstruction may be made in accordance with the original plans.

3. No dock, pier, wharf, dolphin, piling, or similar structure shall be erected in the Village unless the structure is set back at least 7½ feet from the lot line on each side; and the structure shall not exceed five feet above ground level, except a joint or "party" dock may be permitted on the property line if approved by the Village Commission.

4. No person, firm, or corporation shall build, maintain, extend, or make any structural alteration on any building, dock, pier, dolphin, wharf, piling, bulkhead, seawall, or similar structure in, upon, or over the waters adjacent to Harbor Island, Treasurer Island, North Bay Island, and Cameo Island within the corporate limits of the Village, or do any filling, excavating, or dredging in the waters without first obtaining a written permit to do so from the Village Manager.

5. Application for any permit or the transfer of any permit required by this section shall be made to the Village Manager in writing on forms provided therefore. The permit shall constitute an agreement by the applicant to comply with all conditions imposed upon granting of the permit. The application shall be accompanied by plans and specifications setting forth in detail the work to be done.

6. All applications for construction or structural alterations of any building, dock, pier, dolphin, wharf, piling, bulkhead, seawall, or similar structure in, upon, or over the waters within the corporate limits of the Village shall be administratively approved by the Building Official after review by the Planning and Zoning Official.

7. If an applicant seeks a dock or pier length greater than 25 feet (including boat lifts or other structures), the Village Commission shall hold a public hearing and consider the following criteria to determine if a waiver shall be granted:

    a. If the Applicant has provided to the Village notarized letter(s) of consent from adjoining riparian property owners, and

    b. If the Village has received any letter(s) of objection from adjoining riparian property

owners; and

c. Any other factors relevant to the specific site.

8. The Village Commission may deny, approve, or modify the request and/or impose conditions in the permit, or granting of a distance waiver, which it deems necessary to protect the waterways of the Village in accordance with the public safety and the general welfare. The requirement of approval by the Village Commission shall not include applications for repair of existing structures.

9. A public hearing held pursuant to this Section shall be quasi-judicial and follow the hearing procedures provided in Section 29.02 of the Code.

10. Nothing contained in this section shall be construed or apply to prohibiting repair or reconstruction or otherwise limiting those structures which exist at the time of adoption of this section, however, the provisions of subsections 4 and 5 above shall be complied with.

C. Seawall Maintenance and Enforcement

1. It shall be unlawful for any person or entity owning real property abutting the waterways to allow the seawall to be or remain in a state of disrepair.

2. Upon learning that any seawall is in a defective or dangerous condition or is in a state of disrepair, the Village Manager shall so notify the property owner or other person(s) having charge of the seawall to immediately repair the seawalls in whatever manner necessary to ensure it meets all applicable regulations governing the same. If such person(s) or entity fail(s) or neglect(s) to make such repairs, the Village Manager shall take whatever action is necessary for the protection of the public, including the hiring of contractors to repair the seawall; charging the cost of such repairs to the property owner or other person(s) having charge of the property; and it shall be a violation of this chapter for any person to interfere with such actions.

3. If any seawall, or any portion thereof, or any material from such seawall, shall fall into the waters of North Bay Village, it shall be the duty of the owner or other person(s) or entity having charge of the property, to forthwith remove the same from the waters of the Village. If they shall fail to do so, the Village Manager may do so or hire the appropriate individual or entity to do so; and the cost thereof shall be recovered from the property owner or other person(s) or entity having charge of the seawall as provided in this chapter.

4. All costs for services, charges, work or fines incurred by North Bay Village in connection with its action to ensure the protection of the public through repair of any seawall or as a result of violations of this chapter shall constitute and are hereby imposed as liens against the real property aforesaid and, until fully paid and discharged, shall be imposed as special assessment liens against the subject real property. Such liens shall remain equal in rank and dignity with the lien of ad valorem taxes and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. The maximum rate of interest allowable by law shall accrue to such costs for services, charges, work or fines incurred by North Bay Village. Unpaid costs for services, charges, work or fines incurred by North Bay Village, together with all penalties imposed thereon, shall remain and shall constitute liens against the real property involved. Such liens for costs for services, charges, work or fines incurred by North Bay Village shall be enforced by any of the methods provided in North Bay Village Code of Ordinances; or in the alternative foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in state law, or may be foreclosed per Chapter 173, Florida Statutes or the collection and enforcement of

payment thereof may be accomplished by any other method authorized by law. The property owner and/or operator shall pay all costs of collection of fees, including attorney fees and court costs, service charges, penalties and liens imposed by virtue of this chapter.

D. Application procedure for private docks

1. Plans and specifications for construction, reconstruction or repair of docks, piers, pilings, bulkheads, or similar structures must be approved by the Village Manager and building official and a written permit must be received from the building official prior to any construction, maintenance activity, structural alteration, or dredging and filling in waters within the corporate limits of north bay Village. The building official shall not issue such permits until all required state and county permits are first obtained by the applicants. Copies of all such permits shall be provided to the Building Official with the construction application.

2. All applications for construction or structural alterations (but not repairs) of buildings, docks, piers, seawalls, or similar structures must receive approval from the Village Commission.

E. Design guidelines for private docks

1. No construction, reconstruction, or repairs shall extend more than 25 feet perpendicular from the seawall or shoreline.

2. No dock, pier, piling, or similar structure shall be erected unless it is set back a minimum of 7½ feet from the lot line on each side. The structure shall not exceed five feet above ground level unless a "joint dock" is first approved by the Village Commission.

3. No person, firm, or corporation shall be permitted to lease or use any boat, vessel, or houseboat for living quarters, or to otherwise occupy same, on a permanent basis in any area of the Village zoned RS-1, and RS-2. Owners of private docks in those zoned areas will be permitted "utility hook-ups" to one boat from any dock which may be erected upon the riparian right-of-way abutting their property.

4. The renting of such docks or dock bases, moorings, dolphins or seawalls, and the rental of boats or any portion thereof, for any purpose whatsoever, shall be specifically prohibited in areas of the Village zoned RS-1 and RS-2 and, further, residing on boats within the Village limits is prohibited, except where the docks constitute a part of a marina, a yacht club, hotel, or motel.

5. No docks, dockheads, moorings, dolphins, seawalls or other docking facility shall be used for the docking or storage of any vessel, barge or similar boat used for transport or storage of goods, materials, or debris of any kind unless such vessel, barge or boat has a Boat Mooring Permit pursuant to Section 150.16(A) and such goods and materials: 1) are being utilized for construction on the adjacent upland property, or 2) are being loaded or unloaded to the adjacent upland property.

F. Application procedure for Marinas

All marina plans shall be approved by the U.S. Corps of Engineers, state internal improvement board, Village Engineer, building official, Village Manager, the planning and zoning board, and Dade County DERM, prior to being submitted to the Village Commission for its approval. Marina is defined as any area within the Village where one or more sites or locations are rented or offered for rent for the location or dockage of boats, or vessels, or houseboats on land or on water. There are two classifications for marinas:

1. Ancillary. A secondary operation to the primary function of a hotel, apartment or club which permits the use of the facilities exclusively to the tenants of the apartment, or guests of the

hotel or club

2. Business. Any marina not included in the foregoing definition of "ancillary."

G. Design guidelines for Marinas

1. Each space intended for a vessel must be provided with an anti-backflow valve, a sewer connection and proper equipment to reach the Village sewer line, and a permanent supply of electricity.
2. Each boat berth or docking site must provide one automobile parking space.
3. Before any license shall be issued or renewed for any line or pipe carrying inflammable fuel or other fluid, the Village Engineer must examine and approve the facilities.

DIVISION 6, OTHER DESIGN GUIDELINES

§ 9.13 – Building and site design relationships shall conform to the following standards.

A. Buildings or structures located along strips of land or on single sites and not part of a unified multi-building complex shall strive to achieve visual harmony with the surroundings.

B. Retail or office establishments, which are located on corners, are recommended to place windows on each wall that faces a street, parking area or driveways.

C. In the case of buildings with multiple storefronts and shopping centers with out-parcel development, facade treatment shall be coordinated. Such facade treatments include: building colors, windows, storefronts, signage and awnings.

D. All vending machines, any facility dispensing merchandise, or a service on private property shall be confined to a space built into the building or buildings, or enclosed in a separate structure compatible with the main building.

E. When garage structures are provided, such shall be designed to incorporate a decorative grid treatment into the structure's facade at ground level.

F. Storefronts shall have easily identifiable entrances.

G. Window displays shall be done in such a manner as to capture the pedestrian's attention, establishing a positive and professional image for the business, and informing the potential customers of the merchandise.

H. "Take out" or "pick up" windows for retail or other establishments shall not be located on a building facade that faces a public right-of-way, unless they are designed in such a manner as to be an aesthetic asset to the building and neighborhood.

I. Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grills and shall be painted in muted colors or match the building and shall not be visible from the street.

J. All service bays, mechanical (HVAC) equipment and delivery areas shall be located away from and not visible from the streets, waterways, sidewalks and adjacent properties.

K. Service bays, ground-mounted air conditioning units and other mechanical equipment shall be buffered and completely screened from public and on-site pedestrian view.

L. Exterior service bays and delivery areas shall not be used for the storage of vehicles or materials.

M. The sale, dismantling or servicing of any vehicles, equipment, materials, or supplies shall not take place within the service area or delivery area.

N. Driveways and loading spaces associated with exterior service bays shall be so that vehicles using the space do not hinder the use of traffic lanes, streets, or adjacent properties.

O. Pre-fabricated homes are prohibited in new construction.

P. Fences shall be made of wrought iron or aluminum bars with intermittent posts. Masonry walls are also permitted, with 40 percent of the wall opaque. Chain link fences and privacy wood fences are prohibited along the Corridors. Sharp projections, barbed wire or other hazardous materials are not permitted as any part of a fence or wall. Wrought iron and aluminum bar fences shall be either black, white or match the color of the building. Masonry walls shall match the building color or reflect Florida coastal themes. Color shall be muted tones.

Q. Temporary construction shall be enclosed by black vinyl coated chain-link fences. Construction walls/fences are encouraged to contain art work and graphics. Commercial advertisements are prohibited.

R. Reflective/mirrored glass shall be discouraged.

S. Buildings shall not have unfinished surfaces visible to the public.

§ 9.14 – New construction.

Buildings should have a recognizable entrance facing the public street.

A. Design and location of balconies should reinforce the building form.

B. All projects should consider the overall form, and detail of the building. Box buildings are discouraged.

§ 9.15 – Site design relationships.

The coordination of facade components establish an identity for an office building, industrial building or shopping plaza. Therefore, for all unified developments and shopping centers including principal buildings and out parcel development, all buildings and signage shall demonstrate compatibility in materials and consistency in style throughout all exterior elevations. The following standards shall apply to all new and substantial development. Buildings and signage shall demonstrate the following:

A. Compatibility with adjacent land uses in terms of scale and lot coverage.

B. Utilize color schemes that blend with those of neighboring developments, as well as consistency in color schemes for the site. Accent colors and materials shall be chosen to enhance architectural detail.

C. In the case of buildings with multiple storefronts and shopping centers with out-parcel development, facade treatment shall be coordinated and have like details. Such facade treatments include: building colors, building, floors, storefront, signage, awnings, roof materials, and roof pitch.

D. Building signs shall be designed as integral architectural elements with proportions related to the surfaces to which they are attached.

§ 9.16 – Balcony enclosures.

This section refers to the prohibition of the enclosure of a balcony on a residential building as follows:

A. The enclosure substantially alters the architectural pattern of the building.

B. The enclosure does not match wall and window designs.

C. The enclosure may result in serious structural and/or water damage.

D. The enclosure does not front on a public street.

E. Reserved.

F. The enclosure may not alter the Floor Area Ratio (FAR).

G. Applications for enclosures shall meet all Building and Village Code standards.

§ 9.17 – Shutters.

A. Roll up or accordion shutters are permitted on ground floor fronting a public street when constructed of a see through, non-solid grate material. The casing for the grilles should be painted to match the building.

B. Roll up or accordion shutters are permitted on upper floors if all match in building.

C. Shutters shall not be used to enclose balconies.

§ 9.18 – Bayview.

A. Buildings should provide view/light/breeze corridors to the bay.

B. Building pedestal should not form continuous sheer wall along the bay. Decorative surfaces, multi-level decks, berming and sufficient setbacks shall reduce the impact of the pedestal.

C. Buildings should be designed with distinctive form. Stepped form and distinctive roof lines create a more interesting skyline and increase building recognition.

D. Pool decks should include landscaping to provide shade and tropical image.

E. All projects shall provide bay walkways along the rear of the property, which can be connected to other properties.

§ 9.19 – Color palette.

A. The Village supports a building color criteria for all buildings and accessory structures. The design of these guidelines is to enhance the appearance of development within the Village, which will improve and/or maintain property values for all Village residents and property owners.

B. Colors for buildings should be expressed as follows:

1. Base building colors - Primary building walls. This color category relates to the main area of walls on the building. Recommended colors include whites through soft pastel colors such as grays, pinks, yellows, greens and blues. Other colors may include deeper but muted indigenous earthen or indigenous colors such as beiges, clays, light gold, and terracotta.

2. Secondary building colors - Larger "trim" areas such as a lower building base, building design details, or accent trim around windows and doors. These colors are used for larger trim areas of the building and are limited to mid-range intensity of the base building or complementary color. Secondary colors shall be limited to 25 percent of the major surface plane they are used upon.

3. Trim colors - Small area of color such as decorative trim along rooflines, and areas around windows, doors, frames, and signage. Trim colors are used for accent purposes and are the most intensive group of colors allowed. They shall be limited to not more than five percent of the building surface. These trim colors are usually darker and more intense than other colors. Dark

blues, greens and even reds are appropriate. Light colors for trim, including whites and beiges are encouraged.

§ 9.20 – Commercial specific color palette.

Color should be chosen to add to the retail environment of these buildings. More latitude will be given to retail color use than is given to other buildings within the Village (residential neighborhoods). The use of color to attract attention to a business (using the building or wall colors as a sign) from a distance is prohibited.

This color category relates to the main area of walls on the building. Recommended colors include whites through soft pastel colors such as grays, pinks, yellows, greens, and blues. Other colors may include deeper but muted indigenous earthen or indigenous colors such as beiges, clays, light gold, and terra cotta.

A. Secondary building colors. These colors are used for larger trim areas of the building and are limited to mid-range intensity of the base building or complementary color. Secondary colors shall be limited to 50 percent of the major surface plane they are used upon. Colors that are associated with a business identity also fall into this category provided they are not overly intensive. Base and secondary colors are interchangeable in proportion and hue.

B. Trim colors. Trim colors are used for accent purposes and are the most intensive group of colors allowed. In addition to business identifying colors, it is encouraged that trim colors be chosen from the "natural palette" of South Florida. These colors include greens, blues, yellows and others that are found in the regions lush landscape, and natural features. These colors shall be limited to five percent of any single wall area.

§ 9.21 – Exterior Lighting.

A. Parking lot fixtures are to be selected not only for their functional value, but also for their aesthetic qualities. They are to be considered furniture of the parking lot visible both day and night. Light fixtures used in the district shall be decorative for new development or redevelopment within public view and are encouraged throughout the development. The decorative fixtures shall be of a style that compliments the development. Cobra heads are prohibited within a development. Shoe box units may be used but are discouraged at entrances and exits.

B. Parking area lighting should compliment the lighting of adjacent streets and properties, and should use consistent fixtures, source colors and illumination levels.

C. Light fixtures in parking lots must be a maximum height of 20 feet.

D. Poles should be placed to provide a unified, organized appearance throughout the parking area or development and should provide even and uniform light distribution. The use of a greater number of low fixtures in a well-organized pattern is preferred over the use of a minimum number of tall fixtures.

E. Outdoor storage areas including auto and truck parking and storage should be illuminated from poles similar to those used for parking lot lighting, but at lower illumination levels.

F. Parking lot and security lighting shall be designed to direct light into the property.

G. Security lighting should be limited to low-intensity specialty fixtures. The light source should not be visible from the street or adjoining properties. Other wall mounted security lighting is discouraged.

H. Building lighting should be used to highlight specific architectural features. Lighting of architectural

features should be designed with the intent of providing accent and interest or to help identify entry and not to exhibit or advertise buildings or their lots.

I. Neon is discouraged to border windows or create a false sense of architecture.

J. The use of neon as an architectural accent is discouraged.

K. When pedestrian lighting is used in conjunction with street lighting, the pedestrian lighting should be clearly distinguishable from the ambient street lighting to clearly define the pedestrian path of travel.

L. When adjacent to pedestrian circulation and gathering areas, parking area lighting should not overpower the quality of pedestrian area lighting.

M. Lighting should be designed to provide even and uniform light distribution without hot spots dark spots or glare. Lighting should be designed to minimize dark areas that could pose a security concern near pedestrian areas. Pedestrian circulation systems should be highlighted by visible light sources that clearly indicate the path of travel ahead.

N. Placement of fixtures should provide a coordinated and organized appearance that facilitates uniform light levels and works with the placement of sidewalks, landscaping, signage, building entries and other features to contribute to the overall continuity of the streetscape and development.

O. Accent lighting of landscape areas should be low level and background in appearance.

P. The color of the light sources shall be consistent throughout the project. High pressure sodium lamps are not permitted.

Q. Decorative accent lighting of landscape features, at entrances and exits is recommended.

§ 9.22 – Access, public rights of way, and utilities.

Off-site improvements associated with new development or redevelopment shall be subject to the following:

A. Public use of existing and future rights-of-way should be enhanced through thoughtful vehicular and pedestrian improvements, and good maintenance. Existing public rights-of-way should be used directly to benefit the public.

B. Off-site improvements shall be consistent with the Village's established specifications for such improvements or be subject to Village Commission approval.

C. Drainage and disposition of natural and storm water shall be designed to be compatible with existing systems.

D. New, replacement, or upgraded on-site utilities and other services shall be provided underground. If at all possible, new, replacement or upgraded utilities and other services provided within public right-of-ways must also be placed underground. Where an approved master plan of improvements calls for underground utilities and other services in the right-of-way, the improvements should be consistent with and implement the master plan.

E. Off-site improvements associated with new development or redevelopment shall be subject to the following:

   1. Public use of existing and future rights-of-way should be enhanced through thoughtful vehicular and pedestrian improvements, and good maintenance. Existing public rights-of-way should be used directly to benefit the public.

   2. Off-site improvements shall be consistent with the Village's established specifications for such improvements or be subject to Village Commission approval.

3. Drainage and disposition of natural and storm water shall be designed to be compatible with existing systems.
4. New, replacement, or upgraded on-site utilities and other services shall be provided underground. If at all possible, new, replacement or upgraded utilities and other services provided within public right-of-ways must also be placed underground. Where an approved master plan of improvements calls for underground utilities and other services in the right-of-way, the improvements should be consistent with and implement the master plan.

§ 9.23 – Crime prevention through environmental design (CPTED).

The U.S. Government "Crime Prevention Through Environmental Design Program" (CPTED) incorporates architectural solutions to reduce the opportunity of crime. Elimination of recessed entryways, provision of adequate lighting and proper design of spaces will reduce the possibility of criminal activity.

A. Building mounted lighting shall be installed on alley frontage and side yards. This is particularly recommended at service/delivery entrances.
B. Windows in the alleys or sides provide the appearance of natural surveillance and may discourage break-ins. Such windows shall not be blocked up.
C. See through fences and gates of metal pickets shall be located to discourage uncontrolled access to service/delivery areas.
D. Hiding places and blind corners shall be eliminated from site/building, where possible.
E. The concept of natural surveillance, visibility by the public (shoppers, pedestrians, motorists, and/or personnel) shall be incorporated into the design where possible.
F. Landscaping shall be designed to discourage crime. Tree heights/spread shall allow sufficient visibility, not completely block views of/from doors and windows. Shrubs shall not be planted where they may become hiding places.

DIVISION 7, STORMWATER MANAGEMENT

§ 9.24 – Standards

The design and performance of all stormwater management systems in North Bay Village at a minimum shall comply with Florida Department of Environmental Protection (FDEP) stormwater rules which requires removal of 80 to 95 percent of stormwater pollutants prior to their discharge into receiving waters. Furthermore, this rule requires treatment by retention or by detention with filtration of the first inch of runoff for sites containing less than 100 acres.

§ 9.25 – Permit Authority and Delegation

FDEP has delegated the authority to permit stormwater management in South Florida to the South Florida Water Management District which, in turn, has delegated its authority in Dade County to DERM with its more stringent criteria.

§ 9.26 – Design Requirements

All new development and redevelopment within the Village, and any future repair, maintenance, or rebuilding of the existing system shall at minimum, conform to Dade County DERM regulations. In North Bay Village, DERM requirements to be met are:

A. Rainfall frequency – Five-year

B. Flood limit - To crown of street or to within 15 feet of a dwelling or other occupied building, whichever is lower.

CHAPTER 10, FLOOD DAMAGE PROTECTION

§ 10.1 – Statutory Authorization, Findings of Fact, Purpose, and Objectives

A. Statutory authorization

The legislature of the State of Florida has in Chapters 125 and 163, Florida Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Village Commission of North Bay Village, Florida has passed the above-named ordinance.

B. Findings of fact

1. The flood areas of North Bay Village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effects of obstructions in flood hazard areas causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damage.

C. Statement of purpose

Statement of purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural water flows and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. Objectives

The objectives of this ordinance are:

1. To protect human life and health;
2. To minimize expenditure of public money for flood control;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodprone areas;

6. To help maintain a stable tax base by providing for sound use and development of floodprone areas and;
7. To ensure that potential homebuyers are notified that property is in a floodprone area.

§ 10.2 – Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

Appeal means a request for a review of the building official's interpretation of any provision of this ordinance or a request for a variance.

Area of special flood hazard is the land in the floodprone area within a community subject to a one per cent chance of flooding in any given year.

Base flood means the flooding having a one percent chance of being equaled or exceeded in any given year.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Coastal high hazard areas means the area subject to velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE or V.

Development means any man-made changes to improved or unimproved real estate, including, but not limited to: building or other structure, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Existing construction means any structure for which the "start of construction" commenced before June 18, 1984 [2].

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by FEMA. The report contains flood profiles, as well as the flood boundary map and the water surface elevation of the base flood.

Floor means the top surface of an enclosed area in a building, i.e., top of slab in concrete construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking for loading and unloading of

cargo or passengers, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the building.

Historic structure means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior;

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    1. By an approved state program as determined by the Interior, or

    2. Directly by the secretary of the interior in states without approved programs.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD) as corrected in 1929, is a vertical control used as a reference for establishing elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after June 18, 1984. The term also includes any subsequent improvements to such structure.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, or improvement, including any additions, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, or improvement, including any additions, was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building on a site such as the pouring of slabs or footings, installation of pilings, construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is partly above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, construction, alteration, or improvements including any additions to a building taking place during a minimum five-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the building. The market value of

the building should be (1) the appraised value of the building at the start of the initial repair or improvement, or (2) in case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions.

§ 10.3 – General Provisions

A. Lands to which this ordinance applies. This ordinance shall apply to all areas within the jurisdiction of North Bay Village.

B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated November 4, 1987 with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.

C. Establishment of development permit. A development permit shall be required in conformance with provisions of this ordinance prior to the commencement of any development activities.

D. Compliance. No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and greater restrictions. This ordinance shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

F. Interpretation. In the interpretation and application of this ordinance all provisions shall be:

    1. Considered as minimum requirements;
    2. Liberally construed in favor of the officers and agents of the Village; and
    3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Flood heights may be increased by man-made or natural causes. This ordinance shall not create liability on the part of North Bay Village or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully thereunder.

H. Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violations continue shall be considered a separate offense. Nothing herein contained shall prevent North Bay Village from taking such other lawful actions as is necessary to prevent or remedy any violation.

§ 10.4 – Administration

A. Designation of building official. The building official is hereby appointed to administer and implement the provisions of this ordinance.

B. Permit procedures. Application for a development permit shall be made to the building official on forms furnished by him or her prior to any development activities, and may include, but not be limited to: the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed earthen fill; storage of materials or equipment; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Application stage
    a. Elevation in relation to mean sea level of the proposed lowest floor of all buildings.
    b. Elevation in relation to mean sea level to which any nonresidential building will be flood-proofed.
    c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Section 10.5.B.2.
2. Construction stage.
    a. Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or instances where the building is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level.
    b. Said certification shall be prepared by or under the supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.
    c. The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections hereby, shall be cause to issue a stop-work order for the project.

C. Duties and responsibilities of the building official. Duties of the building official shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
2. Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.

3. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Section 10.4.B.2.
4. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 10.4.B.2.
5. When flood-proofing is utilized for a particular building, the building official shall obtain certification from a registered engineer or architect, in accordance with Section 10.5.B.2.
6. Where interpretations as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
7. When base flood elevation data have not been provided in accordance with Section 10.3.B.2, then the building official shall obtain, review, and reasonably utilize any base flood elevation available from a federal, state, or other source, in order to administer the provisions of Section 10.5.
8. In coastal high hazard areas, certification shall be obtained from registered professional engineer or architect that the building is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
9. In coastal high hazard areas, the building official shall review plans for adequacy of break-away walls in accordance with Section 10.5.B.4.h

D. Variance requirements

1. The planning and zoning board, as established by North Bay Village, shall hear requests for variances from the requirements of this ordinance, in accordance with the procedures prescribed for requests for amendment, variance, special use exception, or supplement to the zoning regulations in Sections 4.2 through 7.3 of the ULDC. The planning and zoning board shall submit its recommendations to the Village Commission for final action on such requests pursuant to procedures therein prescribed, provided, however, that the criteria for granting variances from this ordinance shall be those set forth hereinafter.
2. Conditions and criteria or granting of variances. In considering such applications, the planning and zoning board and Village Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of the North Bay Village Land Development Code, and:
    a. The danger that materials may be swept onto other lands to the injury of others;
    b. The danger to life and property due to flooding or erosion damage;
    c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    d. The importance of the services provided by the proposed facility to the community;
    e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
    f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;

k. The costs of providing governmental services during and after the flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;

l. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;

m. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinance.

n. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

o. The building official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency.

3. Variances for historic structures. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

4. Upon consideration of the factors listed above, and the purposes of this ordinance, the planning and zoning board and Village Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

E. Appeals. 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.

§ 10.5 – Provisions for flood hazard reduction

A. General standards. In all areas of special flood hazard the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Any alteration, repair, reconstruction, or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
9. Any alteration, repair, reconstruction, or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.

B. Specific standards. In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 10.3.B, the following provisions are required:

1. Residential construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of Section 6.5(b)(3).
2. Nonresidential construction.
   a. New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
   b. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 10.4.
3. Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finishing living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(2) The bottom of all openings shall be no higher than one foot above grade; and

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

4. Coastal high hazard areas (V Zones). Located within the areas of special flood hazard established in Section 10.3.B, are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:

a. All buildings shall be located five feet landward of the reach of the mean high tide;

b. All buildings shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than five feet above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with Section 6.5(b)(4)h.;

c. All buildings or structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Water loading values shall equal or exceed the base flood. Wind loading values shall be in accordance with the South Florida Building Code.

d. A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions contained in Section 10.5.B.4.b and 10.4.B.4.c this ULDC.

e. There shall be no fill used as structural support. Noncompacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, (thereby rendering the building free from obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The building official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

(1) Particle composition of fill material does not have a tendency for excessive natural compaction;

(2) Volume and distribution of fill will not cause wave deflection to adjacent properties; and

(3) Slope of fill will not cause wave run-up or ramping.

f. There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;

g. Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway under abnormally high tides or wave action, without damage to structural integrity of the building on which they are to be used and provided the following design specifications are met:

(1) No solid walls shall be allowed, and;

(2) Material shall consist of lattice or mesh screening only.

h. If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

i. Prior to construction, plans for any buildings that will have lattice work or decorative screening must be submitted to the building official for approval;

j. Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in Section 10.5.B.4.h and 10.5.B.4.i.

C. Standards for subdivision proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development.

CHAPTER 11, SIGNS

§ 11.1 – Purpose

The purpose of these regulations is to create a legal framework for a comprehensive and balanced system of street graphics and signs and thereby to facilitate an easy and aesthetically pleasing communication between the public and their environment. With this purpose in mind, it is the intention of these regulations to authorize the use of street graphics and signs which are compatible with their surroundings; appropriate to the type of activity to which they pertain; expressive of the identity of individual proprietors or of the community as a whole; and legible in the environment in which they are seen.

§ 11.2 – Definitions

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Sign. An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business.

Sign, accessory. A supplemental sign relating to products or services sold, affiliations, or uses of the premises on which the sign is located (e.g.: credit card affiliations, brand symbols).

Sign area. The area of the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign. Such area shall be that total surface of one common sign structure which may be viewed from one direction of approach. Such surface area is exclusive of frame embellishment considered as border and not for the purpose of transmission of message, which additional frame surface shall not be greater than 30 percent of the total gross area. Any symbol, mural background, pole decoration, or illustrative material contributing to the meaning or promotional effect of the message shall be considered as sign surface area. The sign area shall extend to the perimeter of the area of all letters, figures, characters, clocks, thermometers, and temperature or time data devices.

Sign area, multi-faced. On any sign with more than one face, the maximum number of advertising surfaces visible from any location will be counted; provided, however, that all advertising surfaces of multi-faced signs shall be equal in size and height on all sides. If faces are different in size and height, each face is counted individually.

Sign, detached. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a detached sign.

Sign, directional. A sign indicating the direction or allocation of some service or facility to use, or indicating an instruction (e.g., "no trespassing").

Sign, flat. A sign erected parallel to the face of or erected or painted on the outside wall of any building, and supported throughout its length by wall, cantilever, or marquee projections extending from the wall. The outer edge of a flat sign shall not be further than 18 inches, measured horizontally, from the building wall or extend further than the outside edge of a supporting marquee or cantilever, whichever distance is the larger; nor may the highest point of a flat sign extend more than 12 inches above the highest flat roof, parapet, or eave line.

Sign, identification. A sign which indicates the name of a use, owner, activity, business, or enterprise.

Sign, outdoor advertising display (character).

Activated sign. Any sign which contains or uses for illumination any light, lighting device, or lights which change color, flash or alternate, or change the appearance of the sign or any part thereof automatically (for the purpose of these regulations, a slowly rotating sign, not exceeding ten revolutions per minute, illuminated but not flashing, shall not be considered an "activated sign").

Animated sign. Any sign upon which a character, letter, figure, or group or combination thereof, show movement or motion to such an extent as to be readily detected.

Banner sign. Any sign possessing characters, letters, illustrations, or ornamentations applied to cloth, paper, or fabric of any kind, either with or without frames.

Banners, streamers, spinners, and pennants. Any device, with or without letters or symbols, erected for the purpose of attracting attention to an area or point.

Beacon light. Any light with one or more beams capable of being directed in any direction, capable of being revolved automatically, or capable of having any part thereof revolve automatically.

Double-faced sign. Any sign which has two display surfaces backed against each other or against the same background, one face of which is designed to be seen from one direction, and the other from the opposite direction.

Flashing sign. Any sign in which the electrical lighting device or devices go on and off alternately, either all of such lights or lighting devices or part thereof, or are designed to cause a deliberate intensity change for the purpose of effecting attraction. Signs that alternately display only time and temperature are excluded from this definition.

Sign, outdoor advertising display (type). A sign which contains any letter, figure, character, mark, plane, point, marquee, poster, pictorial picture, stroke, stripe, line, trademark, reading matter, or illuminated surface, which shall be so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever which is displayed in any manner out-of-doors. These shall include, but are not necessarily limited to, the following:

Combination sign. Any sign incorporating any combination of the features of ground, projecting, or roof signs.

Fluorescent painted sign. Any sign which is wholly or partially composed of letters, symbols, or characters, or the background of which is of fluorescent qualities causing a reflective light to illuminate.

Ground sign. Any sign which is supported by uprights or braces in or upon the ground (also referred to as a "pole sign").

Illuminated sign. Any sign which has characters, letters, figures, designs, or an outline illuminated by electric lights, LEDs (light emitting diodes) or luminous tubes, whether or not the lights or tubes are a part of the sign proper.

Marquee sign. Any sign attached to or hung from a marquee. A "marquee" shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building, building line, or property line.

Nonilluminated sign. Any sign which is not illuminated by internal or external lights which are designed for such illumination, nor is designed with any special light-reflective surfaces.

Projection sign. Any sign other than a wall sign which projects from and is supported by a wall, building, or overhang.

Projected sign. Any sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line, or property line more than 18 inches.

Real estate sign. Any structure, device display board, screen, surface, or wall with characters, letters, or illustrations placed thereto, thereon, or thereunder, by any method or means whatsoever, where the matter displayed thereon shall be used solely for the purpose of offering for sale, lease, or rent the exact property on which the sign is placed.

Roof sign. Any sign which is fastened to and supported by or on the roof of a building, or which extends more than 12 inches above the highest flat roof, parapet, or eave line of a building.

Sandwich sign. Any sign which is either single- or double-faced, is portable, and may readily be moved from place to place.

Shingle sign. Any projection or wall sign not more than six square feet in area, constructed of metal or other noncombustible material attached securely to a building.

Snipe sign. Any small sign of any material including paper, cardboard, wood, or metal, which is tacked, nailed, or attached in any way to trees or other objects; such sign may or may not apply to the premises.

Window sign. Any sign located on or within one foot of the street window surface and which is intended to be viewed from the outside.

Sign, outdoor advertising display (usage).

Changeable copy sign. Any sign with a permanent, framed surface area principally devoted to and designed for changeable text information pertaining to entertainment, menu, prices, and the like.

Directory sign. Any sign which gives the name and/or occupation of the occupants of the building or gives the use of the building including office building directories, church directories, and apartment building directories. When an identification of an entity is placed on a common directory board with identical uniform style and size of letter, such entity shall not be defined as a separate sign, but rather shall be considered as a part of a directory board sign.

Identification; individual entity. Any person who is the lessee, owner, or who has a proprietary interest in the business for which the sign is proposed. Each business shall be considered to be an individual entity. Eligibility for identification as an individual entity shall not exist when the lessee is under the same roof and with the same entrance or access or the same lessor or owner; in such case of leased floor space the occupant is not defined as an individual entity. However, eligibility for identification as an individual entity may apply to the lessee if the owner or the lessor makes of record to the Building and Zoning Official a transfer (assignment) of all parts of his computed eligibility to the lessee.

Informational sign. Any sign which contains any combination of directory, directional, and/or explanatory information.

Sign information item. Any syllable, group of numbers, initial, abbreviation, logo, or pictograph larger than three inches in height, with the official name of an establishment counting a maximum of four items towards the ten permitted information items.

Outdoor advertising display: off-premises (commercial advertising). Any sign upon which advertising matter may be painted or upon which posters may be pasted or otherwise secured to the face thereof, advertising goods, services, or other things not sold or available upon the premises upon which the sign is located.

Outdoor advertising display: premises. Any sign advertising a product for sale or service to be rendered on the immediate premises where the sign is located.

Point of purchase sign. Any structure, device, display board, screen, surface, or wall with characters, letters, or illustrations placed thereto, thereon, or thereunder by any means whatsoever, where the matter displayed is used for advertising a product actually or actively offered for sale thereon or therein.

Facade. Any separate face of a building, including parapet walls or any part of a building which encloses or covers usable space.

Frontage. That part of the building that faces a public thoroughfare.

Sign, temporary. Any sign that is not a permanent sign, and shall include a sign formerly or commonly known as a temporary election sign, a temporary political sign, a temporary free expression sign, a temporary real estate sign, a temporary directional sign, a temporary construction sign, a temporary grand opening sign, or any other temporary sign unless otherwise provided herein. The term "temporary sign" shall not include any substitution of message on an existing lawful sign or sign structure.

Window sign—permanent. Any sign visible from the exterior of a building or structure and which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper, or other material and placed on, taped on or displayed on a window for the specific purpose of identifying the proprietor or the name of the business to the passerby.

Window sign—temporary. Any sign visible from the exterior of a building or structure and which is painted, attached, glued, or otherwise affixed to a window or door or depicted upon a card, paper, or other material and placed on, taped on, or displayed on a window for the specific purpose of attracting attention of the passerby to a sale or to promotional items or other products or services, other than the identity of the proprietor or the name of the business.

§ 11.3 – Existing Nonconforming Signs, Removal

A. It is the intent of this section to recognize that the eventual elimination of existing signs that are not in conformity with the provisions of these regulations, in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new signs that would violate the provisions of these regulations. It is also the intent of this section that there shall not be any unreasonable invasion of established private property rights.

B. Any sign which is nonconforming shall adhere to these regulations within five years from **[insert date of adoption of this ordinance]** or be removed. However, the Village Commission may grant reprieve from this provision if the Village Commission determines that a particular sign has been in existence for at least 20 years and provides historical character to the community.

C. Any sign, including the supporting structure, now or hereafter existing, which advertises a business no longer conducted, or a product no longer sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign may be found. Such removal shall be within 30 days after notification by the Building Official or other official as designated by the Village Manager.

D. Snipe signs shall be removed immediately.

E. A nonconforming sign once removed, either voluntarily or involuntarily, shall not be replaced except in conformity with all applicable provision of this ULDC.

§ 11.4 – Regulations and Specifications

A. General regulations governing signs

Signs erected or maintained under the provisions of these regulations are subject to the following requirements:

1. Interference with public.

   a. The sign must not create a traffic or fire hazard, be dangerous to the general welfare, or interfere with the free use of public streets or sidewalks.

   b. Safety requirements.

      (1) No sign shall be erected or maintained at any location in such a manner as to obstruct free and clear vision at the intersection of any streets or other public ways. No sign shall be erected or maintained at any location where, by reason of the position, illumination, shape, or color it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, nor shall it make use of the words, "STOP," "LOOK," "DANGER," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the motoring public.

      (2) Intensely lighted areas created for the purpose of sales attraction, may be considered to be distractive displays. Such displays may be a hazard to the safe passage of vehicular traffic and divert attention from certain necessary traffic controls or pedestrian crossing zones. Such intensely lighted areas may be prohibited at certain locations by the Police Department and confirmed by the Village Commission.

2. Repair and maintenance. All signs must be kept in good condition, neat appearance, and good state of repair. Any sign more than 50 percent destroyed must be immediately removed at the owner's expense and a new permit secured before the sign is replaced. If a damaged sign is not repaired within 90 days, the sign shall be deemed to constitute a public nuisance and shall be removed at the owner's expense.

3. Avoidance of fire hazard. Weeds shall be kept cut and debris shall be kept clear within a ten-foot area of any sign.

4. Imprint of owner's name. All signs requiring permits shall be marked with the owner's name, date, and number of the permit.

5. Obstruction of doors, windows, and fire escapes. No sign shall be attached to or be placed against a building in such a manner as to prevent ingress or egress through any door or window of any building, nor shall any sign obstruct or be attached to a fire escape.

6. Posting or tacking notices and signs. No person shall paint, paste, print, nail, or fasten in any manner whatsoever, any banner, sign, paper, or any advertisement or notice of any kind, or cause the same to be done, on any curbs tone, pavement, or any other portion or part of any sidewalk or street, or upon any trees, lampposts, parking meter posts, telephone or telegraph poles, hydrants, or workshops, or upon any structure within the limits of any streets within the Village.

7. Removal of signs for right-of-way acquisitions. All signs shall be removed by the owner, at no expense to the Village, when such signs are found to be within the right-of-way of present or future roads. This exception to relocation and permit limitations shall cover only lateral (right angle) relocations to the road right-of-way and shall require a building permit. This statement shall not supersede federal or state statutes and regulations.

B. Regulations governing specific type signage

Prohibited sign situations:

1. Signs within or upon public property and rights-of-way.
2. Pole (ground) signs projecting over rights-of-way.
3. Flashing, activated, and animated signs.
4. Pennants, streamers, spinners, advertising balloons and all other fluttering, spinning, or similar type signs and advertising devices.
5. Roof signs.
6. Snipe and sandwich signs.

§ 11.5 – Sign Permits and Fees

A. No sign shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this subchapter and in these regulations, until a permit has been issued by the Building Official or other official as designated by the Village Manager.

1. Before any permit is issued, an application, including written approval of the owner of the property, shall be filed, together with five sets of drawings or specifications (one set to be returned to the applicant upon disposition of the application) as may be necessary to fully advise and acquaint the Building Official or other official as designated by the Village Manager with the location, construction materials, manner of illuminating and securing or fastening, number of signs applied for, and the wording of the sign or advertisement to be carried on the sign. For buildings over three stories, the scale shall be 1/8″ = 1′ 0″. A separate scaled drawing shall be prepared at ½ = 1′ 0″ showing dimensions, sizes, colors, materials, and method of installation.
2. All signs which are electrically illuminated shall require a separate electrical permit and inspection. All signs shall be erected on or before the expiration of 60 days from the date of issuance of the permit; otherwise, the permit shall become null and void and a new permit shall be required.

B. The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Building Official or other official as designated by the Village Manager.

C. The Building Official or other official as designated by the Village Manager shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within ten days after receiving written notice of the violation. Removal of a sign by the Building Official or other official as designated by the Village Manager shall not affect any proceedings instituted prior to the removal of the sign.

D. Fees for sign permits shall be in accordance with the schedule adopted by ordinance, a copy of which is maintained in the office of the Building Official or other official as designated by the Village Manager.

§ 11.6 – Exempted Signs

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the South Florida Building Code and in accordance with Section 11.9.

A. Official traffic signs or sign structures, and provisional warning signs or sign structures, when erected or required by a government agency.

B. Changing of the copy of a bulletin board, poster board, display encasement, or marquee.

C. Temporary signs which meet the criteria of Section 11.7

D. National flags and flags of political subdivisions of the United States.

E. Signs on a truck, bus, or other vehicle while in use in the normal course of business, provided that no such vehicle with attached signs shall be parked on public or private property for the purpose of advertising a business or firm or calling attention to the location of a business or firm.

F. In the commercial districts, nonilluminated signs not exceeding 15 square feet in area with letters not exceeding six inches in height which are painted, stamped, perforated, or stitched on the valance area of an awning, canopy or roller curtain. Signs shall be limited to the name of the owner or trade name of the business and the street number of the business.

G. Signs posted by the Village.

§ 11.7 – Temporary Sign Permits

A. Scope. Notwithstanding anything to the contrary in the Village's Unified Land Development Code or in any other ordinance or code provision of the Village, the provisions of this section shall govern the regulation of temporary signs, and take precedence over any other provisions that pertain to temporary signs unless specifically exempted or excepted herein.

B. Purpose and intent. It is the purpose of these sign regulations to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory standards for temporary signs. The temporary sign regulations are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the secondary effects of speech, and especially insofar as those secondary effects may adversely affect aesthetics and traffic and pedestrian safety. It is the intent of the Village Commission that the temporary sign regulations shall provide uniform sign criteria which regulate the size, height, number and placement of signs in a manner that is compatible with the character of the Village, and which place the fewest possible restrictions on personal liberties, property rights, commerce, and the free exercise of Constitutional rights while achieving the Village's goal of creating a healthy, safe and attractive environment that does not contain excessive clutter and visual distraction in rights-of-way and adjacent properties, the surrounding natural coastal environment, and residential neighborhoods. These sign regulations have been prepared with the intent of enhancing the visual environment of the Village and promoting its continued well-being, consistent with the most recent pronouncements by the United States Supreme Court regarding the regulation of temporary signage, and are further intended to:

(1) Encourage the effective use of signs as a means of communication in the Village;

(2) Maintain and enhance the aesthetic environment and the Village's ability to attract sources of economic development and growth;

(3) Improve pedestrian and traffic safety;

(4) Minimize the possible adverse impact of temporary signs on nearby public and private property;

(5) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of temporary signs which compete for the attention of pedestrian and vehicular traffic;

(6) Allow temporary signs that are compatible with their surroundings, while precluding the placement of temporary signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;

(7) Encourage and allow temporary signs that are appropriate to the zoning district in which they are located;

(8) Regulate temporary signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

(9) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the Village;

(10) Protect property values by precluding, to the maximum extent possible, temporary signs that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement; and

(11) Enable the fair and consistent enforcement of these temporary sign regulations.

(12) Duration for temporary signs. If a temporary sign pertains to an event, the temporary sign shall be removed no later than seven days after the event is concluded. Political primaries or elections, for the purpose of these sign regulations, shall be treated as an event. If a temporary sign does not pertain to an event, the temporary sign shall be removed within and by no later than thirty (30) days after being erected.

(13) Permission of owners. A temporary sign shall not be placed on any property without the permission of the property owner.

(14) Prohibition of lighting. A temporary sign may not display any lighting or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color.

(15) Exemptions from permitting. A temporary sign does not require a permit from the Village.

(16) Within each Village zoning district, temporary signs shall conform to the following criteria:

	Single Family Residential RS-1, RS-2	**Multi-Family RM-40, RM-70**	**Commercial CG, CL**
Maximum Number of Signs Allowed Per Parcel	3	3	4
Maximum Sign Area	3 sf	12 sf (RM-40) 20 sf (RM-70)	40 sf
Sign Height Maximum for a Freestanding Sign	4 ft	24 ft	24 ft

Sign Height Maximum for a Wall Sign (inclusive of a Window Sign)	15 ft	24 ft	24 ft
Minimum Sign Setback for Ground Signs	2 ft	2 ft	2 ft
Minimum Spacing from any Other Sign (Temporary Sign or a Permanent Sign)	15 ft	15 ft	15 ft
Aggregate Maximum of Surface Area Allocated for All Sign Messages	12 sf	120 sf	160 sf

§ 11.8 – Removal of Signs

Any sign previously associated with a vacated premises shall be removed from the premises by either the owner or lessee not later than 30 days from the time such activity ceases to exist.

§ 11.9 – District Sign Regulations

A. Single-Family Residential (RS-1, RS-2) Districts. No sign will be allowed in these districts except the following and temporary signs meeting the criteria of Section 11.7 or the exemptions allowed in Section 11.7:

A nameplate (identification sign), not to exceed one square foot in area, nonilluminated, to identify the owner or occupant of the dwelling or building.

B. Multifamily Residential (RM-40, RM-70) Districts. No sign will be allowed in these districts except the following and temporary signs meeting the criteria of Section 11.7 or the exemptions allowed in Section 11.7:

1. Accessory signs and directional signs, all nonilluminated, and, individually, not to exceed an area of one square foot, except that illuminated fire exit signs, as required by the South Florida Building Code, shall also be permitted.
2. A nonilluminated, flat or detached identification sign, not to exceed 24 square feet, identifying the name and/or address of a multifamily dwelling, group of multifamily dwellings, or the name of the motel or hotel. In the case of a detached sign, it shall not be located in any required rear or side yard setback area, nor closer than ten feet from the front property line, nor shall any part of the sign be more than ten feet above the ground.
3. Nonilluminated signs not exceeding 15 square feet in area with letters not exceeding six inches in height which are painted, stamped, perforated, or stitched on the valance area of an awning, canopy, roller curtain. Signs shall be limited to the name of the owner and the street number of the building.

C. Commercial (CG) District. No sign will be allowed in this district except the following and temporary signs meeting the criteria of Section 11.7 or the exemptions allowed in Section 11.7:

1. Accessory signs and directional signs, all nonilluminated, and, individually, not to exceed an area of one square foot, except that illuminated fire exit signs, as required by the South Florida Building Code, shall also be permitted.
2. A flat illuminated or nonilluminated sign may be erected on one facade of a building or each

portion of a building occupied by a separate commercial or office use, provided the sign does not exceed an area equal to ten percent of the area of the facade upon which it is erected, and for any single establishment user, contains no more than ten sign information items. For calculation purposes, the maximum single building storefront is limited to 75 feet, the maximum storefront 15 feet. In the case of a commercial or office use located on the ground floor of a multistory building, only the first floor facade area shall be used for the purpose of calculating the permissible sign area. Where an establishment fronts on more than one street, the above area of signs may be permitted on each street frontage; however, signs on side frontages will not be permitted if they face a residential area. Signs shall not be permitted on any wide bay frontage.

a. All adjacent contiguous retail and service establishments located in premises under the same ownership shall be required in lease agreements to maintain all permanent sign lettering and background in the same style and color.

b. For existing commercial establishments, facade signage may be increased to 11 percent of the total building facade and a total of 11 sign "items" per establishment may be used when all the lettering and background is uniform in style and color for signs in a shopping center or for any three consecutive separate establishments. Uniform agreements must be made a part of any lease or deed restriction.

3. A projection sign, placed at an angle of 90 degrees from the building and clearing the sidewalk by eight feet. It shall project no more than four feet from the building or one-third of the sidewalk width, whichever is less, and be spaced no less than 50 feet apart unless displaying symbols only, in which case there is no restriction on proximity.

   All adjacent contiguous, retail and service establishments located in premises under the same ownership shall be required in lease agreements to maintain all projection signs, materials, lettering and background in the same style and color.

4. A detached illuminated sign may be permitted, not to exceed a total area of 100 square feet per side. When a single building on the property consists of two or more different commercial or office occupancies, an additional one square foot of sign area shall be permitted for each six lineal feet of street frontage in excess of 50 feet; however, the total sign area for a building with multiple occupancy shall not exceed 160 square feet in any case, nor may there be more than one detached sign on the property. No part of such detached signs shall be located in the side or rear yards, nor shall any detached sign be located closer than ten feet from the front property line. No detached sign shall exceed a height of 24 feet above the ground.

§ 11.10 – Variances to sign regulations

There might be instances in which relief from the strict requirements of the sign ordinance would result in improved planning or zoning, and would benefit the community. The standards for granting the planning variance are:

A. The sign variance must relate to a particular piece of land;

B. The sign variance can be granted without substantial detriment to the public good;

C. The benefits of the deviation would outweigh any detriment; and,

D. The variance would not substantially impair the intent or purpose of the Village's Comprehensive Plan and/or Zoning Ordinance.

CHAPTER 12, ADULT ENTERTAINMENT

§ 12.1 – Purpose

A. Purpose

In the development and enforcement of this section, it is recognized that there are adult entertainment uses, which because of their very nature are recognized as having serious objectionable characteristics, particularly when several of them are concentrated in any given locations thereby having a deleterious effect upon the adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the Village from objectionable operational characteristics of these adult entertainment uses by to locating adult oriented activities away from residential areas and public facilities used frequently by minors such as schools, religious facilities, parks, libraries, playgrounds and day care centers. The Village finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this section to:

1. Inhibit freedom of speech or the press; or
2. Impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials; or
3. Restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or
4. Deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

This section balances the legitimate governmental purposes of the Village against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult entertainment establishments without limiting alternative avenues of communication. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this section.

B. Findings

Based on the evidence and testimony presented before the Village Commission and on the findings incorporated in (i) "Survey of Texas Appraisers - Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas); (ii) "Crime-Related Secondary Effects - Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas); (iii) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California); (iv) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, Ph.D. FAICP and Connie B. Cooper, FAICP (August 2002)(Toledo, Ohio); (v) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998); (vi) "Sexually Oriented Business Ordinance Revision Committee

Legislative Report, Houston, Texas (January 7, 1997); (vii) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996); (viii) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996); (ix) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994); (x) The "Adams County Nude Entertainment Study" by the Adam's County Sheriffs Department (1991)(Colorado); (xi) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); (xii) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005; the Village Commission finds as follows:

1. Establishments exist or may exist within the Village where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.
2. Establishments exist or may exist within the Village where:
    a. The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas:
    b. Dancers, entertainers, performers, or other individuals, who, for forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas: or
    c. Lap dancing occurs.
3. The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the Village in the interest of the health, safety, and general welfare of Village residents.
4. The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.
5. The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.
6. The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.
7. There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.
8. The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the Village.

9. To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the Village to prohibit nude and seminude acts, exhibitions, and entertainment establishments at which alcoholic beverages are, or are available to be. sold or consumed.

10. There is a direct relationship between the display or depiction of specified anatomical areas as defined in this chapter and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the Village.

11. When the activities described in subsections (1) and (2) take place in establishments within the Village, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

12. When the activities described in subsections (1) and (2) are present in establishments within the Village, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

13. The establishments used for the activities described in subsections (1) and (2) are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

14. To preserve and safeguard the health, safety, and general welfare of the people of the Village, it is necessary and advisable for the Village to obtain sufficient information regarding the owners of establishments where the activities described in subsections (1) and (2) occur in order to preclude the involvement of organized crime.

C. Authority

This section is enacted pursuant to the Village's home rule power to enact regulations to protect the public health, safety, and general welfare of the residents of the Village; Chapters 163 and 166, Florida Statutes; and the Village's authority to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment of the Constitution of the United States.

§ 12.2 – Definitions

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. These definitions shall be in addition to the terms relevant to this section provided in Chapter 119 Code of Ordinances.

Adult entertainment establishment shall mean:

A. Any adult arcade, adult theater, adult bookstore/adult video store, adult modeling establishment, adult motel, encounter studio, or adult dancing establishment as these uses are defined in Chapter 119 Code of Ordinances; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling

studios, or lingerie studios.

B. Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

C. An adult entertainment establishment shall include the entire site on which the adult entertainment establishment is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (1) and (2) above are being conducted for commercial gain.

D. Excluded from this definition are any educational institutions, as defined in Chapter 119 Code of Ordinances, where the exposure of specified anatomical areas is associated with a curriculum or program.

E. An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

Adult material shall mean any one or more of the following, regardless of whether it is new or used:

A. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

B. Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities.

Massage establishment shall mean:

A. Any shop, parlor, establishment or place of business wherein all of any one or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), apply such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.

B. Provided, however, that, for the purpose of this section, the terms "massage establishment" shall not include any massage establishment wherein at least one state licensed massage therapist is employed and on duty full time during the hours opened for business.

C. Nothing in this section shall be construed as applying to state licensed massage therapist, barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants of employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, or employee acting in the course of such agency, service or employment under the supervision of the licensee.

§ 12.3 – Permitted Use Schedule

Adult entertainment establishments are permitted in the General Commercial (CG) Zoning district, subject to distance requirements set forth below.

§ 12.4 – Regulations

A. Required approval

An application for an adult entertainment establishment requires the approval of the Village Commission after a public hearing. No application for an adult entertainment establishment shall be presented to the Village Commission unless it satisfies the following requirements:

1. The adult entertainment establishment must be located on a parcel of land located in the CG zoning district.
2. The adult entertainment establishment must be located:
    a. At least 500 feet from any residentially zoned district as designated on the Village's official zoning district map, and at least 500 feet from any property on which over 25 percent of the floor area is devoted to residential use; and
    b. At least 500 feet from any area of land upon which a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children is located; and
    c. At least 500 feet from any hotel or motel; and
    d. At least 1,000 feet of from any parcel of land upon which another adult entertainment establishment is located; and
    e. At least 350 feet from a building that contains a business that sells or dispenses alcohol.
3. No variance shall be granted to the spacing requirements of subsection (2) above.
4. The minimum distance separation shall be measured by following a straight line from any portion of the building used for such purpose, or any building located on the property, of the adult entertainment establishment to:
    a. The nearest point of the property designated as residential on the Village's official zoning district map; or
    b. The nearest point of the residential area of any property on which over 25 percent of the floor area is devoted to residential use; or
    c. The nearest point of any area used for a religious facility, public school, private school, public park, playground, library, daycare center or nursery for children, hotel or motel.
5. In cases where a minimum distance is required between an adult entertainment establishment and another adult entertainment establishment, or an establishment licensed to sell or serve alcohol, the distance under this section shall be measured from the building line of the existing licensee to the building line of the proposed licensee and shall be the airline distance between the two buildings.
6. The applicant must show a possessory interest in the property (ownership, leasehold, or contract to purchase/lease) by sufficient documentation.

B. Expiration of approval

Approval of an adult entertainment establishment shall lapse after 24 months unless:

1. A business tax receipt or building permit has been issued, or
2. The next phase of development has been initiated, or
3. The Village Commission has specified a longer approval period.

C. Application requirements

An application for approval of an adult entertainment establishment shall, in addition to the requirements of Section 2.7.2 of the ULDC, include:

1. A property survey by a registered surveyor;
2. A letter of intent;
3. Certified distance survey from a registered land surveyor in the state showing that such use meets the distance requirements as set forth in this section. Such sketch shall indicate the distance between the proposed adult entertainment establishment and:
    a. Any other adult entertainment establishment; and
    b. Any establishment licensed to sell or serve alcohol; and
    c. Any area used for a religious facility, public school, private school, public park, public library, playgrounds, day care center or nursery for children, hotel or motel; and
    d. Any residential zoning district; and
    e. The residential area of any property on which over 25 percent of the floor area is devoted to residential use.

    Each sketch shall indicate all such distances and routes. In case of a dispute, the measurement scaled by the Village shall govern.
4. Where the use includes a vehicular use area or landscaped buffer, a proposed landscape plan and information regarding permanent maintenance arrangements;
5. A neighborhood location map showing all surrounding zoning, land use designations and existing uses located within 500 feet of the proposed site;
6. Documents establishing ownership of the property, valid leasehold, or a contractual interest in a future ownership or leasehold.
7. The proposed activities and specific type of adult entertainment establishment proposed.
8. For adult entertainment establishments to be established in new construction, a sketch and description showing all new and existing structures on the property, interior layouts and proposed parking areas.
9. For adult entertainment establishments to be established in redeveloped sites, a sketch and description or building plan that details all proposed interior and exterior changes to any existing building or structure.

D. Review of applications

Applications shall be reviewed and be approved or denied by the Village Commission within 60 days of the applicant filing a complete application with the Village, as follows:

1. No application shall be accepted until it is deemed complete by the Village Planner.

2. The Village Planner shall review all of the information submitted to determine conformity with this section.
3. The submitted application will be reviewed for completeness within 20 business days, and any corrections, revisions or deficiencies provided to the applicant within that 20-day period.
4. Upon each re-submittal of corrected plans, the Village Planner shall have ten business days to review the application and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed as is, without further revisions.
5. If an applicant fails to provide additional information as requested by the Village Planner within two months of the request or respond to the Village Planner with a time when the information will be submitted, the application shall be deemed to be withdrawn by the applicant. The applicant shall be entitled to one 60-day extension upon request, providing the request for extension is granted prior to the expiration of the two-month period.
6. The Village Commission shall approve or deny the permit within 60 days of the Village's receipt of the complete application, or the applicant's demand for review as submitted, based on whether it complies with the requirements of this section. A written notice of the Village Commission's decision shall be provided to the applicant, either in the form of an approved permit or written notice of denial. Such notice shall describe the applicant's appeal rights, and be provided to the applicant within ten) business days of the decision.

E. Minimum space requirements

An adult dancing establishment shall be subject to the minimum space requirements (for parking) as provided for "Restaurants, Lounges and Nightclubs," in Section 9.3C3 of this Code.

F. Regulation of obscenity subject to state law

It is not the intent of the Village Commission to legislate with respect to matters of obscenity. These matters are regulated and preempted by general law.

G. Regulation of massage establishments subject to state law

It is not the intent of the Village Commission to legislate, limit, or conflict with respect to matters pertaining to massage establishments that are regulated by state agency, the department of business and professional regulation, board of massage, and by general law, Chapter 480, Florida Statutes.

H. Appeal

The applicant may appeal the decision of the Village Commission by filing a timely notice of appeal with any court of competent jurisdiction in Miami-Dade County in accordance with applicable law and court rules.

CHAPTER 13, VACATION RENTAL LICENSE PROGRAM

DIVISION 1, GENERAL PROVISIONS

§ 13.1 – Purpose

The purpose of this chapter is to promote public health, safety, welfare and convenience through regulations and standards for short-term vacation rental properties by providing:

A. For a vacation rental license;

B. For safety and operational requirements;

C. For parking standards

D. For solid waste handling and containment;

E. For licensure requiring posting of vacation rental information;

F. For administration, penalties and enforcement.

§ 13.2 – Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Village. North Bay Village, Florida, as geographically described in its Charter.

Habitable room. A room or enclosed floor space used or intended to be used for living or sleeping purposes, excluding kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage space.

Occupant. Any person who occupies, either during the day or overnight, a Vacation Rental.

Transient public lodging establishment. Any unit, group of units, dwelling, building or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Vacation rental. Any individually or collectively owned single- or multi-family house or dwelling unit that is also a transient public lodging establishment, and is located in an area zoned RS-1, RS-2, RM-40, or RM-70.

Vacation rental representative. A Vacation Rental property owner, or his/her authorized designee, as identified in the application for a Village Vacation Rental license.

DIVISION 2, VACATION RENTAL LICENSE

§ 13.3 – License Required.

After July 1, 2016, an active Vacation Rental license shall be required to operate a Vacation Rental within the Village, except that Vacation Rental's in Village areas zoned RM-40 and RM-70 require a Vacation license only after January 9, 2017. After July 1, 2016, only Vacation Rentals in Village areas zoned RS-1 and RS-2 must holding an active Vacation Rental license issued by North Bay Village mayto operate within the Village; and after January 9, 2017 all Vacation Rentals must hold an active Vacation Rental license issued by North Bay Village to operate within the Village. A separate Vacation Rental license shall be required for each Vacation Rental, as defined in Section 13.2.

§ 13.3 - APPLICATION FOR VACATION RENTAL LICENSE.

A. A property owner seeking initial issuance of a Vacation Rental license, or the renewal, or modification of a Vacation Rental license, shall submit to the Village a completed Vacation Rental license application in a form promulgated by the Village, together with an application fee in an amount set by resolution of the Village Commission.

B. A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental license shall demonstrate compliance with the standards and requirements set forth in this subchapter through the following submittals:

1. A completed Vacation Rental license application form, which must identify; the property owner, address of the Vacation Rental, Vacation Rental Representative, and as well as the phone number of the Vacation Rental Representative.
2. Payment of applicable fees.
3. A copy of the Vacation Rental's current and active license as a Transient Public Lodging Establishment with the Florida Department of Business and Professional Regulation.
4. A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue.
5. Evidence of the Vacation Rental's current and active account with the Miami-Dade County Tax Collector for the purposes of collecting and remitting tourist and convention development taxes and any other taxes required by law to be remitted to the Miami-Dade County Tax Collector.
6. A copy of the current Local Business Tax Receipt.
7. Interior building sketch by floor. A building sketch (may be hand drawn) by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this subchapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, swimming pools, fire extinguishers and exit signage/lighting.
8. A sketch showing the number and the location of all on-site parking spaces for the Vacation Rental.
9. Acknowledgement that each guest room shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of the NFPA.
10. A section indicating whether the Vacation Rental will have 10 or fewer occupants or more than 10 occupants.
11. A copy of the generic form vacation rental/lease agreement to be used when contracting with transient Occupants and guests.

C. Incomplete applications will not be accepted, but will be returned with any fees submitted to the property owner with a notation of what items are missing.

D. Vacation Rental license applications shall be sworn to under penalty of perjury and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

§ 13.4 - MODIFICATION OF VACATION RENTAL LICENSE.

An application for modification of a Vacation Rental license shall be required in the event that any of the following changes to the Vacation Rental are proposed:

A. An increase in the gross square footage.

B. An increase in the number of bedrooms.

C. An increase in the maximum occupancy.

D. An increase in the number of parking spaces, or a change in the location of parking spaces.

E. An increase in the number of bathrooms.

F. Any other material modifications that would increase the intensity of use.

§ 13.5 DURATION OF VACATION RENTAL LICENSE.

The Vacation Rental license shall expire each September 30, and may be annually renewed thereafter if the property is in compliance with this chapter. Vacation Rental licenses acquired before September 30, 2016 will be valid until September 30, 2017.

§ 13.6 - RENEWAL OF VACATION RENTAL LICENSE.

A property owner must apply annually for a renewal of the Vacation Rental license no later than 60 days prior to the expiration date of the previous Vacation Rental license.

§ 13.7 - LICENSES NON-TRANSFERABLE, NON-ASSIGNABLE.

Vacation Rental licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental license as to that Vacation Rental shall be null and void upon the sale or transfer.

DIVISION 3, VACATION RENTAL REPRESENTATIVE

§ 13.8 - DUTIES OF VACATION RENTAL REPRESENTATIVE.

Every Vacation Rental Representative shall:

A. Be available by landline or mobile telephone answered by the Vacation Rental Representative at the listed phone number 24-hours a day, 7 days a week to handle any problems arising from the Vacation Rental; and

B. Be willing and able to be physically present at the Vacation Rental within 60 minutes following notification from a Vacation Rental Occupant, law enforcement officer, emergency personnel, or the Village for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and

C. Conduct an on-site inspection of the Vacation Rental at the end of each rental period to assure continued compliance with the requirements of this subchapter.

DIVISION 4, STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

§ 13.9 - GENERAL

The standards and requirements set forth in this section shall apply to the rental, use, and occupancy of Vacation Rentals in the Village.

§ 13.10 - LOCAL PHONE SERVICE REQUIRED.

Local phone service. At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

§ 13.11 - PARKING STANDARDS.

Occupants and visitors to the Vacation Rental shall comply with all relevant parking codes as found in the Village Code of Ordinances.

§ 13.12 - SOLID WASTE HANDLING AND CONTAINMENT.

Notice of the location of the trash storage containers and rules for collection shall be posted inside the Vacation Rental.

§ 13.13 - MAXIMUM OCCUPANCY.

Requirements for space shall be as follows:

A. Each Vacation Rental shall have a minimum gross floor area of not less than 150 square feet for the first occupant and not less than 100 square feet for each additional occupant.

B. Every room in a Vacation Rental occupied for sleeping purposes shall:

   1. Have a gross floor area of not less than 70 square feet; and when occupied by more than one occupant, it shall have a gross floor area of not less than 50 square feet for each occupant. The maximum number of occupants for each room used for sleeping purposes shall be four.

   2. Have a minimum width of 8 feet.

C. Gross area shall be calculated on the basis of total habitable room area. and those exclusions appearing in the definition of "habitable room" shall not be considered in calculation of such floor areas.

D. Every habitable room in a Vacation Rental shall have a ceiling height of not less than 7 feet for at least half the floor area of the room. Any portion of a habitable room having a ceiling height of 5 feet or less shall not be included in calculating the total floor area of such room.

§ 13.14 - POSTING OF VACATION RENTAL INFORMATION.

A. In each Vacation Rental, located outside on the back or next to the main entrance door there shall be posted as a single page the following information:

   1. The name, address and phone number of the Vacation Rental Representative;

2. The maximum occupancy of the Vacation Rental;
3. A statement advising the Occupant that any sound which crosses a property line at a volume which is unreasonably loud is unlawful within the Village; as per the Village Noise Ordinance.
4. A sketch of the location of the off-street parking spaces;
5. The days and times of trash pickup;
6. The location of the nearest hospital; and
7. The local non-emergency police phone number.

B. A copy of the building evacuation map – Minimum 8-1/2" by 11" shall be provided to the renter upon the start of each vacation rental.

DIVISION 5, ADMINISTRATION, PENALTIES, AND ENFORCEMENT

§ 13.15 - ADMINISTRATION OF VACATION RENTAL LICENSE PROGRAM.

The ultimate responsibility for the administration of this subchapter is vested in the Village Manager, or his/her authorized designee, who is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental licenses for proposed and existing Vacation Rentals as set forth in this subchapter.

§ 13.16 - APPEALS.

Any decision of the Village Manager, or his/her authorized designee, relating to the granting, denial, renewal, modification, or suspension of a Vacation Rental license under this subchapter shall be rendered in writing, and reviewed by the Village Commission if a notice by the applicant is filed with the Village Clerk within 10 days after the action to be reviewed. The Village Clerk shall place the matter on the agenda of an upcoming meeting of the Village Commission, at which the matter will be reviewed. The decision of the Village Commission shall be final. Such final decision may be reviewed as permitted under Florida law.

§ 13.17 - NOTICE.

Any notice required under this subchapter shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Representative set forth on documents filed with the Village under this subchapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Representative.

§ 13.18 - PENALTIES AND ENFORCEMENT.

A. Any violation of this subchapter may be punished by citation, as specifically described in Chapter 153 – Code Enforcement of the Code of Ordinances of North Bay Village, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of $250.00, for the first offense, $500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental license as

provided hereinafter, for the third offense. Each day a violation exists shall constitute a separate and distinct violation.

B. Other enforcement methods and penalties. Notwithstanding anything otherwise provided herein, violations of this subchapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the Village as provided in the Village Code of Ordinances. Nothing contained herein shall prevent the Village from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

C. Suspension of license.

1. In addition to any fines and any other remedies described herein or provided for by law, the Village Manager shall suspend a Vacation Rental license upon a third violation of this subchapter in any continuous 12 month period. Such suspension of a Vacation Rental license shall be for a period of 1 year, and shall begin following notice, commencing either at the end of the current Vacation Rental lease period, or after 30 calendar days, whichever is less.

2. For violations of the Florida Building Code, or Florida Fire Prevention Code, a Vacation Rental license shall be subject to temporary suspension starting immediately 3 working days after citation for such violation if it is not corrected, re-inspected, and found in compliance.

D. Revocation of license.

1. The Village Manager may refuse to issue or renew a license or may revoke a Vacation Rental license issued under this subchapter if the property owner has willfully withheld or falsified any information required for a Vacation Rental license.

2. The Village Manager shall revoke a Vacation Rental license issued under this subchapter upon the fifth adjudication of either a noise violation where such noise emanated from the Vacation Rental or receipt of a parking violation where such parking violation occurred on the Vacation Rental property within any continuous 12 month period, or any combination thereof.

3. The property owner shall not be entitled to any refund of the annual fee paid for a license for any portion of the unexpired term of a license, because of revocation or suspension of the Vacation Rental license.

E. For all purposes under this subchapter, service of notice on the Vacation Rental Representative shall be deemed service of notice on the property owner and Occupant.

F. No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental license.

DIVISION 6, VESTING

§ 13.19 - RENTAL AGREEMENT VESTING.

It is recognized that there are likely existing rental/lease agreements for Vacation Rentals as the time of passage of this ordinance which may not be in compliance with the regulations herein. Rental agreements that were entered into prior to the date of adoption, shall be considered vested. No special vesting process or fee shall be required to obtain this vesting benefit.

CHAPTER 14, MARIJUANA DISPENSARIES

§ 14.1 – Purpose

A. Dispensaries generally.

1. A marijuana dispensary may distribute, purchase, sell, convey, or possess with the intent to sell or convey, marijuana or marijuana-based products for medical use only for the purpose of dispensing and selling marijuana or marijuana-based products to a qualifying patient or the patient's caregiver, all as defined and permitted by Florida law. A marijuana dispensary must be licensed by the State of Florida department regulating marijuana. A marijuana dispensary must be licensed before possessing, purchasing, conveying, distributing, or retailing marijuana or marijuana-based products, and copies of its licensure documents must be filed with the Village prior to opening for business. It is the responsibility of the owner and the operator of the marijuana dispensary to have current, valid, and unexpired state licensure documents on file at all times with the Village. No marijuana or marijuana-based products may be obtained from a grow house or marijuana farm located in the Village. All marijuana or marijuana-based products, must be sold by and at a state licensed and approved marijuana dispensary or dispensing organization, and all marijuana must be purchased from a medical marijuana farm that has a valid, state of Florida-issued permit for said purpose. A marijuana dispensary may not conduct wholesale sales or transactions.
2. Marijuana dispensaries must at all times meet all the operating criteria for the dispensing of marijuana or marijuana-based products as required from time to time pursuant to Florida law and administrative regulations.

B. Conditions for approval.

1. *A marijuana dispensary must be located:*
   a. At least 500 feet from any single family zoned district as designated on the Village's official zoning district map; and
   b. At least 500 feet from any parcel of land upon which a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children is located; and
   c. At least 500 feet of from any parcel of land upon which an adult entertainment establishment is located; and
   d. At least 50 feet from a building that contains a business that sells or dispenses alcohol; and
   e. At least 1,000 feet from another building that contains a marijuana dispensary.
2. No variance shall be granted to the spacing requirements of subsection (1) above.
3. The minimum distance separation shall be measured by following a straight line from any portion of the building used for a marijuana dispensary to:
   a. The nearest point of a property designated as single family residential on the Village's official zoning district map; or
   b. The nearest point of a building that contains a business that sells or dispenses alcohol; or

c. The nearest point of any property used for a religious facility, public school, private school, public park, playground, library, daycare center, nursery for children, adult entertainment center, or another marijuana dispensary.

4. No drive-in, drive-up, or drive through use shall be permitted as a part of any marijuana dispensary.

5. At a minimum, a marijuana dispensary must have storage facilities approved and meeting applicable federal and state statutes and rules. If the federal and state governments do not set minimum requirements for storage of marijuana or marijuana-based products or if federal and state law does not prohibit stricter requirements from being adopted by the Village, marijuana or marijuana-based products storage must meet the security and storage requirements for Schedule I and Schedule II drugs (as defined in Section 893.03, Florida Statutes, and 21 U.S.C. s. 812) as provided in 21 C.F.R. s. 1301.72. The storage facility or system must be located on the site of the marijuana dispensary and used solely for marijuana or marijuana-based products storage. The storage facility shall be locked and made secure when the marijuana dispensary is not open and serving the public.

C. *Dispensary operation.*

1. No marijuana dispensary within the Village shall sell or distribute marijuana or marijuana-based products other than what is manufactured, grown, and processed in the State of Florida and that has not left the state before arriving at the marijuana dispensary.

2. It is unlawful for any person or legal entity operating a marijuana dispensary under the provisions of this code to permit any breach of peace therein or any disturbance of public order or decorum by any riotous or disorderly conduct, or otherwise.

3. It is unlawful for any marijuana dispensary to remain open to the public for the sale, distribution, conveyance of marijuana or marijuana-based products between the hours of 8 p.m. and 8 a.m. the next day. It is unlawful for any person or legal entity operating a marijuana dispensary under the provision of this code to permit such dispensary to remain open, or patrons to remain upon the premises, between the hours of 8 p.m. and 8 a.m. the next day.

4. No living marijuana plants are permitted on the site of a marijuana dispensary.

5. Smoking, ingesting, or other consumption.

a. No marijuana or marijuana-based products legally obtained with a physician's recommendation or certification shall be smoked, ingested or otherwise consumed in a marijuana dispensary or in the parking lot for a marijuana dispensary. Any marijuana dispensary must, at all times when such establishment is open to the public or is selling marijuana or marijuana-based products, have a sign on the premises located where it can be readily seen and read by all customers of the marijuana dispensary which is at least six by eight and one-half inches (6″ × 8.5″) in size and with one-half inch (0.5") minimum lettering and contains the following information:

IT IS UNLAWFUL TO SMOKE, INGEST, OR CONSUME MARIJUANA INSIDE, OR IN THE PARKING LOT, OF THIS ESTABLISHMENT.

b. It is unlawful for the owner or operator of any marijuana dispensary to fail to comply with this section or for any person to sell or dispense marijuana or marijuana-based products in any establishment which is not in compliance with this section. The requirements of this section apply to all marijuana dispensaries.

6. All sales and dispensing of marijuana or marijuana-based products shall be conducted inside the premises of the marijuana dispensary. No off-site delivery of marijuana shall be permitted by the owner, operator, or any employee of the marijuana dispensary. No mobile marijuana dispensary shall operate, or obtain marijuana or marijuana-based products, from a marijuana dispensary or grow house located in the Village.

7. A marijuana dispensary shall not hold or maintain a State of Florida alcoholic beverage license to sell any type of alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages may be consumed on the premises or sold within fifty (50) feet of a marijuana dispensary, except at a package store, bar, or lounge the existence which preceded the date of adoption of these provisions relating marijuana dispensaries. No package store, bar, or lounge shall locate and sell or dispense alcoholic beverages within fifty (50) feet of a marijuana dispensary.

8. A marijuana dispensary shall provide litter removal services and actively remove litter at least twice each day of operation on, inside the premises, in front of the premises, in any parking lot adjacent to the marijuana dispensary or used by patrons of the marijuana dispensary, and, if necessary, on public sidewalks within one-hundred (100) feet of the outer perimeter of the marijuana dispensary.

9. A marijuana dispensary shall provide and maintain adequate security on the premises, including fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both inside the marijuana dispensary and in the parking area adjacent to the marijuana dispensary. Any breaking and entering at a marijuana dispensary, regardless of whether marijuana or marijuana-based products are stolen, shall constitute a violation of this code section if the security alarm shall fail to activate simultaneous with the breaking and entering in a loud and audible manner within the hearing of average police officers and citizens on the public right-of-way within two (200) hundred feet of marijuana dispensary.

10. Notwithstanding other signage provisions of this Unified Land Development Code, a marijuana dispensary shall have one non-illuminated wall sign within 5 feet of the main entrance which is between 2 and 3 square feet in area and which shall include only the following language:

ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS IDENTIFICATION CARDS OR A VERIFIABLE, WRITTEN RECOMMENDATION FROM A PHYSICIAN FOR MEDICAL MARIJUANA MAY OBTAIN MARIJUANA OR MARIJUANA-BASED PRODUCTS FROM A MARIJUANA DISPENSARY.

The text shall be a minimum of two inches in height. This requirement shall remain in effect so long as the system for distributing or assigning medical marijuana identification cards preserves the anonymity of the qualified patient or primary caregiver.

11. The marijuana dispensary shall provide the Village manager and all property owners and tenants located within one hundred (100) feet of the marijuana dispensary with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person

to whom one can provide notice during marijuana dispensary business hours if there are operating problems associated with the marijuana dispensary. The marijuana dispensary shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police Department or other Village officials.

12. It shall be unlawful for any marijuana dispensary to employ any person to engage in the sale, distribution, conveyance of marijuana or marijuana-based products, who is not at least 18 years of age. A person under the age of 18 years of age may be employed to perform routine maintenance or janitorial work in a marijuana dispensary; provided, that such employee under the age of 18 years of age shall not handle or touch any marijuana or marijuana-based product within the marijuana dispensary.

13. Except as permitted in paragraph (11) above, it shall be unlawful for any marijuana dispensary to allow any person who is not at least 18 years of age on the premises during hours of operation, unless that person is a qualified patient with a valid identification card or primary caregiver with a valid identification card or a verifiable, written recommendation from a physician for medical marijuana.

14. A marijuana dispensary shall provide adequate seating for its patients and business invitees. A marijuana dispensary shall not direct or encourage any patient or business invitee to stand, sit (including in a parked car), or loiter outside of the building in which the marijuana dispensary is located, including parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than that reasonably necessary to arrive and depart. A marijuana dispensary shall post conspicuous signs on three sides of any building in which it is located that no loitering is permitted on the property.

15. A marijuana dispensary shall ensure that there is no queing of motor vehicles in the right-of-way or in any parking lot serving or adjacent to a marijuana dispensary. The marijuana dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.

CONSOLIDATED LAND DEVELOPMENT REGULATIONS VILLAGE OF NORTH BAY VILLAGE, FLORIDA

Adopted: December 21, 1993

Republished in 2013 by Order of the Village Commission

SUPPLEMENT HISTORY TABLE

The table below allows users of the Consolidated Land Development Regulations to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Consolidated Land Development Regulations and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Consolidated Land Development Regulations and are considered "Omitted."

In addition, by adding to this table with each supplement, users of these Consolidated Land Development Regulations will be able to gain a more complete picture of the Consolidated Land Development Regulations' historical evolution.

Ord. No.	Included/ Omitted	Supp. No.
2012-02	Included	Supp. No. 6
2012-07	Included	Supp. No. 7
Republication (October, 2013)		

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Chapter 1 - GENERAL PROVISIONS

§ 1.1 - Title.

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

§ 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.~~

~~Code of Ordinances Reference—Section 10.03.~~

~~§ 1.3 - Findings.~~

~~(a) According to F.S. Ch. 163, 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 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.~~

~~Code of Ordinances Reference—Section 10.03.~~

~~§ 1.4 - Intent.~~

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

~~(1) Guiding and accomplishing coordinated, adjusted, and harmonious development in accordance with the Village's existing and future needs.~~

~~(2) Protecting, promoting, and improving the public health, safety, comfort, order, convenience, and general welfare.~~

~~(3) Protecting the character and maintaining the stability of the residential areas.~~

~~(4) Directing and controlling through the establishment of performance standards, the type, density, intensity, and distribution of development.~~

~~Code of Ordinances Reference—Section 152.002.~~

~~§ 1.5 - Definitions.~~

~~The following rules shall be observed in the application and interpretation of provisions of this code, except when the context clearly requires otherwise:~~

~~The words "shall," "should," or "must" are mandatory.~~

~~The word "includes" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.~~

~~Words in the singular shall include the plural; words in the plural shall include the singular.~~

~~Unless specifically defined below, words or phrases used in this code shall have the meaning of common usage which gives this code its most reasonable application.~~

~~Certified survey: A survey of property is said to be certified when a written statement regarding its accuracy is signed by a registered professional land surveyor.~~

~~Code of Ordinances Reference—Section 152.003.~~

~~Development order: An order authorizing a specific use and development and further authorizing the obtaining of necessary permits.~~

~~Code of Ordinances Reference – Section 151.11.~~

~~Development permit: The formal permission to erect, construct, reconstruct, alter, raze, move, remove, or otherwise develop or use land within North Bay Village. This includes but is not limited to building permits, sign permits, etc.~~

~~Code of Ordinances Reference – Section 151.11.~~

~~Dock: Any fixed or floating structure for securing boats, loading or unloading persons or property, or providing access to the water, and includes the term "pier," "wharf," "float," or any other landing facility.~~

~~Code of Ordinances Reference – Section 150.01.~~

~~Dwelling unit: A single housing unit providing complete, independent living facilities for one housekeeping unit, including permanent provisions for living, sleeping, eating, cooking, and sanitation.~~

~~Code of Ordinances Reference – Section 152.003.~~

~~Floor area ratio (FAR): The floor area of the building or buildings on any lot divided by the net area of the lot.~~

~~Gross floor area (GFA): The sum of the gross horizontal areas of the several floors of a building but not including interior parking areas, loading spaces, or any space where the floor-to-ceiling height is less than six feet.~~

~~Code of Ordinances Reference – Section 152.003.~~

~~Land use: The development, activity, or use that has occurred on or is proposed for the land.~~

~~Code of Ordinances Reference – Sections 152.003 – 152.026.~~

~~Level of service standards or LOS standards: The standards for minimum acceptable levels of service contained in the Capital Improvements Element of the 1987 North Bay Village Comprehensive Plan.~~

~~Marina: Any area within the Village where one or more sites or locations are rented or offered for rent for the location or dockage of boats, vessels, or houseboats in water, or on land adjacent to and appurtenant to water.~~

~~Code of Ordinances Reference – Section 150.01.~~

~~Ordinance: An official legislative action of the Village Commission, which action is a regulation of a general and permanent nature and enforceable as a local law.~~

~~Code of Ordinances Reference – Section 30.16.~~

~~Public hearing: A meeting announced and advertised in advance which is open to the public with the public being given an opportunity to talk and participate.~~

~~Code of Ordinances Reference – Section 152.096.~~

~~Resolution: An expression of the Village Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Village Commission.~~

~~Code of Ordinances Reference—Section 30.16.~~

~~Site plan: The development plan for one or more lots or parcels on which is shown the existing or proposed conditions of the lot(s) or parcel(s) including the requirements set forth in this code.~~

~~Code of Ordinances Reference—Section 151.01.~~

~~Subdivision: Shall be interpreted as defined in the subdivision regulations of Dade County.~~

~~Code of Ordinances Reference—Section 152.003.~~

~~§ 1.6 - Reference.~~

~~The number in parentheses following a heading or statement refers to that position of the North Bay Village Code of Ordinances or Florida Statutes (F.S.) which applies to the subject discussed.~~

~~**Note**—See the editor's note at the beginning of this Land Development Code.~~

~~Chapter 2 - ADMINISTRATIVE AND LEGISLATIVE PROCEDURES[1]~~

~~Footnotes:~~

~~—(1)—~~

~~Cross reference—References to numbers, § 1.6.~~

~~§ 2.1 - 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.~~

~~§ 2.2 - Development permit required.~~

~~No development allowed by this Code, as more fully referred to in § 2.7, 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 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 Code or any other applicable laws.~~

~~Code of Ordinances Reference—Section 151.11.~~

~~No application for a building permit for the construction of a principal building shall be granted unless a plat including the parcel has been recorded in an Official Records Book of Dade County.~~

~~Code of Ordinances Reference – Section 151.11.~~

~~§ 2.3 - Village Commission.~~

~~In addition to any authority granted to the North Bay 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 of North Bay Village and the North Bay Village Code of Ordinances.~~

~~(5) Take such other action as the commissioners may deem necessary to implement the provisions of these regulations and the comprehensive plan.~~

~~Code of Ordinances Reference – Section 151.11.~~

~~§ 2.4 - Planning and zoning board.~~

~~§ 2.4.1 - 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, or variances or special exceptions thereto.~~

~~(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.~~

~~(Ord. No. 2006-17, § 1, 11-8-06)~~

~~Code of Ordinances Reference – Sections 32.30 – 32.34, 152.101.~~

~~§ 2.4.2 - Officers.~~

~~(a) 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.~~

~~(b) The Village Manager will provide secretarial staff to the board as needed. Professional service advisors may be utilized as determined by the Village Commission.~~

~~(c) 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.~~

~~Code of Ordinances Reference – Section 32.30.~~

~~§ 2.4.3 - Board membership.~~

~~General requirements for membership and election of office for the planning and zoning board are described below.~~

~~(1) 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.~~

~~(2) The members shall be qualified electors of the Village as defined in the Village Charter.~~

~~(3) The members shall be, and shall remain during their respective terms of office, residents of the Village.~~

~~(4) 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.~~

~~Code of Ordinances Reference – Sections 32.30, 32.31.~~

~~§ 2.4.4 - 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. Appendix A contains a copy of an application for hearings and notices before the planning and zoning board.~~

~~Code of Ordinances Reference – Section 32.33.~~

~~§ 2.4.5 - 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.~~

~~Code of Ordinances Reference – Section 32.33.~~

~~§ 2.5 - Administrative officials.~~

~~§ 2.5.1 - 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.~~

~~Code of Ordinances Reference – Sections 32.01, 32.11, 32.30.~~

~~§ 2.5.2 - 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.~~

~~Code of Ordinances Reference – Sections 152.998, 153.09.~~

~~§ 2.6 - Procedures for amending the comprehensive plan of this code.~~

~~According to F.S. ch. 163.3187, amendments to comprehensive plans may be made not more than two times during any calendar year, with the following exceptions:~~

~~(1) In the case of an emergency, and if the amendment receives approval of all the members of the Village Commission.~~

~~(2) The proposed amendment is a residential land use of five acres or less and a density of five units per acre or less or involves other land use categories, singularly or in combination with residential use, of three acres or less.~~

~~(3) The proposed amendment does not involve property owned by an individual, corporation, or other entity within 200 feet of property that has been granted exchange to the same individual, corporation, or entity within a period of 12 months.~~

~~Any adopted amendments to the North Bay Village Comprehensive Plan must be transmitted to the department of community affairs so that the plans on file with the state are continually updated.~~

~~§ 2.6.1 - Process.~~

~~Any person may apply to the Village to amend the comprehensive plan or these land development regulations.~~

~~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. The planning and zoning official will forward his comments to the planning and zoning board prior to the hearing. The hearing by the planning and zoning board shall be held as provided in § 152.096 of the Village Code.~~

~~Code of Ordinances Reference—Section 152.101.~~

~~**State Law reference**—F.S. § 163.3184(15)(b).~~

~~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 Village Commission shall hold two public hearings on the proposed amendment as required by F.S. § 163.3184(15)(b); provided, however, that only one hearing by the Village Commission shall be required for small scale development amendments as authorized by F.S. § 163.3187(1)(c)3. 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 Village Code.~~

~~Code of Ordinances Reference—Section 152.096~~

~~**State Law reference**—F.S. § 163.3184(15)(b).~~

~~(Ord. No. 02-19, § 1, 6-25-02)~~

~~§ 2.6.2 - 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.~~

~~Code of Ordinances Reference—Section 30.16.~~

~~§ 2.7 - Procedures for obtaining development orders.~~

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

~~Code of Ordinances Reference—Section 151.11.~~

~~§ 2.7.1 - Designation as major and minor developments.~~

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

~~(1) Major development. A development shall be designated as a major development if it satisfies one of the following criteria:~~

~~a. The development is a residential project of over six dwelling units per acre.~~

~~b. The development involves more than 10,000 square feet of nonresidential floor space.~~

~~(2) 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.~~

~~§ 2.7.2 - Basic application requirements.~~

~~Fifteen copies of the following basic materials shall be submitted together with all required filing fees and deposits required by Section 152.110 of the Village Code of Ordinances, before any application for a development order shall be considered complete.~~

~~(1) 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.~~

~~(2) A survey at a scale of not less than one inch equals 40 feet, prepared by a registered land survey and not more than one year old and including the legal description of the property, all easements, and rights-of-way.~~

~~(3) Site plan, except for single-family residence, and 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.~~

~~(4) Preliminary floor plans and elevations of proposed buildings at not less than 1/16-inch scale.~~

~~(5) Location, height, and type of all proposed buildings, walls, signs, landscaping, and open space.~~

~~(6) Tabular project summary including total acreage, project density and 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.~~

~~(7) Level of service assessment (see chapter 4).~~

~~(Ord. No. 2012-02, § 5, 4-10-12)~~

~~Code of Ordinances Reference—Section 152.105.~~

~~§ 2.7.3 - Major development application requirements.~~

~~In addition to the materials listed above, 15 copies of the following may be required to accompany an application for a major development permit:~~

~~(1) 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.~~

~~(2) 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.~~

~~(3) Listing of any special permits, variance, or exemptions from the zoning ordinance or any other Village ordinance that may be required.~~

~~§ 2.7.4 - Review of development plan.~~

~~(a) Within 15 working days of receipt of a petition for development plan approval the building official shall:~~

~~(1) Determine that the information is 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 I, approve or disapprove the application.~~

~~b. If for a major development or minor development II, proceed with the following procedures.~~

~~Code of Ordinances Reference – Section 152.105.~~

~~(b) Prepare a written report setting forth 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.~~

~~(c) Forward copies of all submitted exhibits to the planning and zoning board at least two weeks prior to the public hearing called for by said petition.~~

~~Code of Ordinances Reference – Section 152.101.~~

~~§ 2.7.5 - Public hearings.~~

~~Table 2-1 describes the number and type 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 Village Code or Florida Statutes (collectively referred to as legal requirements), the legal requirements and not the table shall control.~~

~~(1) Planning and zoning board. The planning and zoning board shall conduct public hearings to hear all applications for major and minor development II development orders and permits, amendments, changes or supplements to this code or the zoning code, use variance or special exceptions, changes in the land use district boundaries and zoning map, or petitions appealing an administrative decision. The hearing by the planning and zoning board shall be held as provided in § 152.096 of the Village Code.~~

~~Code of Ordinances Reference – Section 152.101~~

~~(2) Village Commission. Notice of public hearings on amendments to the comprehensive plan and the land development regulations shall be given as provided in § 2.6.1. Notice of public hearings on amendments to the zoning code and the zoning map, and on other applications for development approval shall be given as provided in § 152.096 of the Village Code.~~

~~Code of Ordinances Reference – Section 152.096.~~

~~Table 2-1~~
~~Public Hearings~~

		~~Planning and Zoning Board~~	~~Village Commission~~

~~Development approval~~		
~~Major development~~		
~~Seven or more DUs or over 10,000 sq. ft. commercial use~~	~~H~~	~~2H~~
~~Minor development II~~		
~~Three through six DUs or 300 to 10,000 sq. ft. commercial use~~	~~H~~	~~2H~~
~~Amendments/revisions to existing regulations~~		
~~Comprehensive plan~~	~~H~~	~~2H~~
~~Land development code~~	~~H~~	~~2H~~
~~North Bay Village Code~~	~~H~~	~~1H~~
~~Land use maps~~	~~H~~	~~2H~~
~~Zoning district map~~	~~H~~	~~2H~~
~~Others~~		
~~Use exception/special use~~	~~H~~	~~1H~~
~~Nonuse exception~~		~~1H~~
~~Variance~~	~~H~~	~~1H~~
~~Rezoning~~		
~~Containing 10 contiguous acres or less~~	~~H~~	~~2H~~
~~10 or more acres~~	~~H~~	~~2H~~

-

~~H = Public hearing~~

~~(Ord. No. 02-19, § 2, 6-25-02)~~

~~§ 2.7.6 - Variances.~~

~~Any person desiring to undertake a development activity not in conformance with the standards and requirements of this code may apply for a variance in conjunction with his application for development approval. Uses which are prohibited in this code, or a use not permitted in the district involved shall not be eligible for a variance. See Appendix A-1 for application for nonuse variance.~~

~~The Village Commission may grant a variance from the strict application of any provision of this code if the following findings are made:~~

~~(1) The condition giving rise to the requested variance has not been created by any person having an interest in the property.~~

~~(2) Special circumstances and conditions exist 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 land use district.~~

~~(3) The strict application of the code would deprive the applicant of the reasonable use of the land, structure or building, and would involve an unnecessary hardship for the applicant.~~

~~(4) The effect of the proposed variance is in harmony with the general intent of this code.~~

~~(5) Approval of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.~~

~~(6) The proposed variance is the minimum modification of the regulation at issue that will afford relief.~~

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

~~Code of Ordinances Reference – Section 152.097.~~

~~§ 2.7.7 - Major or minor development plan modifications.~~

~~(a) An amendment to a site plan for major or minor development plan modifications that has been approved by the planning and zoning board and the Village Commission pursuant to §§ 150.095 and 152.105(C) may be approved by the Village Manager upon recommendation of the Village planner without further review or approval by any such body, as follows:~~

~~(1) Any modifications 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 North Bay Village's Code of Ordinances.~~

~~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 North Bay Village's Code of Ordinances.~~

~~(2) 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 in bringing unit sizes into compliance with the current minimum unit sizes set forth in North Bay Village's Code of Ordinances. 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 North Bay Village's~~

~~Code of Ordinances 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 (a)(1) or (a)(2), provided that the modification shall be substantially consistent with the approved site plan and not in violation of North Bay Village's Code of Ordinances 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 buildings shown on the approved site plan nor conflict with the buffering requirements in violation of North Bay Village's Code of Ordinances.~~

~~(b) Any modifications approved by the Village Manager upon recommendation of the Village planner pursuant to § 2.7.7 shall be subject to the following limitations:~~

~~(1) Any modification to an approved site plan not expressly authorized in this § 2.7.7 shall review and approval in accordance with the requirements and procedures for review and approval of a new site plan, as set forth in §§ 152.095 and 152.105(C).~~

~~(2) Modifications to an approved site plan approved pursuant to this § 2.7.7 shall take effect upon approval by the Village Manager, upon recommendation of the planner.~~

~~Courtesy notification of an approved site plan modification review will be given to property owners subject to the requirements of § 152.096(A)(2), Hearing and notices, of North Bay Village's Code of Ordinances.~~

~~(Ord. No. 2002-13, § 2, 5-28-02)~~

~~§ 2.8 - Preliminary and final plats.~~

~~§ 2.8.1 - 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. The purpose of requiring and regulating the platting of land within the Village is to insure 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.~~

~~Code of Ordinances Reference—Section 151.11.~~

~~§ 2.8.2 - Procedures.~~

~~(a) Fifteen 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.~~

~~(b) 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.~~

~~(c) The building official shall place the tentative plat on the planning and zoning board's agenda and submit his recommendations to the board.~~

~~(d) The planning and zoning board votes to approve or disapprove the tentative plat.~~

(e) 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.

(f) 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.

(g) The surveyor or subdivider delivers the signed tentative plat and 14 copies to Dade County Subdivision control for processing.

(h) Dade County shall notify the subdivider or surveyor and the Village of its action (approve, approve with conditions, or disapprove).

(i) 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 Dade Subdivision Control before placing it with an accompanying report and resolution on the Village Commission's agenda.

(j) 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.

(k) 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.

§ 2.9 - 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.

Code of Ordinances Reference - Section 151.11.

§ 2.9.1 - Authority.

The South Florida Building Code has been adopted by 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.

Code of Ordinances Reference - Section 151.01.

§ 2.9.2 - 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.

Code of Ordinances Reference - Section 152.105.

(2) Petitions must include a level of service assessment (see section 4.2).

(3) Petitions for development or redevelopment other than for a single-family residence must contain a site plan which contains:

~~Code of Ordinances Reference — Section 152.105.~~

~~a. Existing and proposed land use 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.~~

~~Chapter 3 - LAND USE[1]~~

~~Footnotes:~~

~~— (1) —~~

~~Cross reference— References to numbers, § 1.6.~~

~~§ 3.1 - Purpose and intent.~~

~~The Future Land Use Element of the 1987 Comprehensive Plan for North Bay Village describes land use districts for the Village. These land use districts are illustrated on the future land use maps in the comprehensive plan. 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 Village's land use districts and the uses and criteria permitted within these districts. Thus, all future development or redevelopment of property within the Village shall be accomplished in compliance with the goals, objectives, and policies expressed in the adopted comprehensive plan.~~

~~Code of Ordinances Reference — Section 152.002.~~

~~§ 3.2 - North Bay Village land use districts.~~

~~The land use districts and classifications defined in the future land use element and delineated on the 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.~~

~~Code of Ordinances Reference — Section 152.012.~~

~~§ 3.2.1 - Residential district.~~

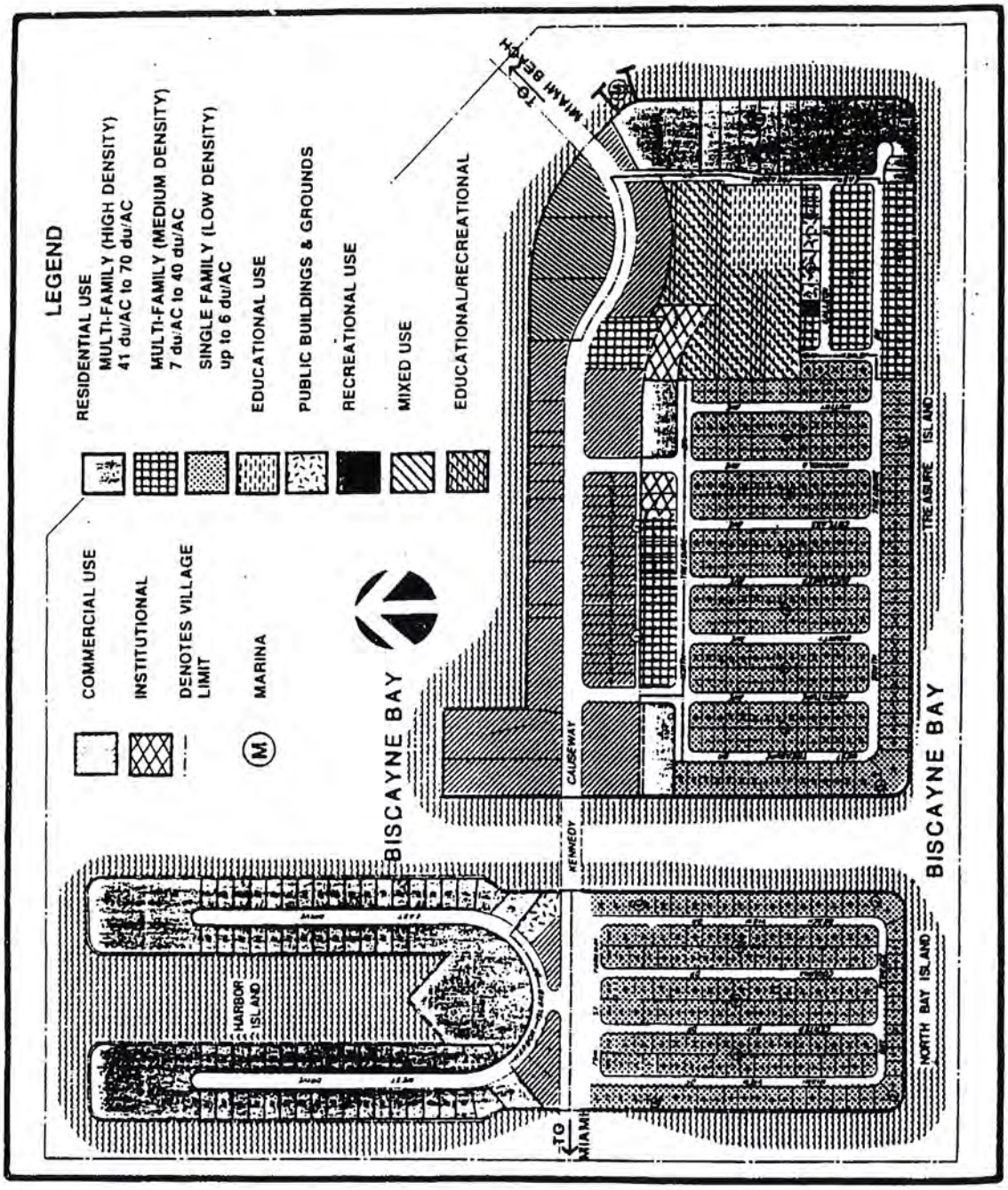
~~This district encompasses all areas with dwelling units used or to be used for permanent housing. The residential land use category is further subdivided into three subdistricts based on density. The single-family or low density district allows a density of up to six dwelling units per acre. Zoning districts RS-1 and RS-2 fall under this land use category. The medium density residential district allows for residential density of from seven up to 40 units per acre (Zoning district RM-40), while the high density category allows from 41 up to 70 dwelling units (RM-70 zoning district).~~

~~Code of Ordinances Reference – Sections 152.026 – 152.029.~~

~~§ 3.2.2 – Commercial district.~~

~~This district designates those areas in the Village suitable for commercial development. Uses permitted include a broad range of general office, retail, hotel, and service establishment development.~~

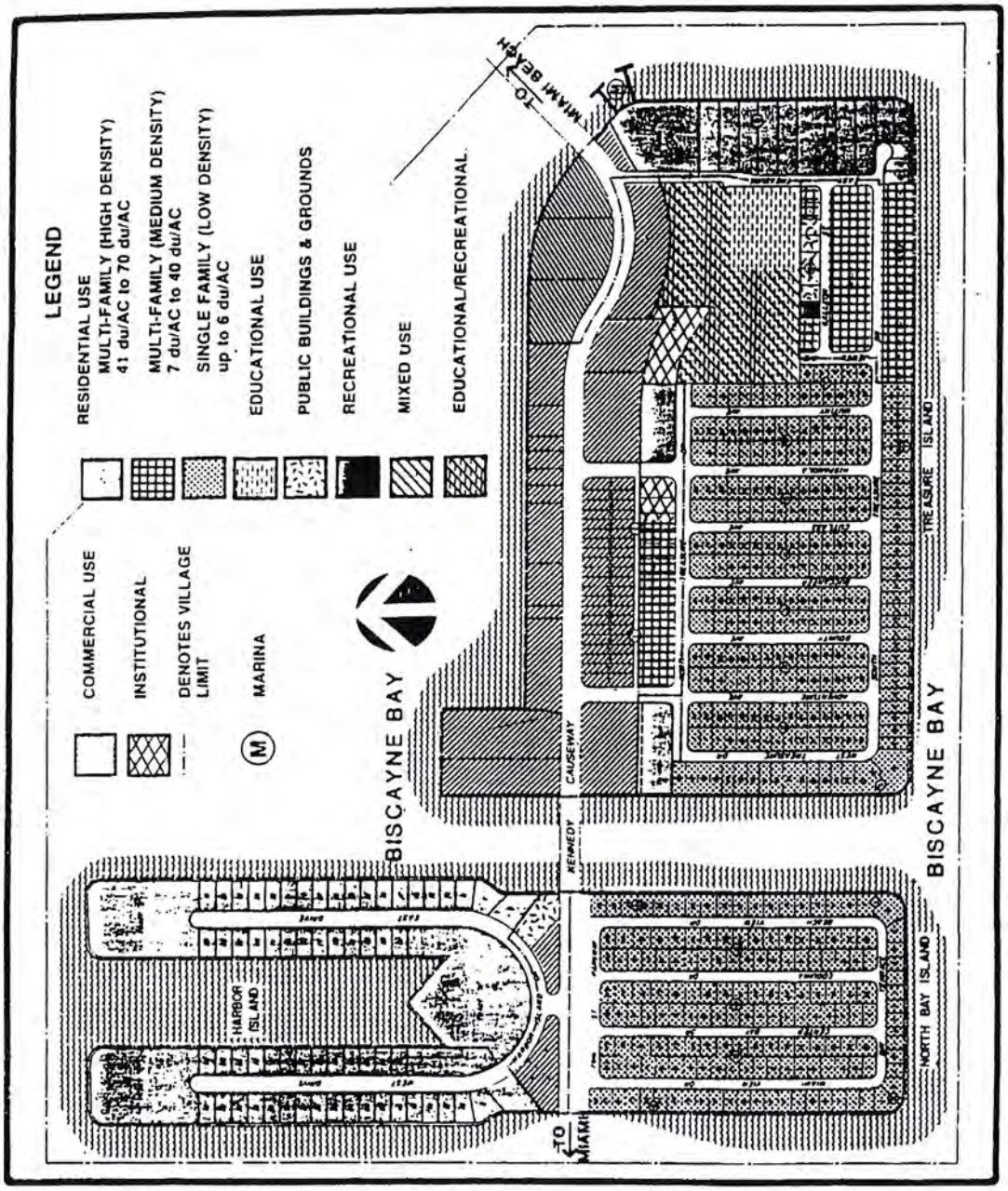
~~Code of Ordinances Reference – Sections 152.030, 152.031.~~



POST, BUCKLEY, SCHUH & JERNIGAN, INC.
Engineers, Architects & Planners

DATE: January 1988

THE CITY OF NORTH BAY VILLAGE
1993 LAND USE PLAN
SCALE: 1"=600'±
Source: Post, Buckley, Schuh & Jernigan, Inc.



POST, BUCKLEY, SCHUH & JERNIGAN, INC.
Engineers, Architects & Planners

DATE: January 1988

THE CITY OF NORTH BAY VILLAGE
1998 LAND USE PLAN
SCALE: 1"::500'±
Source: Post,Buckley,Schuh & Jernigan, Inc.

~~§ 3.2.3 - Recreation and open space district.~~

~~This district includes all areas designated for public parks within the Village.~~

~~§ 3.2.4 - Mixed-use district.~~

~~The mixed-use district permits a combination of retail, office, hotel, and/or residential uses. 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 sections 4.1 and 4.4 of this Code).~~

~~§ 3.2.5 - Educational district.~~

~~Public schools, associated facilities, and grounds are included in this district.~~

~~§ 3.2.6 - Public buildings/grounds district.~~

~~This district provides sites for public/semi-public uses such as Village Hall, police station, public works building, post office, and other agency facilities.~~

~~§ 3.2.7 - Institutional district.~~

~~The purpose of this district is to provide an area for institutional facilities such as religious facilities, nursing homes, and community centers.~~

~~§ 3.2.8 - Marina district.~~

~~This district provides sites for the location of marinas as defined in chapter 1 of this Code.~~

~~§ 3.3 - General district regulations.~~

~~The following regulations apply to all land use districts:~~

~~Code of Ordinances Reference – Section 152.025.~~

~~(1) - Compliance with regulations.~~

~~a. No land or water area may be used except for a purpose permitted in the district in which it is located.~~

~~b. 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.~~

~~c. 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.~~

~~d. 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.~~

~~e. 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.~~

~~f. 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.~~

~~(2) - Encroachment 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.~~

~~Code of Ordinances Reference – Section 152.025.~~

~~(3) 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.~~

~~Code of Ordinances Reference – Section 152.025.~~

~~(4) 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 building on one lot.~~

~~Code of Ordinances Reference – Section 152.025.~~

~~§ 3.4 - Allowable uses within land use districts.~~

~~The following is a more detailed breakdown of permitted land uses in the residential and commercial districts.~~

~~§ 3.4.1 - Residential.~~

~~This encompasses a broad group of residential uses including single family dwellings, duplex dwellings, and multi-family dwellings.~~

~~In those areas designated for multi-family residential-medium-density use, management offices within structures containing eight or more units shall be permitted.~~

~~In those areas designated for multi-family residential-high density use, management offices within structures containing eight or more dwelling units or guest rooms, shall be permitted for subject property only. Office, retail, and service facilities of an ancillary nature shall also be permitted within structures containing 100 or more dwelling units or guest rooms. Access to ancillary commercial facilities located within structures containing less than 450 dwelling units shall be from within the structure only and no exterior advertising or display of any kind shall be permitted. Ancillary facilities located within structures containing 450 or more dwelling units may have exterior doors, windows and signage provided that they do not directly abut or face a public right of way and provided that external signage or advertising of any kind be consistent with a facility advertising plan approved by the Village Commission. All structures containing ancillary facilities shall provide parking and meet all requirements of the State, County, and Village codes which are applicable to the type of ancillary commercial facility proposed.~~

~~Code of Ordinances Reference – Sections 152.026 – 152.029.~~

~~§ 3.4.2 - Commercial.~~

~~(a) Permitted uses. A wide variety of general commercial activities are permitted in this category including:~~

~~(1) Bank or financial institution.~~

~~(2) Clinic or hospital.~~

~~(3) Dry cleaning substation.~~

~~(4) Lounge or nightclub (subject to the provisions of chapter 111 of the Village Code).~~

~~(5) Hotels and motels as per [Code of Ordinances section] 152.031(B)(1).~~

~~(6) Medical or dental laboratory.~~

~~(7) Personal services establishments, including but not limited to: shoe repair; barber and beauty shop; stock brokerage; employment agency; travel bureau; and messenger service.~~

~~(8) Post office.~~

~~(9) Professional offices, including but not limited to: architecture; accounting; engineering; investigative; investment and tax counseling; law; medicine; and real estate.~~

~~(10) Restaurants, coffee shops, or delicatessens; but not to include a fast order food establishment.~~

~~(11) Retail sales establishments, including but not limited to: the sale of appliances; books; stationery; drugs; hardware; liquor; groceries; meats; produce and fish; however, such retail sales shall be restricted to merchandise stored and displayed within the main structure.~~

~~(12) Radio and television transmitting station and studio.~~

~~(13) Storage facilities in connection with permitted uses; provided, however, that all such material, including waste and cooling systems shall be stored or erected entirely within the walls of a building.~~

~~(14) Studios for artists, photographers, sculptors, or musicians, including: the teaching of art; music; dancing; or artistic instruction.~~

~~(b) Special uses permitted within the commercial district. The following uses shall be permitted upon approval of the village commission in accordance with the provisions pertaining to use exceptions:~~

~~(1) General educational facilities.~~

~~(2) Fast order food establishments.~~

~~(3) Multifamily dwellings whether or not accompanied by non-residential uses shall be required to conform with all site development standards as set forth under section 152.029(C) of the zoning regulations for North Bay Village. Non-residential uses located on the same parcel as multifamily dwellings shall not be subject to the requirements of § 3.4.1.~~

~~(4) Printing and publishing establishments, including blue-printing and photostating, provided that no such use shall occupy more than 1,500 square feet of gross floor area.~~

~~(5) Service stations, provided that the provisions described in section 152.030(C)(5)(a)—(p) of the zoning code are adhered to.~~

~~(6) Theaters for the showing of motion pictures, activities of a performing art, or an event of a cultural or civic nature.~~

~~(7) Yacht clubs, provided they have a minimum of 150 feet of water frontage and no main building is less than 4,000 square feet in gross floor area.~~

~~(Ord. No. 2012-07, § 2, 12-18-12)~~

~~Code of Ordinances Reference—Section 152.030.~~

~~§ 3.5 - Use exceptions.~~

~~The following uses and/or buildings may be permitted by the Village Commission provided it can be demonstrated that such exceptions will not adversely affect the permitted uses of adjacent property.~~

~~(1) Day nursery.~~

~~(2) Religious institution.~~

(3) Private or commercially operated swimming pools or tennis courts when not a permitted accessory use, and commercial recreational facilities.

(4) Exhibition or civic center, art gallery.

(5) Marina.

(6) Public buildings and facilities.

(7) Public utilities and service.

(8) The extension of an existing nonconforming building and the existing use thereof upon the lot occupied by that building at the time of the passage of these regulations, or erection of an additional building upon a lot required at the time of passage of these regulations, by a nonconforming commercial establishment and which additional building is a part of such establishment.

Code of Ordinances Reference – Section 152.098.

§ 3.6 - Special exceptions in high density multiple family residential district.

(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 [Code of Ordinances] section 152.029 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 Village'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 [Code of Ordinances] section 152.029(B)(1).

(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 [Code of Ordinances] section 152.029(C)(1).

(2) Minimum yard setbacks shall be the same as specified in [Code of Ordinances] section 152.029(C)(2) 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 331/3 percent of the current setback requirements (nonconforming setback) shall be subject to the provisions of subsection (C)(4) hereafter.

(3) Maximum density shall be as prescribed in [Code of Ordinances] section 152.029(C) except that (a) on minimum undersized parcels there shall be a maximum of six residential units; (b) in case of undersized parcels which exceed the minimum area and footage prescribed in (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 (C)(1).

(4) The maximum building height on minimum undersized parcels shall be three stories or 36 feet above code approved grade, whichever is less. However, 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 1½ percent of the area of the second floor for each foot of nonconforming encroachment into the setback area.

The maximum building height on undersized parcels which exceed the minimum areas and frontage provided in [Code of Ordinances] section 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 (C)(1), not to exceed six stories or 72 feet above code approved grade, whichever is less.

~~Provided further, as to buildings newly constructed under the provisions of this ordinance, grade level beneath the building parking not exceeding ten feet in height shall not be included in the height limitation herein imposed.~~

~~(5) Minimum pervious area. The provisions of [Code of Ordinances] section 152.028(C)(5) are adopted and shall apply to buildings under this section.~~

~~(6) Minimum floor area. The provisions of [Code of Ordinances] section 152.028(C)(5) are adopted and shall apply to buildings under this section.~~

~~(7) Offstreet parking: the offstreet parking requirements as set forth in [Code of Ordinances] sections 152.040 through 152.044 shall apply to buildings under this section except that every dwelling unit, regardless of size, shall require two parking spaces.~~

~~(8) All requirements of landscaping of the Village and County Code shall be fully applicable to buildings under this section.~~

~~Code of Ordinances Reference – Section 152.0295.~~

~~§ 3.7 - Prohibited uses.~~

~~The following uses, unless approved upon public hearing, shall not be permitted in any commercial district:~~

~~(1) Amusement rides and enterprises.~~

~~(2) Amusement centers.~~

~~(3) Auction market.~~

~~(4) Auto, truck, or machinery salvage yards.~~

~~(5) Boat salvage.~~

~~(6) Carnival and circuses.~~

~~(7) Cemeteries.~~

~~(8) Convalescent homes.~~

~~(9) Dog kennel.~~

~~(10) Funeral homes.~~

~~(11) Heliports and helipads.~~

~~(12) Homes for dependent children.~~

~~(13) Junk yards.~~

~~(14) Movie theaters (open air) or drive-in theaters.~~

~~(15) Nursing homes.~~

~~(16) Palmists and psychic readers.~~

~~(17) Pawnbrokers.~~

~~(18) Satellite communications device (three-meter diameter or larger).~~

~~(19) Adult congregate living facilities (ACLFs) as defined in F.S. § 400.402.~~

~~Code of Ordinances Reference – Section 152.064.~~

Chapter 4 - CONSISTENCY AND CONCURRENCY DETERMINATIONS[1]

Footnotes:

(1)

Cross reference— References to numbers, § 1.6.

§ 4.1 - Consistency with North Bay Village Comprehensive Plan.

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.

§ 4.1.1 - Determining consistency with the Village comprehensive plan.

If a development proposal is found to meet all the requirements of this code, 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.

Code of Ordinances Reference — Section 151.11.

§ 4.2 - 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:

(1) 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.

(2) 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:

a. Construction is underway to provide additional capacity and is scheduled for completion by or before scheduled occupancy of the development.

b. Contracts are signed for construction to provide additional capacity on a schedule which provides capacity at the time of occupancy of the development.

Code of Ordinances Reference — Section 151.11.

§ 4.3 - Determination of existing capacity.

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

~~(1) Adding together:~~

~~a. The total capacity of existing facilities operating at the required level of service; and~~

~~b. 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:~~

~~1. Construction of the new facilities is under way at the time of application.~~

~~2. 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.~~

~~3. The new facilities have been included in the appropriate capital improvement program annual budget.~~

~~4. 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.~~

~~(2) Subtracting from that number the sum of:~~

~~a. The demand for the service created by existing development; and~~

~~b. 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.~~

~~§ 4.4 - 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.~~

~~§ 4.4.1 - 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.~~

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

-

~~§ 4.4.2 - 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~~

-

~~§ 4.4.3 - Transportation system.~~

~~(a) 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~~
~~Arterials~~	~~D~~
~~Collectors~~	~~D~~
~~Limited Access~~	~~D~~

-

~~(b) 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.~~

~~§ 4.4.4 - Drainage system.~~

~~New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for the drainage system as established in the drainage subelement of the North Bay Village plan:~~

~~Type of Use~~	~~LOS~~
~~All development~~	~~Five-year frequency storm event including retention or detention with filtration of first inch of runoff~~

-

~~§ 4.4.5 - Solid waste.~~

~~New development shall not be approved unless there is sufficient available capacity to sustain the following level of service for solid waste as established in the solid waste subelement of the North Bay Village plan:~~

~~Type of Use~~	~~LOS~~

All	Seven pounds per capita per day

-

§ 4.4.6 - Recreation.

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

Chapter 5 - DESIGN STANDARDS[1]

Footnotes:

(1)

Cross reference— References to numbers, § 1.6.

§ 5.1 - Design standards for specified uses.

Table 5-1 describes the requirements for lot size, setback, minimum floor and height, and impervious area for each of the general land use categories.

§ 5.2 - Parking design standards.

§ 5.2.1 - General requirements.

All proposed off-street parking facilities shall be subject to site plan review and approval. In addition to including the location, number, type and size of the proposed parking and loading spaces, driveways, landscaping, and accessways, and to meet specific objectives in the Traffic Element of the North Bay Village Comprehensive Plan, the site plan must reflect that the following criteria have been incorporated into the plan.

Code of Ordinances Reference—Sections 152.042, 152.043.

(1) Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient.

(2) Parking and loading areas, aisles, pedestrian walks, landscaping, and open space shall be designed as integral parts of an overall development plan and shall be properly related to existing and proposed buildings.

(3) As a minimum standard, all parking areas shall be landscaped in accordance with the current Dade County landscaping code.

(4) Buildings, parking and loading areas, landscaping, and open spaces shall be designed so that pedestrians moving from parking areas to buildings and between buildings are not unreasonably exposed to vehicular traffic.

(5) Landscaped, paved, and gradually inclined or flat pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and

~~adjacent buildings. Pedestrian walks should be designed to discourage incursions into landscaped areas except at designated crossings.~~

~~(6) Each off-street parking space shall open directly onto an aisle or driveway that, except for single-family and two-family residences, is not a public street.~~

~~(7) Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family or two-family residence shall be counted as a parking space for the dwelling unit, or as a number of parking spaces as determined by the Building Official based on the size and accessibility of the driveway.~~

~~(8) The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces. A physical separation or barrier, such as vertical curbs, may be required to separate parking spaces from travel lanes.~~

~~(9) Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.~~

~~(10) No parking space shall be located so as to block access by emergency vehicles.~~

~~(11) Compact car spaces should be located no more and no less conveniently than full-size car spaces and shall be grouped in identifiable clusters.~~

~~(12) A minimum setback of 20 feet shall be required between a public street right-of-way, exclusive of alleys, and the entrance to the nearest parking space.~~

~~(13) Backout parking shall be prohibited. All off-street parking spaces except those relating to single family residences shall be designed so that no vehicle shall have to back into a public right-of-way to obtain egress.~~

~~Code of Ordinances Reference – Section 152.042.~~

~~Table 5-1~~
~~Design Standards for Specified Uses (152.026 – 152.031)~~

~~Element~~	~~Low Density Residential~~	~~Medium Density Residential~~	~~High Density Residential and Mixed-Use~~	~~High Density Undersized Parcels~~	~~Hotels Motels~~	~~General Commercial, Institutional, Public Buildings~~
~~Minimum Lot Size Area (sq. ft.)~~	~~7,000~~	~~6,000~~	~~28,000~~	~~40%~~	~~28,000~~	~~10,000~~
~~Frontage (ft.)~~	~~70~~	~~60~~	~~200~~	~~40%~~	~~200~~	~~75~~
~~Setbacks (ft.) Front Kennedy Cswy. (North Side)~~	~~N/A~~	~~N/A~~	~~40~~	~~40[4]~~	~~40~~	~~40~~

~~Kennedy Cswy. (South Side)~~	~~N/A~~	~~N/A~~	~~60~~	~~60[4]~~	~~60~~	~~60~~
~~Others~~	~~20~~	~~20~~	~~25~~	~~25[4]~~	~~25~~	~~25~~
~~Side~~						
~~Corner~~	~~20~~	~~15~~	~~15[1]~~	~~15[4]~~	~~15[1]~~	~~15 plus 5 ft. for each story over 3~~
~~Interior~~	~~10~~	~~7.5~~	~~15[1]~~	~~15[4]~~	~~15[1]~~	
~~Rear~~	~~15~~	~~15~~	~~25~~	~~25[4]~~	~~25~~	~~25~~
~~Waterfront~~	~~25~~	~~25~~	~~25~~	~~25[4]~~	~~25~~	~~25~~
~~Min. Floor Area (sq. ft.)~~						
~~1 story~~	~~2,000~~	~~1,500~~	~~N/A~~	~~N/A~~	~~N/A~~	~~N/A~~
~~2 story~~	~~2,600~~	~~2,000~~	~~N/A~~	~~N/A~~	~~N/A~~	~~N/A~~
~~Efficiency~~	~~N/A~~	~~N/A~~	~~400~~	~~400[5]~~	~~400~~	~~N/A~~
~~1 bedroom~~	~~N/A~~	~~N/A~~	~~750~~	~~750[5]~~	~~750~~	~~N/A~~
~~2 bedroom~~	~~N/A~~	~~N/A~~	~~1,000~~	~~1,000[5]~~	~~1,000~~	~~N/A~~
~~3 bedroom~~	~~N/A~~	~~N/A~~	~~1,150~~	~~1,150[5]~~	~~1,150~~	~~N/A~~
~~Maximum Height~~	~~2 stys or 25 ft. above grade, whichever is less~~	~~2 stys or 25 ft., whichever is less~~	~~150 ft. or 14 stys, whichever is less~~	~~3 stys. or 36 ft. whichever is less[6]~~	~~130 ft. or 12 stys[2,3]~~	~~130 ft. or 12 stys[2,3]~~

~~Min. Impervious Area~~				~~20%~~	~~20%~~	~~20%~~

-

~~[1] 100 feet when adjacent to single family residential area, plus five feet for each story over three~~

~~[2] Two stories may be parking~~

~~[3] Church steeples, bell towers, air conditioning units, etc., may exceed this limit.~~

~~[4] See Section 3.6(c)(2) of this code.~~

~~[5] See Section 3.6(c)(3) of this code.~~

~~[6] See Section 3.6(c)(4) of this code.~~

~~Note: Site plans for recreation and open space districts, marinas, and educational districts are subject to the Village's site plan review process and commission approval.~~

~~§ 5.2.2 - Design standards.~~

~~(a) Off-street parking spaces. The following describes the standard requirements for off-street parking spaces within the Village.~~

~~(1) A standard parking space shall be nine feet wide and 18 feet long.~~

~~(2) Compact parking spaces shall be eight feet wide and 16 feet long, up to 20 percent of all required parking spaces may be compact spaces if prior approval is received from the Village Commission.~~

~~(3) Within all off-street parking facilities of 20 spaces or more, not less than two percent shall be designed and allocated for handicapped usage. Handicapped spaces shall be clearly marked and located as near as possible to the principal entrance of the use or structure being served. Design of handicapped spaces shall comply with all applicable accessibility standards of the State of Florida and Dade County.~~

~~Code of Ordinances Reference - Section 152.042.~~

~~(b) Loading spaces. The standard off-street loading space shall be 12 feet wide, 30 feet long, and provide a vertical clearance of 14½ feet. Each off-street loading space shall be easily accessible and provide adequate area for maneuvering.~~

~~(Ord. No. 2003-06, § 1, 4-8-03)~~

~~Code of Ordinances Reference - Section 152.045.~~

~~§ 5.2.3 - Parking space requirements.~~

~~The following table specifies the required minimum number of parking spaces required in each described use.~~

~~(1)~~	~~Residential uses~~	~~Single family; 2 per dwelling unit, du multifamily; 1.5 per efficiency 1.75 per one bedroom du; 2 per two bedroom or larger du plus additional 10% of required number for guest parking, Hotel, Motels; 1 per rental unit plus additional 10% of total number required spaces.~~
~~(2)~~	~~Commercial uses~~	
	~~Banks~~	~~1 per 300 sq. ft. gross floor area (GFA) plus eight stacking spaces for each drive in.~~
	~~Business, vocational schools, lodges, fraternal halls~~	~~1 per 100 sq. ft. GFA~~
	~~Offices~~	~~1 per 300 sq. ft. GFA~~
	~~Professional service establishments; repair service establishments~~	~~1 per 200 sq. ft. GFA~~
	~~Retail sales stacking spaces per drive-thru~~	~~1 per 200 sq. ft. GFA plus 4 establishments~~
	~~Restaurants, lounges, nightclubs~~	~~1 per 75 sq. ft. customer service area~~
	~~Service stations~~	~~3 spaces plus 3 for each service bay~~
	~~Theaters~~	~~1 per each 3 seats~~
	~~Vehicle sales, repair, area for sales, etc.~~	~~1 per 400 sq. ft. enclosed etc., plus 2 per bay~~
	~~Wholesale trade establishments~~	~~1 per 300 sq. ft. GFA~~
~~(3)~~	~~Community facilities~~	

	~~Adult congregate living facilities, churches, temples, places of worship~~	~~¾ spaces per unit~~ ~~1 per each 4 seats in main assembly area~~
	~~Government offices~~	~~1 per 300 sq. ft. GFA plus 1 per every 4 seats in public assembly area~~
	~~Hospitals~~	~~1 per patient bed~~
	~~Marinas~~	~~1 per boat slip/berth plus additional spaces as may be permitted uses required by (retail, restaurants)~~
	~~Museums, art galleries~~	~~1 per 400 sq. ft. GFA~~
	~~Nursing home~~	~~½ space per bed~~
	~~Tennis, handball and racquetball facilities~~	~~5 per court~~

-

~~Note: For those uses not enumerated, but similar to and closely related to uses above, the number of spaces shall be determined by the Village Commission. For those dissimilar uses, the number shall be set by the Village Commission after recommendation from the board.~~

~~(Ord. No. 02-21, § 1, 7-23-02)~~

~~Code of Ordinances Reference—Section 152.044.~~

~~§ 5.2.4 - Off-street loading requirements.~~

	~~Use Category~~	~~Gross Floor Area (square feet)~~	~~Spaces Required~~
~~(1)~~	~~Retail, personal service, restaurant or wholesale operation~~	~~under 10,000~~	~~0~~
		~~10,000—20,000~~	~~1~~

		~~20,000—40,000~~	~~2~~
		~~40,000—60,000~~	~~3~~
		~~over 60,000~~	~~4~~
~~(2)~~	~~Multi-family residential use, hotel, motel, office, hospital, spa, place of public assembly, or similar use~~	~~under 25,000~~	~~0~~
		~~25,000—50,000~~	~~1~~
		~~50,000—100,000~~	~~2~~
		~~over 100,000~~	~~3~~

-

~~Code of Ordinances Reference—Section 152.045.~~

~~§ 5.3 - Sign regulations.~~

~~Code of Ordinances Reference—Sections 152.075—152.083.~~

~~§ 5.3.1 - Purpose.~~

~~The purpose of these regulations is to create a legal framework for a comprehensive and balanced system of street graphics and signs and thereby to facilitate an easy and aesthetically pleasing communication between the public and their environment. With this purpose in mind, it is the intention of these regulations to authorize the use of street graphics and signs which are compatible with their surroundings; appropriate to the type of activity to which they pertain; expressive of the identity of individual proprietors or of the community as a whole; and legible in the environment in which they are seen. (See Illustrative Sketches 5.1 and 5.2.)~~

~~Code of Ordinances Reference—Section 152.075.~~

~~§ 5.3.2 - Definitions.~~

~~For the purpose of this section [5.3], the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~Sign. An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business.~~

~~Sign, accessory. A supplemental sign relating to products or services sold, affiliations, or uses of the premises on which the sign is located (e.g.: credit card affiliations, brand symbols).~~

~~Sign area. The area of the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign. Such area shall be that total surface of one common sign structure which may be viewed from one direction of approach. Such surface area is exclusive of frame embellishment considered as border and not for the purpose of transmission of message, which additional frame surface shall not be greater than 30 percent of the total gross area. Any symbol, mural background, pole decoration, or illustrative material contributing to the meaning or promotional effect of the message shall be considered as sign surface area. The sign area shall extend to the perimeter of the area of all letters, figures, characters, clocks, thermometers, and temperature or time data devices.~~

~~Sign, detached. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a detached sign.~~

~~Sign, directional. A sign indicating the direction or allocation of some service or facility to use, or indicating an instruction (e.g., "no trespassing").~~

~~Sign, flat. A sign erected parallel to the face of or erected or painted on the outside wall of any building, and supported throughout its length by wall, cantilever, or marquee projections extending from the wall. The outer edge of a flat sign shall not be further than 18 inches, measured horizontally, from the building wall or extend further than the outside edge of a supporting marquee or cantilever, whichever distance is the larger; nor may the highest point of a flat sign extend more than 12 inches above the highest flat roof, parapet, or eave line.~~

~~Sign, identification. A sign which indicates the name of a use, owner, activity, business, or enterprise.~~

~~Sign, outdoor advertising display (character).~~

~~(1) Activated sign. Any sign which contains or uses for illumination any light, lighting device, or lights which change color, flash or alternate, or change the appearance of the sign or any part thereof automatically (for the purpose of these regulations, a slowly rotating sign, not exceeding ten revolutions per minute, illuminated but not flashing, shall not be considered an "activated sign").~~

~~(2) Animated sign. Any sign upon which a character, letter, figure, or group or combination thereof, show movement or motion to such an extent as to be readily detected.~~

~~(3) Banner sign. Any sign possessing characters, letters, illustrations, or ornamentations applied to cloth, paper, or fabric of any kind, either with or without frames.~~

~~(4) Banners, streamers, spinners, and pennants. Any device, with or without letters or symbols, erected for the purpose of attracting attention to an area or point.~~

~~(5) Beacon light. Any light with one or more beams capable of being directed in any direction, capable of being revolved automatically, or capable of having any part thereof revolve automatically.~~

~~(6) Double-faced sign. Any sign which has two display surfaces backed against each other or against the same background, one face of which is designed to be seen from one direction, and the other from the opposite direction.~~

~~(7) Flashing sign. Any sign in which the electrical lighting device or devices go on and off alternately, either all of such lights or lighting devices or part thereof, or are designed to cause a deliberate intensity change for the purpose of effecting attraction. Signs that alternately display only time and temperature are excluded from this definition.~~

~~Sign, outdoor advertising display (type). A sign which contains any letter, figure, character, mark, plane, point, marquee, poster, pictorial picture, stroke, stripe, line, trademark, reading matter, or illuminated surface, which shall be so constructed, placed, attached, painted, erected, fastened, or manufactured in~~

~~any manner whatsoever, that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever which is displayed in any manner out-of-doors. These shall include, but are not necessarily limited to, the following:~~

~~(1) Combination sign. Any sign incorporating any combination of the features of ground, projecting, or roof signs.~~

~~(2) Fluorescent painted sign. Any sign which is wholly or partially composed of letters, symbols, or characters, or the background of which is of fluorescent qualities causing a reflective light to illuminate.~~

~~(3) Ground sign. Any sign which is supported by uprights or braces in or upon the ground (also referred to as a "pole sign").~~

~~(4) Illuminated sign. Any sign which has characters, letters, figures, designs, or an outline illuminated by electric lights or luminous tubes, whether or not the lights or tubes are a part of the sign proper.~~

~~(5) Marquee sign. Any sign attached to or hung from a marquee. A "marquee" shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building, building line, or property line.~~

~~(6) Nonilluminated sign. Any sign which is not illuminated by internal or external lights which are designed for such illumination, nor is designed with any special light-reflective surfaces.~~

~~(7) Projection sign. Any sign other than a wall sign which projects from and is supported by a wall, building, or overhang (see Figure 1).~~

~~(8) Projected sign. Any sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line, or property line more than 18 inches.~~

~~(9) Real estate sign. Any structure, device display board, screen, surface, or wall with characters, letters, or illustrations placed thereto, thereon, or thereunder, by any method or means whatsoever, where the matter displayed thereon shall be used solely for the purpose of offering for sale, lease, or rent the exact property on which the sign is placed.~~

~~(10) Roof sign. Any sign which is fastened to and supported by or on the roof of a building, or which extends more than 12 inches above the highest flat roof, parapet, or eave line of a building.~~

~~(11) Sandwich sign. Any sign which is either single- or double-faced, is portable, and may readily be moved from place to place.~~

~~(12) Shingle sign. Any projection or wall sign not more than six square feet in area, constructed of metal or other noncombustible material attached securely to a building.~~

~~(13) Snipe sign. Any small sign of any material including paper, cardboard, wood, or metal, which is tacked, nailed, or attached in any way to trees or other objects; such sign may or may not apply to the premises.~~

~~(14) Window sign. Any sign located on or within one foot of the street window surface and which is intended to be viewed from the outside.~~

~~Sign, outdoor advertising display (usage).~~

~~(1) Changeable copy sign. Any sign with a permanent, framed surface area principally devoted to and designed for changeable text information pertaining to entertainment, menu, prices, and the like.~~

~~(2) Directory sign. Any sign which gives the name and/or occupation of the occupants of the building or gives the use of the building including office building directories, church directories, and apartment building directories. When an identification of an entity is placed on a common directory board with identical uniform style and size of letter, such entity shall not be defined as a separate sign, but rather shall be considered as a part of a directory board sign.~~

~~(3) Identification; individual entity. Any person who is the lessee, owner, or who has a proprietary interest in the business for which the sign is proposed. Each business shall be considered to be an individual entity. Eligibility for identification as an individual entity shall not exist when the lessee is under the same roof and with the same entrance or access or the same lessor or owner; in such case of leased floor space the occupant is not defined as an individual entity. However, eligibility for identification as an individual entity may apply to the lessee if the owner or the lessor makes of record to the Building and Zoning Official a transfer (assignment) of all parts of his computed eligibility to the lessee.~~

~~(4) a.~~
~~Informational sign. Any sign which contains any combination of directory, directional, and/or explanatory information.~~

~~b. Sign information item. Any syllable, group of numbers, initial, abbreviation, logo, or pictograph larger than three inches in height, with the official name of an establishment counting a maximum of four items towards the ten permitted information items.~~

~~(5) Outdoor advertising display: off-premises (commercial advertising). Any sign upon which advertising matter may be painted or upon which posters may be pasted or otherwise secured to the face thereof, advertising goods, services, or other things not sold or available upon the premises upon which the sign is located.~~

~~(6) Outdoor advertising display: premises. Any sign advertising a product for sale or service to be rendered on the immediate premises where the sign is located.~~

~~(7) Point of purchase sign. Any structure, device, display board, screen, surface, or wall with characters, letters, or illustrations placed thereto, thereon, or thereunder by any means whatsoever, where the matter displayed is used for advertising a product actually or actively offered for sale thereon or therein.~~

~~(8) Facade. Any separate face of a building, including parapet walls or any part of a building which encloses or covers usable space.~~

~~(9) Frontage. That part of the building that faces a public thoroughfare.~~

~~Window sign—permanent. Any sign visible from the exterior of a building or structure and which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper, or other material and placed on, taped on or displayed on a window for the specific purpose of identifying the proprietor or the name of the business to the passerby (see Figure 1).~~

~~Window sign—temporary. Any sign visible from the exterior of a building or structure and which is painted, attached, glued, or otherwise affixed to a window or door or depicted upon a card, paper, or other material and placed on, taped on, or displayed on a window for the specific purpose of attracting attention of the passerby to a sale or to promotional items or other products or services, other than the identity of the proprietor or the name of the business (see Figure 1).~~

~~Code of Ordinances Reference—Section 152.076.~~

~~§ 5.3.3 - Existing nonconforming signs; removal.~~

~~(a) It is the intent of this section to recognize that the eventual elimination of existing signs that are not in conformity with the provisions of these regulations, in as expeditious a manner as it is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new signs that would violate the provisions of these regulations. It is also the intent of this section that there shall not be any unreasonable invasion of established private property rights.~~

~~(b) Continuance. Subject to the sign amortization schedule below, a nonconforming sign may be continued and shall be maintained in good condition, but shall not be:~~

~~(1) Enlarged or changed to another nonconforming sign.~~

(2) Structurally altered so as to prolong the life of the sign.

(3) Reestablished after its discontinuance for 90 days.

(4) Reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost.

(c) Removal or conformance; amortization schedules. All signs, including the supporting structures, which are in existence upon the effective date of these regulations, and which theretofore conformed to all legal requirements, but which are made nonconforming by the provisions of these regulations, shall be brought into conformity or shall be removed in accordance with the following amortization plan:

Schedule of time periods for removal, replacement, or alteration of on-premise signs to meet ordinance requirements based upon estimated cost of original installation.

Estimated Cost of Original Installation	Time Period to Conform
$ 0—$ 999	1 year
$1,000—$2,999	2 years
$3,000 and over	3 years

-

(1) The above shall be determined by the code enforcement officer after reviewing building permits to determine the estimated cost of original installation.

(2) Any sign, including the supporting structure, now or hereafter existing which advertises a business no longer conducted, or a product no longer sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign may be found. Such removal shall be within 30 days after notification by the building official.

(3) Snipe signs and sandwich signs shall be removed immediately.

(d) Procedure for recording inventory. All of the following required changes in nonconforming signs shall be reported to the building and zoning official and shall be classified as "fee" or "no fee," such classification to be determined in accordance with a prepared list of changes/alterations, relocation, or maintenance descriptions. Such classifications shall declare and record nonconformities and/or a sign meeting the standards of these regulations.

(1) An owner of a sign who desires to rely on an amortization period longer than that specified in the amortization schedule provided herein, shall file with the code enforcement officer within 30 days of notification of the commencement of amortization regulations, a statement setting forth the cost of the nonconforming sign, the date of erection, and/or the cost and date of the most recent renovation. The Village Commission shall make the final determination on any time extension.

(2) It shall be the responsibility of the code enforcement officer to make an inventory and a record of all nonconforming signs and to serve notice on the owners or users of such signs. The period of nonconformity shall begin as of the date of this inventory notice and the period of enforced conformity or removal shall begin within 30 days after such notice. Such inventory shall include:

a. Owner.

b. Type of sign.

c. Location.

d. Reason for classification as nonconforming.

e. Valuation.

Code of Ordinances Reference – Section 152.077.

§ 5.3.4 - Regulations and specifications.

(a) General regulations governing signs. Signs erected or maintained under the provisions of these regulations are subject to the following requirements:

(1) Interference with public.

a. The sign must not create a traffic or fire hazard, be dangerous to the general welfare, or interfere with the free use of public streets or sidewalks.

b. Safety requirements.

1. No sign shall be erected or maintained at any location in such a manner as to obstruct free and clear vision at the intersection of any streets or other public ways. No sign shall be erected or maintained at any location where, by reason of the position, illumination, shape, or color it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, nor shall it make use of the words, "stop," "look," "danger," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the motoring public.

2. Intensely lighted areas created for the purpose of sales attraction, may be considered to be distractive displays. Such displays may be a hazard to the safe passage of vehicular traffic and divert attention from certain necessary traffic controls or pedestrian crossing zones. Such intensely lighted areas may be prohibited at certain locations by the police department and confirmed by the Village Commission.

(2) Immoral nature. Any sign displaying any statement, work, character, or illustration which offends public opinion to the extent that a petition containing at least 50 signatures has been submitted to the Village Clerk requesting a public hearing, shall be removed at the direction of the Village Commission after a public hearing has resulted in a vote for removal.

(3) Repair and maintenance. All signs must be kept in good condition, neat appearance, and good state of repair. Any sign more than 50 percent destroyed must be immediately removed at the owner's expense and a new permit secured before the sign is replaced. If a damaged sign is not repaired within 90 days, the sign shall be deemed to constitute a public nuisance and shall be removed at the owner's expense.

(4) Avoidance of fire hazard. Weeds shall be kept cut and debris shall be kept clear within a ten-foot area of any sign.

(5) Identification. All signs requiring permits shall be marked with the number of the permit.

(6) Obstruction of doors, windows, and fire escapes. No sign shall be attached to or be placed against a building in such a manner as to prevent ingress or egress through any door or window of any building, nor shall any sign obstruct or be attached to a fire escape.

(7) Posting or tacking notices and signs. No person shall paint, paste, print, nail, or fasten in any manner whatsoever, any banner, sign, paper, or any advertisement or notice of any kind, or cause the same to be done, on any curbstone, pavement, or any other portion or part of any sidewalk or street, or upon any trees, lampposts, parking meter posts, telephone or telegraph poles, hydrants, or workshops, or upon any structure within the limits of any streets within the Village.

(8) Removal of signs for right-of-way acquisitions. All signs shall be removed by the owner, at no expense to the Village, when such signs are found to be within the right-of-way of present or future roads. This exception to relocation and permit limitations shall cover only lateral (right

~~angle) relocations to the road right-of-way and shall require a building permit. This statement shall not supersede federal or state statutes and regulations.~~

~~(b) Regulations governing specific type signage. Prohibited sign situations:~~

~~(1) Off-premise outdoor advertising display (commercial advertising) signs.~~

~~(2) Signs within or upon public property and rights-of-way.~~

~~(3) Pole (ground) signs projecting over rights-of-way.~~

~~(4) Flashing, activated, and animated signs.~~

~~(5) Pennants, streamers, spinners, advertising balloons, and all other fluttering, spinning, or similar type signs and advertising devices.~~

~~(6) Roof signs; but flat signs may project up to 12 inches above the highest flat roof, parapet, or eave line.~~

~~(7) Snipe and sandwich signs.~~

~~(8) Provided however, that national flags and flags of political subdivisions of the United States; flags of bona fide civic, charitable, fraternal, and welfare organizations; banner signs; and, during nationally recognized holiday periods, pennants, banners, streamers, and other fluttering, spinning, or similar type advertising devices pertaining to said holiday periods, may be provided on a temporary basis as provided below in this subchapter.~~

~~Code of Ordinances Reference – Section 152.078.~~

~~§ 5.3.5 - Sign permits and fees.~~

~~(a) No sign shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this subchapter and in these regulations, until a permit has been issued by the building official.~~

~~(1) Before any permit is issued, an application including written approval of the owner of the property shall be filed, together with five sets of drawings, or specifications (one set to be returned to the applicant upon disposition of the application) as may be necessary to fully advise and acquaint the building official with the location, construction materials, manner of illuminating and securing or fastening, number of signs applied for, and the wording of the sign or advertisement to be carried on the sign. For buildings over three stories, the scale shall be 1/8″ = 1′0″.~~

~~A separate scaled drawing shall be prepared at 1/8″ = 1′0″ showing dimensions, sizes, colors, materials, and method of installation.~~

~~(2) All signs which are electrically illuminated shall require a separate electrical permit and inspection. All signs shall be erected on or before the expiration of 60 days from the date of issuance of the permit; otherwise, the permit shall become null and void and a new permit shall be required.~~

~~(b) The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the building official.~~

~~(c) The building official shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within ten days after receiving written notice of the violation. Removal of a sign by the building and zoning official shall not affect any proceedings instituted prior to the removal of the sign.~~

~~(d) Fees for sign permits shall be in accordance with the schedule adopted by ordinance, a copy of which is maintained in the office of the building official.~~

~~Code of Ordinances Reference – Section 152.079.~~

~~§ 5.3.6 - Exempted signs.~~

~~The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit, but in accordance with the structural and safety requirements of the South Florida Building Code and in accordance with [Code of Ordinances] section 152.083.~~

~~(1) Official traffic signs or sign structures, and provisional warning signs or sign structures, when erected or required by a government agency.~~

~~(2) Changing of the copy of a bulletin board, poster board, display encasement, or marquee.~~

~~(3) Temporary nonilluminated signs, as permitted by the district regulations, advertising real estate for sale or lease, or announcing contemplated improvements of real estate, and located on the premises.~~

~~(4) Temporary nonilluminated signs, as permitted by the district regulations, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress. Once the construction work has been completed, such signs shall be removed immediately.~~

~~(5) Sign on a truck, bus, or other vehicle while in use in the normal course of business provided that no such vehicle with attached signs shall be parked on public or private property for the purpose of advertising a business or firm or calling attention to the location of a business or firm.~~

~~(6) Temporary political signs within commercial districts. Political signs shall not be permitted in any residential district.~~

~~(7) In the commercial districts, nonilluminated signs not exceeding 15 square feet in area with letters not exceeding six inches in height which are painted, stamped, perforated, or stitched on the surface valance area of an awning, canopy, roller curtain, or umbrella. Signs shall be limited to the name of the owner or trade name of the business and the street number of the business.~~

~~(8) Signs posted by the Village.~~

~~Code of Ordinances Reference – Section 152.080.~~

~~§ 5.3.7 - Temporary sign permits.~~

~~The building official, upon application as required in [Code of Ordinances section] 152.079, may issue temporary permits for the following signs and displays for a period not exceeding 30 days when, in his opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property:~~

~~(1) Signs advertising a special civic or cultural event, such as a fair or exposition, play, concert, or meeting sponsored by a governmental or charitable organization.~~

~~(2) Special decorative displays used for holidays, public demonstrations, or promotion of nonpartisan civic purposes.~~

~~(3) Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.~~

~~Code of Ordinances Reference – Section 152.081.~~

~~§ 5.3.8 - Removal of signs.~~

~~(a) Any sign previously associated with a vacated premises shall be removed from the premises by either the owner or lessee not later than 30 days from the time such activity ceases to exist.~~

~~(b) Political signs shall be removed within seven days after the last election in which the candidate or issue was on the ballot.~~

~~Code of Ordinances Reference – Section 152.082.~~

~~§ 5.3.9 - District sign regulations.~~

~~(a) Single-family residential (RS-1, RS-2) districts. No sign will be allowed in these districts except the following, or signs otherwise exempted in this subchapter:~~

~~(1) A nameplate (identification sign), not to exceed one square foot in area, nonilluminated, to identify the owner or occupant of the dwelling or building.~~

~~(2) A private directional sign, nonilluminated, not to exceed one square floor in area.~~

~~(3) A temporary nonilluminated real estate sign not to exceed three square feet in area. The sign lettering may contain the name and telephone number of the owner or a registered real estate broker and one or more of the following designations: "For Sale," "For Lease," or "Open For Inspection." ("By Appointment Only" may also be added.) Unless there is a wall or building closer upon which the sign may be placed, it shall be located at least ten feet from any property line, with the top of the sign not more than five feet above the ground. Any such sign shall be immediately removed upon the sale or lease of the lot and/or improvements upon which it is displayed.~~

~~(b) Multi-family residential (RM-40, RM-70) districts. No sign will be allowed in these districts except the following, or signs otherwise exempted in this subchapter:~~

~~(1) Accessory signs and directional signs, all nonilluminated, and, individually, not to exceed an area of one square foot, except that illuminated fire exit signs, as required by the South Florida Building Code, shall also be permitted.~~

~~(2) A temporary nonilluminated sign, for a period not to exceed 90 days and not to exceed 12 square feet in area, advertising real estate for sale or for lease, or announcing contemplated improvements of the premises on which the sign is located.~~

~~(3) A temporary nonilluminated sign, not to exceed a total area of 40 square feet, erected in connection with new construction work and displayed on the premises only during the progress of actual construction work.~~

~~(4) A permanent, nonilluminated, flat or detached identification sign, not to exceed 24 square feet, identifying the name, address, and/or management of a multi-family dwelling, or group of multi-family dwellings. In the case of a detached sign, it shall not be located in any required rear or side yard setback area, nor closer than ten feet from the front property line, nor shall any part of the sign be more than ten feet above the ground.~~

~~(5) Nonilluminated signs not exceeding 15 square feet in area with letters not exceeding six inches in height which are painted, stamped, perforated, or stitched on the valance area of an awning, canopy, roller curtain. Signs shall be limited to the name of the owner and the street number of the business.~~

~~(c) Commercial (CG, CL) districts. No sign will be allowed in these districts except the following, or signs otherwise excepted in this section [5.3]:~~

~~(1) Accessory signs and directional signs, all nonilluminated, and, individually, not to exceed an area of one square foot, except that illuminated fire exit signs, as required by the South Florida Building Code, shall also be permitted.~~

~~(2) A temporary nonilluminated sign, not to exceed 12 square feet, advertising real estate for sale or for lease. A temporary nonilluminated sign may announce contemplated improvements of real estate, provided such sign does not exceed 24 square feet.~~

~~(3) A temporary nonilluminated sign, not to exceed 40 square feet, erected in connection with new construction work and displayed on the premises only during the progress of actual construction. Once construction has been completed, the sign shall be removed immediately.~~

~~(4) A permanent flat illuminated or nonilluminated sign may be erected on one facade of a building or each portion of a building occupied by a separate commercial or office use, provided the sign does not exceed an area equal to ten percent of the area of the facade upon which it is erected, and for any single establishment user, contains no more than ten sign information items. For calculation purposes, the maximum single building storefront is limited to 75 feet, the maximum storefront 15 feet. In the case of a commercial or office use located on the ground floor of a multi-story building, only the first floor facade area shall be used for the purpose of calculating the permissible sign area. Where an establishment fronts on more than one street, the above area of signs may be permitted on each street frontage; however, signs on side frontages will not be permitted if they face a residential area. In no case shall signs be permitted on any wide bay frontage.~~

~~All adjacent contiguous retail and service establishments located in premises under the same ownership shall be required in lease agreements to maintain all permanent sign lettering and background in the same style and color.~~

~~For existing commercial establishments, facade signage may be increased to 11 percent of the total building facade and a total of 11 sign "items" per establishment may be used when all the lettering and background is uniform in style and color for signs in a shopping center or for any three consecutive separate establishments. Uniform agreements must be made a part of any lease or deed restriction.~~

~~(5) A projection sign, placed at an angle of 90 degrees from the building, and clearing the sidewalk by eight feet. It shall project no more than four feet from the building or one-third of the sidewalk width, whichever is less, and be spaced no less than 50 feet apart unless displaying symbols only in which case there is no restriction on proximity (see Figure 4).~~

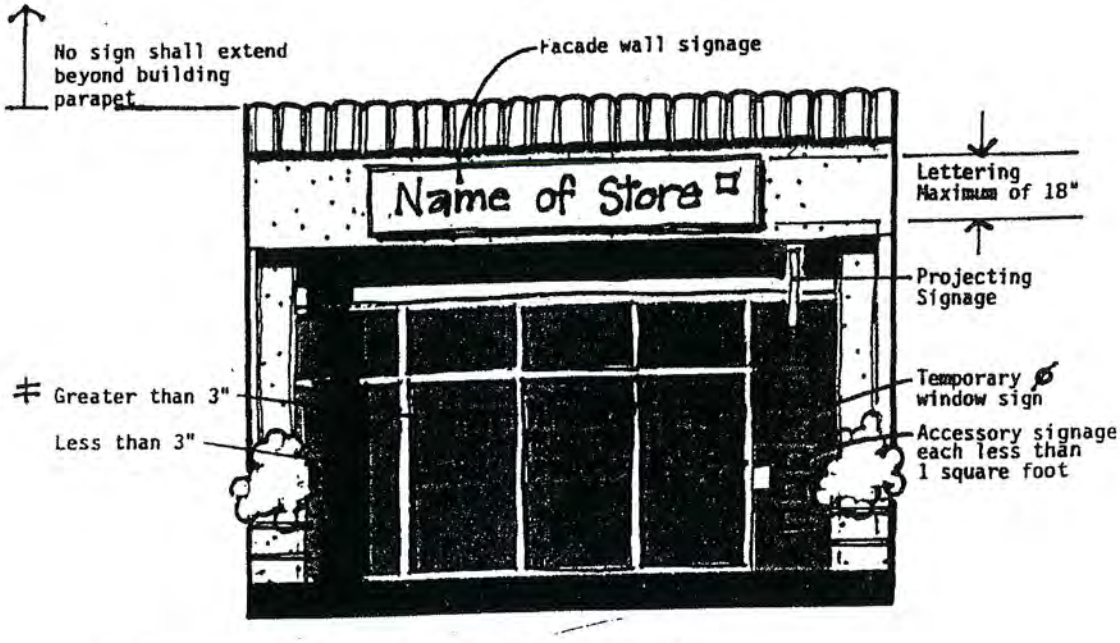
~~All adjacent, contiguous retail and service establishments located in premises under the same ownership shall be required in lease agreements to maintain all projection signs, materials, lettering and background in the same style and color.~~

~~(6) A permanent, detached illuminated sign may be permitted, not to exceed a total area of 100 square feet. When a single building on the property consists of two or more different commercial or office occupancies, an additional one square foot of sign area shall be permitted for each six lineal feet of street frontage in excess of 50 feet; however, the total sign area for a building with multiple occupancy shall not exceed 160 square feet in any case, nor may there be more than one detached sign on the property. No part of such detached signs shall be located on the side or rear yards, nor shall any detached sign be located closer than ten feet from the front property line. No detached sign shall exceed a height of 24 feet above the ground.~~

~~(7) Detached signs shall be located in a pervious landscaped area or planter. The minimum size of the landscape area shall be equal to the area of the sign copy. No detached signs which lawfully existed prior to the adoption of the "landscape area requirement" shall be deemed non-conforming solely because it does not comply with the "landscape area requirement."~~

~~(8) Decals, painted signs, or paper, cardboard, or other temporary signs. A temporary window sign may be attached to street frontage windows. However, the total area of such signs shall not exceed ten percent of the total area of such windows and doors or within five feet of the rear of the window (see Figure 4).~~

~~Code of Ordinances Reference – Section 152.083.~~



Counts towards number of sign informational items.

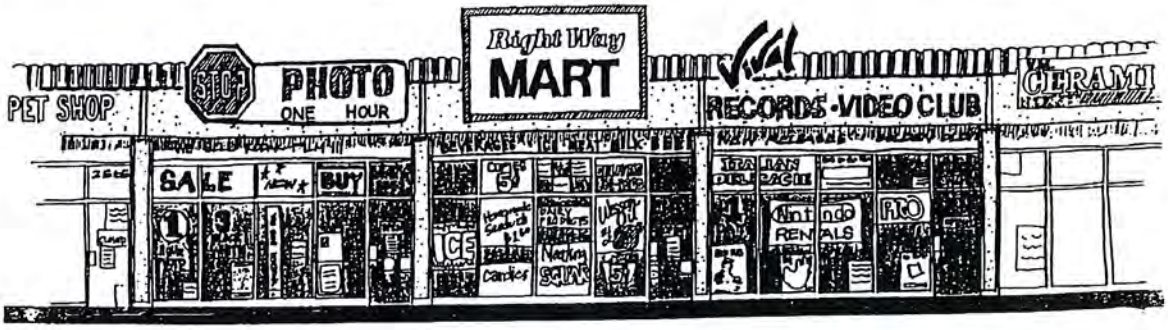
✱ Maximum of 25% of window/door area.

ø Paper Sign - max. 10% of window/door area.

¤ Maximum of 10% of ground floor facade area.

NOTE:
- o Facade wall signage and large window signage (greater than 3" in height) shall not exceed 10 sign information items.
- o No sign shall be placed on a structure so that it will disfigure or conceal architectural features or details of a structure.
- o Facade signage shall be proportionate to the facade on which it is located respecting the integrity of the architecture of the building.
- o Size and location of any sign shall be proportional to the scale of the existing structure and compatible with adjacent signage.
- o The use of lettering and signs design shall enhance the architecture and character of the facade on which the sign is located.

B. After



A. Before

~~Before and After~~

~~§ 5.4 - Design standards for coastal sites.~~

~~§ 5.4.1 - Dade County Shoreline Development Review.~~

~~All development directly abutting North Bay Village's shoreline, except single-family and duplex development, is subject to the requirements of the Miami-Dade County Shoreline Development Review (Ordinance 85-14) which includes standards for setbacks and visual corridors.~~

~~An applicant requesting development within the shoreline development review boundary shall obtain approval from the Miami-Dade County Shoreline Development Review Committee, prior to the second public hearing before the Village Commission of North Bay Village.~~

~~Applications for shoreline development review are obtained from and submitted to the Miami-Dade County Development Impact Committee Department by the applicant. Prior to applying for shoreline development review, approval for construction or structural alteration of any dock, pier, piling, seawall, or any similar structure in or over the waters in the corporate limits of the Village, Village Commission approval shall be required. Prior to applying for shoreline development review for construction of any marina, approval from both the planning and zoning board and Village Commission shall be required.~~

~~Appendix D contains the shoreline development review manual, boundary map and shoreline review checklist and questionnaire.~~

~~(Ord. No. 2006-02, § 1, 1-10-06)~~

~~§ 5.4.2 - Coastal construction within Biscayne Bay (North Bay Village approval).~~

~~(a) - Application procedure—Private docks.~~

~~(1) - Plans and specifications for construction, reconstruction or repair of docks, piers, pilings, bulkheads, or similar structures must be approved by the Village Manager and building official and a written permit must be received from the building official prior to any construction, maintenance activity, structural alteration, or dredging and filling in waters within the corporate limits of north bay village. The building official shall not issue such permits until all required state and county permits are first obtained by the applicants. Copies of all such permits shall be provided to the Building Official with the construction application.~~

~~(2) - All applications for construction or structural alterations (but not repairs) of buildings, docks, piers, seawalls, or similar structures must receive approval from the Village Commission.~~

~~Code of Ordinances Reference—Section 150.11.~~

~~(b) - Design Guidelines.~~

~~(1) - No construction, reconstruction, or repairs shall extend more than 25 feet perpendicular from the seawall or shoreline.~~

~~(2) - No dock, pier, piling, or similar structure shall be erected unless it is set back a minimum of 7½ feet from the lot line on each side. The structure shall not exceed five feet above ground level unless a "joint dock" is first approved by the Village Commission.~~

~~Code of Ordinances Reference—Section 150.11.~~

~~(c) - Application procedure—Marinas.~~

~~(1) - All marina plans shall be approved by the U.S. Corps of Engineers, state internal improvement board, Village Engineer, building official, Village Manager, the planning and zoning board, and Dade County DERM, prior to being submitted to the Village Commission for its approval. Marina is defined as any area within the Village where one or more sites or locations are rented or offered for rent for the location or dockage of boats, or vessels, or houseboats on land or on water. There are two classifications for marinas:~~

~~a. - Ancillary. A secondary operation to the primary function of a hotel, apartment or club which permits the use of the facilities exclusively to the tenants of the apartment, or guests of the hotel or club~~

~~b. - Business. Any marina not included in the foregoing definition of "ancillary."~~

~~Code of Ordinances Reference—Section 150.12.~~

~~(d) - Design guidelines shall include:~~

~~(1) - Each space intended for a vessel must be provided with an anti-backflow valve, a sewer connection and proper equipment to reach the Village sewer line, and a permanent supply of electricity.~~

~~(2) - Each boat berth or docking site must provide one automobile parking space.~~

~~(3) - Before any license shall be issued or renewed for any line or pipe carrying inflammable fuel or other fluid, the Village Engineer must examine and approve the facilities.~~

~~§ 5.5 - Stormwater management.~~

~~(a) The design and performance of all stormwater management systems in North Bay Village at a minimum shall comply with Florida Department of Environmental Regulations (FDER) stormwater rule Chapter 17-25 (FAC) which requires removal of 80 to 95 percent of stormwater pollutants prior to their discharge into receiving waters. Furthermore, this rule requires treatment by retention or by detention with filtration of the first inch of runoff for sites containing less than 100 acres.~~

~~(b) FDER has delegated the authority to permit stormwater management in South Florida to the South Florida Water Management District which, in turn, has delegated its authority in Dade County to DERM with its more stringent criteria.~~

~~(c) Design requirements. To comply with the foregoing standards, the following requirements shall be met:~~

~~All new development and redevelopment within the Village, and any future repair, maintenance, or rebuilding of the existing system shall at minimum, conform to Dade County DERM regulations.~~

~~(d) In North Bay Village, DERM requirements to be met are:~~

~~(1) Rainfall frequency—Five-year.~~

~~(2) Flood limit—To crown of street or to within 15 feet of a dwelling or other occupied building, whichever is lower.~~

~~§ 5.6 - Minimum safe and sanitary dwelling unit standards.~~

~~The following shall be the minimum standards to be enforced in North Bay Village relative to the safe and sanitary maintenance of dwellings and dwelling units.~~

~~(1) All foundation walls shall be structurally sound, reasonably rodentproof, and maintained in good repair.~~

~~(2) Foundation walls shall be considered to be sound if they are capable of bearing imposed loads and are not deteriorated.~~

~~a. Every dwelling unit shall be reasonably weathertight, watertight, and rodentproof. Floors, walls, ceilings, and roofs shall be capable of affording adequate shelter and privacy and shall be kept in good repair. Windows and exterior doors shall be reasonably weathertight, watertight and rodentproof, and shall be maintained in good working condition. All parts of the structure that show evidence of rot or other deterioration shall be repaired or replaced.~~

~~b. Every inside and outside stairway, porch, and every appurtenance thereto, shall be maintained in a safe condition and be capable of supporting loads which normal use may impose.~~

~~c. Every chimney and smoke pipe, and all flue and vent attachments thereto, shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the dwelling.~~

~~d. All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.~~

~~e. Every plumbing fixture, water pipe, waste pipe, and drain shall be maintained in good sanitary working condition, free from defects, leaks, and obstructions.~~

~~f. The floor surface of every water closet compartment, bathroom, and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.~~

~~g. Every supplied facility, piece of equipment, or utility shall be maintained in a safe and satisfactory working condition. No owner or occupant shall cause any service, facility, equipment, or utility required to be removed from or discontinued for any occupied dwelling~~

~~or dwelling unit except for such temporary interruption as may be necessary while actual repairs, replacement, or alterations are in process.~~

~~h. For these purposes, every owner of a building containing three or more dwelling units, shall provide the continuing service of a person or persons solely to assure that the minimum requirements of maintenance and sanitation, as provided herein are maintained on the premises at all times.~~

~~i. The provisions of the Dade County Minimum Housing Code shall apply as a minimum standard for Village enforcement.~~

~~§ 5.7 - Screening of mechanical equipment.~~

~~Lack of, or inadequate screening of, mechanical equipment can have negative visual impacts on the Village's streetscape, ambient landscape, and community image. Such impacts shall be minimized through compliance with the following requirements for new construction:~~

~~1. Mechanical equipment located on the ground, such as air conditioning units, heating units, satellite dishes, irrigation pumps, propane tank displays and refilling areas, and the like shall be screened from public view. Screening shall, at a minimum be at the same height as the equipment. Structural screening shall be architecturally integrated into the overall project design and shall be compatible, in terms of style, construction materials, colors, and finish, with the principle structure(s). Landscaping may be substituted for structural screening if plantings are compatible with the landscape plan for the project and are of such size and maturity as to be able to provide a fully opaque screen at time of planting.~~

~~2. Equipment and appurtenances mounted on roof tops shall be kept to a minimum. All exposed roof top mounted equipment and appurtenances shall be fully screened from view from any public right-of-way. All screening shall, at a minimum be at the same height as the equipment and appurtenances. Screening shall be an integral part of the design of the building(s) and shall be architecturally consistent with the style, colors, construction materials and finish of the building(s). Painting of exposed appurtenances to blend with the color of adjacent materials of the building may be approved where utilization of approved roof designs precludes full screening of exposed surfaces.~~

~~(Ord. No. 2002-24, § 1, 10-8-02)~~

~~Chapter 6 - FLOOD DAMAGE PREVENTION[1]~~

~~Footnotes:~~

~~--- (1) ---~~

~~Cross reference— References to numbers, § 1.6.~~

~~§ 6.1 - Statutory authorization, findings of fact, purpose and objectives.~~

~~(a) The legislature of the State of Florida has in F.S. chs. 125 and 163 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Village Commission of North Bay Village, Florida has passed the above-named ordinance.~~

~~(b) Findings of fact.~~

(1) The flood areas of North Bay Village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effects of obstructions in flood hazard areas causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damage.

(c) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural water flows and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(d) Objectives. The objectives of this ordinance are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for flood control;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodprone areas;

(6) To help maintain a stable tax base by providing for sound use and development of floodprone areas and;

(7) To ensure that potential homebuyers are notified that property is in a floodprone area.

§ 6.2 - Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

Appeal means a request for a review of the building official's interpretation of any provision of this ordinance or a request for a variance.

Area of special flood hazard is the land in the floodprone area within a community subject to a one per cent chance of flooding in any given year.

~~Base flood means the flooding having a one percent chance of being equaled or exceeded in any given year.~~

~~Building means any structure built for support, shelter, or enclosure for any occupancy or storage.~~

~~Coastal high hazard areas means the area subject to velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE or V.~~

~~Development means any man-made changes to improved or unimproved real estate, including, but not limited to: building or other structure, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.~~

~~Elevated building means a non-basement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.~~

~~Existing construction means any structure for which the "start of construction" commenced before June 18, 1984 [2].~~

~~Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been defined as Zone A.~~

~~Flood insurance rate map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.~~

~~Flood insurance study means the official report provided by FEMA. The report contains flood profiles, as well as the flood boundary map and the water surface elevation of the base flood.~~

~~Floor means the top surface of an enclosed area in a building, i.e., top of slab in concrete construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.~~

~~Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking for loading and unloading of cargo or passengers, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.~~

~~Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the building.~~

~~Historic structure means any structure that is:~~

~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;~~

~~(2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;~~

~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior;~~

~~(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:~~

~~a. By an approved state program as determined by the Interior, or~~

~~b. Directly by the secretary of the interior in states without approved programs.~~

~~Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).~~

~~National Geodetic Vertical Datum (NGVD) as corrected in 1929, is a vertical control used as a reference for establishing elevations within the floodplain.~~

~~New construction means any structure for which the "start of construction" commenced after June 18, 1984. The term also includes any subsequent improvements to such structure.~~

~~[3] Start of construction includes substantial improvement, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, or improvement, including any additions, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, or improvement, including any additions, was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building on a site such as the pouring of slabs or footings, installation of pilings, construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~Structure means a walled and roofed building that is partly above ground.~~

~~Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of market value of the structure before the damage occurred.~~

~~Substantial improvement means any combination of repairs, construction, alteration, or improvements including any additions to a building taking place during a minimum five-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the building. The market value of the building should be (1) the appraised value of the building at the start of the initial repair or improvement, or (2) in case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions.~~

~~Footnotes:~~

~~(2)~~

~~The date of adoption of Dade County Floodplain Management Ordinance.~~

~~(3)~~

~~Not to be deemed synonymous with date of Notice of Commencement as provided in F.S. § 713.13. 1991.~~

~~§ 6.3 General provisions.~~

~~(a) Lands to which this ordinance applies. This ordinance shall apply to all areas within the jurisdiction of North Bay Village.~~

~~(b) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated November 4,~~

~~1987 with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.~~

~~(c) Establishment of development permit. A development permit shall be required in conformance with provisions of this ordinance prior to the commencement of any development activities.~~

~~(d) Compliance. No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.~~

~~(e) Abrogation and greater restrictions. This ordinance shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.~~

~~(f) Interpretation. In the interpretation and application of this ordinance all provisions shall be:~~

~~(1) Considered as minimum requirements;~~

~~(2) Liberally construed in favor of the officers and agents of the Village; and~~

~~(3) Deemed neither to limit nor repeal any other powers granted under state statutes.~~

~~(g) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Flood heights may be increased by man-made or natural causes. This ordinance shall not create liability on the part of North Bay Village or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully thereunder.~~

~~(h) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violations continue shall be considered a separate offense. Nothing herein contained shall prevent North Bay Village from taking such other lawful actions as is necessary to prevent or remedy any violation.~~

~~§ 6.4 - Administration.~~

~~(a) Designation of building official. The building official is hereby appointed to administer and implement the provisions of this ordinance.~~

~~(b) Permit procedures. Application for a development permit shall be made to the building official on forms furnished by him or her prior to any development activities, and may include, but not be limited to: the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed earthen fill; storage of materials or equipment; drainage facilities; and the location of the foregoing. Specifically, the following information is required:~~

~~(1) Application stage.~~

~~a. Elevation in relation to mean sea level of the proposed lowest floor of all buildings.~~

~~b. Elevation in relation to mean sea level to which any nonresidential building will be flood-proofed.~~

~~c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in section 6.5(b)(2).~~

~~(2) Construction stage. Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or instances where the building is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal~~

~~structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level.~~

~~Said certification shall be prepared by or under the supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.~~

~~The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections hereby, shall be cause to issue a stop-work order for the project.~~

~~(c) Duties and responsibilities of the building official. Duties of the building official shall include, but not be limited to:~~

~~(1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;~~

~~(2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.~~

~~(3) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with section 6.4(b)(2).~~

~~(4) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with section 6.4(b)(2).~~

~~(5) When flood-proofing is utilized for a particular building, the building official shall obtain certification from a registered engineer or architect, in accordance with section 6.5(b)(2).~~

~~(6) Where interpretations as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.~~

~~(7) When base flood elevation data have not been provided in accordance with section 6.3(b), then the building official shall obtain, review, and reasonably utilize any base flood elevation available from a federal, state, or other source, in order to administer the provisions of section 6.5.~~

~~(8) In coastal high hazard areas, certification shall be obtained from registered professional engineer or architect that the building is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.~~

~~(9) In coastal high hazard areas, the building official shall review plans for adequacy of break-away walls in accordance with section 6.5(b)(4)h.~~

~~(d) Variance requirements.~~

~~(1) The planning and zoning board, as established by North Bay Village, shall hear requests for variances from the requirements of this ordinance, in accordance with the procedures prescribed for requests for amendment, variance, special use exception, or supplement to the zoning regulations in sections 152.095 through 152.097 of the Village Code. The planning and zoning board shall submit its recommendations to the Village Commission for final action on such requests pursuant to procedures therein prescribed, provided, however, that the criteria for granting variances from this ordinance shall be those set forth hereinafter.~~

~~(2) Conditions and criteria or granting of variances. In considering such applications, the planning and zoning board and Village Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:~~

~~a. The danger that materials may be swept onto other lands to the injury of others;~~

~~b. The danger to life and property due to flooding or erosion damage;~~

~~c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~

~~d. The importance of the services provided by the proposed facility to the community;~~

~~e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;~~

~~f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~

~~g. The compatibility of the proposed use with existing and anticipated development;~~

~~h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~

~~i. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~

~~j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;~~

~~k. The costs of providing governmental services during and after the flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;~~

~~l. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;~~

~~m. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinance.~~

~~n. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

~~o. The building official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency.~~

~~(3) Variances for historic structures. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.~~

~~(4) Upon consideration of the factors listed above, and the purposes of this ordinance, the planning and zoning board and Village Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.~~

~~(e) Appeals. 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.~~

~~§ 6.5 – Provisions for flood hazard reduction.~~

~~(a) General standards. In all areas of special flood hazard the following provisions are required:~~

~~(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.~~

~~(2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~

~~(3) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.~~

~~(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~

~~(5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;~~

~~(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.~~

~~(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.~~

~~(8) Any alteration, repair, reconstruction, or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.~~

~~(9) Any alteration, repair, reconstruction, or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.~~

~~(b) Specific standards. In all areas of special flood hazard where base flood elevation data have been provided, as set forth in sections 6.3(b) or 6.4(c)(11), the following provisions are required:~~

~~(1) Residential construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of section 6.5(b)(3).~~

~~(2) Nonresidential construction. New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.~~

~~Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 6.4.~~

~~(3) Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finishing living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.~~

~~a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:~~

1. ~~Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;~~

2. ~~The bottom of all openings shall be no higher than one foot above grade; and~~

3. ~~Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.~~

b. ~~Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and~~

c. ~~The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.~~

(4) ~~Coastal high hazard areas (V Zones). Located within the areas of special flood hazard established in section 6.3(b), are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:~~

a. ~~All buildings shall be located five feet landward of the reach of the mean high tide;~~

b. ~~All buildings shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than five feet above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with section 6.5(b)(4)h.;~~

c. ~~All buildings or structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Water loading values shall equal or exceed the base flood. Wind loading values shall be in accordance with the South Florida Building Code.~~

d. ~~A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions contained in section 6.5(b)(4)b., c., and d. of this ordinance.~~

e. ~~There shall be no fill used as structural support. Noncompacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, (thereby rendering the building free from obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The building official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:~~

1. ~~Particle composition of fill material does not have a tendency for excessive natural compaction;~~

2. ~~Volume and distribution of fill will not cause wave deflection to adjacent properties; and~~

3. ~~Slope of fill will not cause wave runup or ramping.~~

f. ~~There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;~~

g. ~~Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway under abnormally high tides or wave action, without damage to structural integrity of the building on which they are to be used and provided the following design specifications are met:~~

1. ~~No solid walls shall be allowed, and;~~

2. ~~Material shall consist of lattice or mesh screening only.~~

~~h. If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.~~

~~i. Prior to construction, plans for any buildings that will have lattice work or decorative screening must be submitted to the building official for approval;~~

~~j. Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in section 6.5(b)(4)h. and i.~~

~~(c) Standards for subdivision proposals.~~

~~(1) All subdivision proposals shall be consistent with the need to minimize flood damage;~~

~~(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;~~

~~(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and~~

~~(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development.~~

~~APPENDIX A - [APPLICATIONS]~~

~~NORTH BAY VILLAGE~~

~~Date ;daterule;~~

~~Application for NONUSE Variance as described in section 152.0971, Ordinance 89-04, 11-14-89.~~

~~AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA AMENDING CHAPTER 152 (ZONING) AND ADDING A NEW SUBSECTION 152.0971 TO BE TITLED "NON-USE VARIANCES": PROVIDING FOR THE CONSIDERATION AND GRANTING OF NON-USE VARIANCES BY THE VILLAGE COMMISSION; DEFINING NON-USE VARIANCES; SETTING GUIDELINES AND CRITERIA FOR GRANTING VARIANCES; REPEALING ALL ORDINANCES IN CONFLICT; AUTHORIZING CODIFICATION; PROVIDING A SEVERANCE CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE~~

~~Applicant's Name _____ Phone ;daterule;~~

~~Address of Subject Variance:~~

~~_____~~

~~Request Variance of ORD. # ;daterule; ;daterule;~~

~~Existing Ordinance Section ;#rule; ;#rule; ;#rule; ;#rule;~~

~~_____~~

~~What Change Requested _____~~

~~_____~~

~~Reason _____~~

~~_____~~

~~Property Owner/Condo President/Other Approval~~

~~All applications to be in the Building Department three weeks prior to Village Commission Monthly Meeting, with all documents attached.~~

~~Twenty Dollars ($20.00) Review Fee as described in ORD. 90-10 (151.11) is hereby acknowledged~~

~~Approval As To Form~~

~~Building Official~~

~~Planning & Zoning Board~~
~~Date:~~

~~VILLAGE OF NORTH BAY VILLAGE~~
~~APPLICATION FOR HEARINGS AND NOTICES BEFORE~~
~~THE PLANNING AND ZONING BOARD~~

~~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 and review of this petition, including any approvals by the Planning & Zoning Board and staff of North Bay Village, no right shall vest on behalf of the applicant which would be enforceable against the Village until after a public meeting is held by the Village Commission and the Village Commission has voted favorably on the proposed petition. I (We) further acknowledge that I have read and understood sections 12-2, 12-11-3, 12-11-9, and 12-11-4 of the Code and Conditions for appearance before the Planning and Zoning Board and Village Commission. Any person submitting false information or misrepresentation in their presentation shall have all privileges granted to them by the Planning & Zoning Board and Village Commission revoked.~~

~~Authorized Signature:~~

~~Sworn to and subscribed before me this ;#rule; date of ;daterule; 19~~

~~My commission expires:~~

~~Notary Public~~

~~Fees: Publication Notices: $;daterule;~~

~~Date Paid ;daterule;~~

~~Other Fees: $;daterule; Date Paid ;daterule;~~

~~APPENDIX B - BUILDING PERMIT APPLICATION~~

~~INSTRUCTIONS FOR OBTAINING A PERMIT:~~

~~ALL APPLICATIONS FOR PERMIT, BUILDING, ELECTRICAL, PLUMBING, or MECHANICAL MAY ONLY BE SIGNED BY THE COMPANY QUALIFIER. IF THE APPLICATION IS NOT SIGNED IN FRONT OF THE PERMIT CLERK. IT MUST BE NOTARIZED.~~

~~CONTRACTOR MUST SUPPLY THE BUILDING DEPARTMENT WITH THE FOLLOWING:~~

1. ~~DADE COUNTY MUNICIPAL CONTRACTOR'S OCCUPATIONAL LICENSE~~

~~NOTE: NORTH BAY VILLAGE must be included in the list of Cities where the Contractor is registered to work.~~

~~2. CERTIFICATE OF COMPETENCY - FOR THE COMPANY AND THE QUALIFIER~~

~~3. ALL STATE LICENSES~~

~~4. CERTIFICATE OF GENERAL LIABILITY INSURANCE & WORKER'S COMPENSATION~~

~~NOTE: ALL LICENSES MUST BE SIGNED!!~~

~~IF THE WORK YOU ARE GOING TO DO IS FOR A CONDOMINIUM YOU NEED:~~

~~A LETTER OF APPROVAL SIGNED BY AN OFFICER OF THE CONDOMINIUM ASSOCIATION.~~

~~IF THE WORK YOU ARE GOING TO DO IS FOR A RENTAL PROPERTY YOU NEED:~~

~~A LETTER OF APPROVAL SIGNED BY THE OWNER OF THE PROPERTY (OR HIS REPRESENTATIVE),~~

~~TWO (2) COPIES OF A DRAWING SHOWING PROPOSED WORK, LOCATION, MATERIAL TO BE USED, PRODUCT APPROVALS AND ANY OTHER PERTINENT MATERIAL.~~

~~IF YOU HAVE ANY QUESTIONS PLEASE CONTACT (305) 754-6740.~~

~~APPENDIX C - DEPARTMENT OF COMMUNITY AFFAIRS LETTER~~

~~STATE OF FLORIDA~~
~~DEPARTMENT OF COMMUNITY AFFAIRS~~
~~2740 CENTER VIEW DRIVE, TALLAHASSEE, FLORIDA 32399~~

~~BOB MARTINEZ THOMAS G. PELHAM~~
~~Governor Secretary~~

~~June 4, 1990~~

~~Mr. James DiPietro,~~
~~City Manager~~
~~City of North Bay Village~~
~~7903 East Drive~~
~~North Bay Village, Florida 33141~~

~~Dear Mr. DiPietro:~~

~~Thank you for your letter dated April 10, 1990, concerning the level of Service (LOS) standards for recreation and open lands for the City of North Bay Village. As you know, the city has adopted an LOS standard of 2.75 acres per 1,000 population. This policy requires that the City maintain a ratio of 2.75 acres of recreational lands for every 1,A residents.~~

~~These recreational lands can be activity based recreational facilities, such as the neighborhood and community parks, which the Recreation and Open Space Element clearly identifies as 5 and 20 acre minimum size sites. They can be passive resource based recreational lands, which policy 10.1.1, states will be defined as open space in the local zoning code, or they can be privately owned lands and/or facilities which are available to the resident public. Table 10-3 of the support documentation of the Recreation and Open Space Element indicates that approximately 17 acres is needed for future needs.~~

~~The analysis on page 10-5 and 10-6 states that 9 acres of recreational land exist at the Treasure Island Elementary School, that the city owns a small parcel dedicated as a tot lot, that private recreational facilities such as swimming pools and tennis courts exist within multifamily residential developments and that over~~

~~90 percent of resident population has direct beach access. In addition, the future Recreational Needs analysis states that "... because of the unique land characteristics of North Bay Village, the availability of private recreational opportunities within multi-family complexes, the addition of the tot-lot, the school's recreational facilities, and the availability of regional park facilities within 20 to 30 minute driving distance, additional recreation facilities, while certainly desirable, will not be necessary to meet future needs."~~

~~The support documentation clearly states that there are adequate existing recreational lands to maintain the adopted LOS throughout the planning period, and the City has adopted Objective 10.1 and the associated policies numbered 10.1.1, .3, .4, .5, .6, and .9, which as they are implemented, will increase this already adequate acreage total. However, this supporting analysis does not clearly calculate the exact acreage. Therefore, I recommend that the city revise and update the support documentation for this section of the plan and clearly identify and quantify the amount of passive resource based recreational lands, including linear beach and waterfront acreages, and privately owned facilities, available to City residents. Since this support material is not part of the adopted plan, there is no need for a plan amendment.~~

~~If you have any further questions, or require any additional information, please do not hesitate to contact Tony Arrant, Planning Manager; Field Technical Assistance, at (904) 922-5438.~~

~~Sincerely,~~

~~Robert G. Nave, Chief Bureau of Local Planning~~

~~Enclosures~~

~~RGN/tab~~

~~Original dated May 10, 1990~~

~~Footnotes:~~

~~APPENDIX D - SHORELINE REVIEW CHECKLIST AND QUESTIONNAIRE~~

~~In conjunction with reviewing the Shoreline Development Review Ordinance (85-14) and the Shoreline Development Review Manual (Resolution 257-85) this checklist and questionnaire shall be completed.~~

~~The following information shall be required to complete the shoreline development review:~~

1. ~~A completed shoreline application form which shall include a brief description of all major elements of the project that require coastal construction, building, zoning, or site plan permits or approvals, indicating approving agency, type of approval, date of request (or anticipated date of application) for all required local, regional, state, and federal approvals.~~
2. ~~Documentation of zoning and ownership of the parcel, including all uplands and submerged lands.~~
3. ~~A survey showing the location and height of all existing buildings, trees, natural, and archeological features.~~
4. ~~A site plan including the following information: location of lot lines and setbacks; location, shape, size, and height of existing and proposed buildings, structures and accessory structures, decorative walls and entrance features; location of on-site and off-street parking, loading facilities, service areas, and waste collection areas; location of all streets, alleys, driveways, pedestrian ways, and sidewalks.~~
5. ~~Floor plans and elevations of all buildings, structures, and accessory structures.~~

6. ~~A landscape plan including the location, variety, size, and condition of all existing trees; the location, variety, size, quality and quantity of all proposed trees and ground cover; all proposed fences; decorative walls, berms; landscaped areas; and buffers. Location of all public spaces and visual corridors plus landscaping, materials, outdoor furniture, lighting, and trash receptacles to be used in public and private areas along the shoreline. Wherever applicable, site and landscaping should indicate how all historic or archeological features will be incorporated into the site plan.~~

7. ~~Figures indicating the following: gross and net acreage; amount of landscaped open space in square feet required and provided; amount of building coverage at ground level in square feet; total trees and shade canopy required and provided; parking required and provided; total amount of paved area in square feet; such other design data as may be needed to evaluate the project.~~

~~Note: All plans must be signed and sealed by a registered architect and/or landscape architect.~~

~~Please answer the following questions as they relate to:~~

~~Shoreline Setbacks~~

~~Is the required shoreline setback met?~~

~~If no, explain.~~

~~Are there any buildings, accessory uses, above grade structures, ancillary structures, or other uses in the shoreline setback area?~~

~~If yes, explain.~~

~~Side Setbacks~~

~~Are the required shoreline (25.0;ft; minimum) and applicable municipal side setbacks met?~~

~~If no, explain.~~

~~Visual Corridor~~

~~Is there an unimpeded visual corridor from the public roadway to the water's edge that equals 20% of the width of the property (20.0;ft; minimum, 100.0;ft; maximum required)?~~

~~If no, explain.~~

~~Other~~

~~Are there any additional public or private amenities such as a shoreline walkway, a park, a dock (see DERM design manual), a fishing pier, a boardwalk, or a viewing platform being provided?~~

~~If yes, describe.~~

~~To the best of your knowledge and for those items that are applicable, does this project adhere to the Design Guidelines for the Shoreline Setback Area (section A), the Design Guidelines and Minimum Standards for the Shoreline Walkway (section B), and the Design Considerations for Fishing Piers (section C) as discussed in the Shoreline Development Review Manual (Reso. 275-85)?~~

~~If no, explain.~~

~~Note: Shoreline and side setbacks and visual corridors must be provided except where it would be impossible or highly impractical to meet said requirements as a result of the size or configuration of the subject site.~~

~~ATTACHMENT A~~
~~SHORELINE DEVELOPMENT REVIEW MANUAL~~

~~Section A. Design Guidelines for Shoreline Setback Area~~

1. ~~Said shoreline setback shall be landscaped and designed: to provide shade and comfortable pedestrian use and shoreline walkways; to frame views and vistas of water and other shoreline areas; to screen less aesthetic uses; and to provide a variety of visual experiences for the users of the shoreline setback area, as well as users and viewers from the street, from the water, and from within the development at both ground elevation and high elevation. The transition from land to water shall be softened by the use of materials such as riprap, wood structures, and appropriate species of plants. Plant materials shall be selected or preserved on site, on the basis of salt tolerance and longevity, wildlife and environmental values, hardness, insect and disease resistance, wind tolerance, drought resistance, low maintenance requirement, and compatibility with existing natural areas or features. Plant materials should preferably be native, chosen for attractiveness of form, color and texture.~~

2. ~~Water dependent uses such as approaches to piers or docks shall be permitted within said shoreline setback.~~

3. ~~Water related uses that are designed to encourage public use and enjoyment of the water's edge such as restaurants, outdoor cafes, and boat rental facilities and/or shoreline walkways shall be permitted within said shoreline setback area. Where a shoreline walkway is provided then a covenant with provisions for maintenance of said facilities in perpetuity shall be required.~~

4. ~~Ground-level parking, trash dumpsters, grease traps, trash transfer stations or facilities, loading docks, storage areas, and court games with enclosures shall be prohibited in the shoreline setback area.~~

5. ~~Trees shall be a minimum height of 10 feet overall immediately after planting, and shall have a minimum trunk caliper of 2½ inches. Tree canopy shall provide a minimum of 50% shade over all pedestrian and use areas within five years. Shrubs shall be of sufficient size to assure their survival and spaced closely enough to provide 100% of ground coverage within one year of planting.~~

6. ~~All environmentally sensitive areas shall be protected. Natural ecosystems shall be preserved to the maximum extent possible. Existing natural features (rock outcroppings, topographic undulations, etc.) shall be preserved, utilized, and enhanced.~~

7. ~~Climatic comfort shall be provided by amelioration and utilization of existing and potential microclimatic conditions, including seasonal aspects of summer heat and humidity, and winter cold spells and wind protection.~~

8. ~~Sun position and intensity shall be considered as a prime controlling factor in human comfort, in plant selection and location, in furniture placement, and visibility. Shading from architectural elements shall likewise be considered. Deciduous trees should preferably be used in areas where winter use is to be encouraged.~~

~~Section B. Design Guidelines and Minimum Standards for the Shoreline Walkway~~

1. ~~The shoreline walkway shall generally consist of the following subareas:~~

   a. ~~Edge - The interface between the land and the water.~~

   b. ~~Safety Buffer - A landscaped area between the shoreline walkway and the water's edge.~~

   c. ~~Pedestrian Walkway - A minimum six foot wide shoreline pedestrian promenade or walkway/surface.~~

   d. ~~Passive Space - A place for amenities such as benches, landscaping, shade structures, drinking fountains, trash receptacles, and signage generally landside of the pedestrian walkway.~~

~~Note: Subareas a, b and d, may vary in width within the shoreline setback in order to allow the pedestrian walkway to meander and/or change axis. Subareas shall be designed according to the guidelines and criteria included below.~~

~~2. Transitional Security Strip - Landside of the shoreline walkway area may be provided to separate the public shoreline walkway from the private space. This strip shall be in harmony with and not interrupt the continuity of the public shoreline walkway area.~~

~~3. Design Guidelines for the Public Shoreline Walkway and the Transitional Security Strip~~

~~a. Edge Subarea~~

~~1) Riprap should be placed along any new or existing bulkhead, seawall, or shoreline where a shoreline walkway is constructed or reconstructed. When installed, riprap shall be placed in accordance with the provisions of Chapter 24 of the Code of Metropolitan Dade County, Florida.~~

~~2) The top of the seawall/bulkhead shall be a minimum of 6;inch; and a maximum of 8;inch; higher than the pedestrian walkway surface. The landside edge of the seawall/bulkhead shall be beveled at a 45 degree angle.~~

~~b. Safety Buffer Subarea~~

~~1) The safety buffer subarea shall be designed, primarily with plant materials to keep persons a safe distance from the water's edge. Where appropriate, a change in elevation may be used to define this subarea.~~

~~2) Where landscaping, rough paving, changes in elevation, or other means of defining the safety subarea are impossible, or if the pedestrian walkway is located at the water's edge, then a barrier at the water's edge shall be installed. When used, such a barrier shall be as visually transparent as possible, such as a simple railing.~~

~~c. Pedestrian Walkway Subarea~~

~~1) The pedestrian walkway subarea or promenade shall be at least 6 feet wide. Provided that the minimum width is met, the width may vary and the alignments of the pedestrian walkway may meander within the shoreline setback area.~~

~~2) Where public pedestrian walkway(s) are already designed or built on adjacent properties or where there are adjacent public rights-of-way, the pedestrian walkway shall be designed and built to align with those adjacent features.~~

~~3) Some passive areas shall be allowed on the water side of the walkway within the safety buffer subarea so that people can sit near the water's edge. It shall, however, be limited to 25% of the length of the property so that the pedestrian view is maintained.~~

~~4) The pedestrian walkway shall be designed in accordance with the standards for accessibility for the physically disabled and/or handicapped provided in Section 515 of the South Florida Building Code.~~

~~5) Obstructions to movement (trees, bollards, lighting, etc.) within the pedestrian walkway shall not be allowed to reduce the clear width of the walkway to less than 4 feet at any point.~~

~~6) The pedestrian walkway surface shall possess stability and firmness, be relatively smooth in texture, and have a non-slip surface. Materials such as concrete, wood, tile, or brick on concrete should be used as a surface for the pedestrian walkway. The use of expansion and contraction joints no wider than ¾ of an inch in width and filled with a substance impervious to water should be encouraged. Where walkway design calls for wood decking, wood, such as pressure treated pine or cedar may be used if elevated above the ground surface and provided with a 6;inch; high curb along each side. In such instances the wood planks should be placed no more than 1/8 of an inch apart.~~

7) ~~The walkway surface shall be sloped toward an acceptable storm drainage disposal system constructed in accordance with Section 6411 of the South Florida Building Code and Chapter 24 of the code of Metropolitan Dade County, Florida.~~

d. ~~Passive Subarea~~

1) ~~The major subarea for sitting, landscaping, and shading shall generally be located along the inland side of the pedestrian walkway. Lengths of the passive zone may be elevated above the level of the walkway shoreline to improve overall appearance, to satisfy the needs of landscaping materials, or to make it easier to see shoreline vistas.~~

2) ~~Appropriate additional furniture such as historical or environmental markers, overhead canopies or shelters, drinking fountains, and trash receptacles shall be confined to the passive subarea and shall not infringe on any visual corridor designed in accordance with the provisions herein below. All furniture shall be permanently installed, preferably by direct burial in concrete.~~

3) ~~Benches shall be provided at a minimum of 2½ foot sections of bench per 100 feet of linear shoreline. All benches shall have backrests and shall be placed to provide direct view of the water. A space of 6 feet shall be provided between the front of a bench and the nearest obstacle. A paved space 36;inch; wide between ends of benches, or at the end of one bench shall be provided to allow room for wheelchairs.~~

4) ~~Trash receptacles shall be provided within the passive zone.~~

5) ~~Where drinking fountains are provided they shall be placed on hard surface areas in order to be accessible to wheelchair dependent people. Stepping blocks shall be located so as not to interfere with access to the fountain either by ambulant or wheelchair dependent people.~~

e. ~~Transitional Security Strip~~

1) ~~Security to limit public access to private property may be provided by fences, grade changes, or retaining walls. When a security strip is provided, all fences and walls shall be landscapes to reduce their visual impact on the shoreline walkway area and shall provide minimal visual obstructions.~~

2) ~~For landside adjacent developments that serve the public (i.e. restaurants, shops, hotels, and entertainment) wide, visible, and easy pedestrian access to the shoreline walkway shall be provided. Landscaping and security barriers shall not visually or physically block the shoreline walkway from such adjacent landside uses.~~

4. ~~Shoreline Walkway Landscape, Lighting, and Signage Guidelines~~

a. ~~Landscaping Guidelines~~

1) ~~All of the criteria included in section A. 5-8 hereinabove shall also apply to the shoreline walkway area.~~

2) ~~In addition, trees shall be planted in the shoreline walkway area to provide a minimum percentage of 40% of shade canopy. This may be accomplished using individual trees or groupings of trees.~~

b. ~~Lighting Guidelines~~

1) ~~Sufficient walkway lighting shall be provided using a combination of low fixtures at the water's edge in the safety buffer subarea and peripheral lighting within the passive subarea and transitional security strip in order to illuminate the immediate surroundings, and provide security.~~

2) ~~Overhead lighting shall be confined to the passive subarea and transitional security strip and posts and standards shall be placed so that they do not present hazards to pedestrians. The lighting shall consist of down lighting with lamps positioned not over~~

~~14 feet high, 175 watt MV, 50 feet on center minimum. These overhead lighting fixtures shall be placed so that light patterns overlap at a height of 7;ft;0;inch; to provide views of oncoming persons along the shoreline walkway with a minimum intensity of ½ foot-candles over all use areas. Mercury vapor, metal halide lamps, or similar "white" light luminaries shall be positioned so that light patterns overlap to avoid areas of deep shadow.~~

~~3) Lighting at the water's edge shall be low level fixtures no higher than 30;inch; high with down illumination not extending beyond the bulkhead, seawall, or riprap. These fixtures shall be approximately 20 feet on center.~~

~~4) At hazardous locations, such as changes in grade, supplemental lower level lighting or additional overhead units shall be used.~~

~~5) Once minimum lighting standards for the shoreline walkway are met, uplighting and colored lighting may be used for signs, landscaping, and accenting within the passive subarea and transitional area.~~

~~6) Lighting fixtures shall be designed to complement both the adjacent upland development and walkways, as well as in-water amenities and shall be designed to comply with the provisions of the Shoreline Design Manual following adoption of said manual.~~

~~c. Signage Guidelines~~

~~1) All major public shoreline access points, including parks, walkways, roadways, dedicated midblock walks, and public plazas shall be marked with standard "Public Shorewalk" signs.~~

~~2) Signage shall be used to identify publicly oriented private development, such as cafes or shops, that are accessible from the public shoreline walkway. Such signs shall preferentially be placed in the passive subarea or transitional security strip.~~

~~3) Uniformly designed historic informational or environmental markers or plaques may be placed in the passive subarea or on public piers or overlook areas where such are provided.~~

~~4) Signage visible from the water shall identify access points and adjacent public activities such as cafes or shops, for boaters where public dockage is provided.~~

~~Section C. Design Considerations for Fishing Piers~~

~~Where fishing piers are deemed appropriate, fishing pier design shall address the following:~~

~~1. The guidelines included in Section B hereinabove shall also apply to fishing pier design.~~

~~2. The pier surface shall be either concrete or close-fitting wood such as pressure treated pine or cedar. Where wood is used, the planks shall be no more than 1/8 of an inch apart.~~

~~3. Fishing piers should be wide enough to accommodate benches, fish cleaning stations and lighting, and should permit anglers to move along the railing and also allow visitors to walk along the pier.~~

~~4. Railings should be designed to accommodate anglers and their equipment, including rod holders and bait cutting boards, as well as to provide a safe waterfront area for adults, children, and the handicapped.~~

~~5. Wherever feasible, riprap and shallow artificial reef materials such as concrete culverts should be included in pier design.~~

~~6. Ladders should be provided to permit access into and from the water.~~

~~APPENDIX E – CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION~~

~~STANDARD FORM PERMIT PROJECTS~~

~~A standard form application will be required for any work requiring a Class I Permit not specifically described under the previous category.~~

~~CLASS I PERMITS NOT REQUIRED~~

~~a) The placement of natural limerock boulder riprap waterward of an existing seawall, bulkhead, or unconsolidated shoreline provided that the rip-rap is placed on a 2 horizontal to 1 vertical slope and the riprap does not extend more than 10 feet waterward of the mean high water line; provided, however, DERM conducts an inspection prior to the placement of the riprap and determines that said placement will not result in an adverse environmental impact to benthic communities.~~

~~b) Repair and/or replacement of the decking or handrails, on an existing dock or pier, limited to their original dimensions.~~

~~c) Repair and/or replacement of the tieback systems on an existing seawall or bulkhead, provided that the contractor submits an engineering plan which the Department determines meets accepted standards for professional engineering design.~~

~~d) Repair and/or replacement of the cap of an existing seawall or bulkhead, provided that the contractor submits an engineering plan which the Department determines meets accepted standards for professional engineering design.~~

~~e) Sealing of cracks in a seawall or bulkhead cap or face.~~

~~f) Repair or sealing of the pilasters of an existing seawall or bulkhead.~~

~~g) Backfilling landward of existing seawalls or bulkheads.~~

~~h) Placement of riprap, gunite-filled tube, or other approved material beneath an undercut seawall or bulkhead provided that material does not extend more than two (2) feet waterward of the seawall or bulkhead.~~

~~i) Placement of sand-cement riprap bags at the toe of a seawall or bulkhead provided the bags do not extend more than two (2) feet or the width of two (2) standard sand-cement bags waterward of the seawall or bulkhead.~~

~~j) The removal of old or unused or rotted mooring piles or the removal of dilapidated docks or piers.~~

~~k) Trimming or cutting or any other alteration of a mangrove tree(s) for the exclusive purpose of conducting a land survey, provided that the area of mangroves affected by the survey line is less than three (3) foot wide and said survey is conducted by a licensed land surveyor.~~

~~l) Installation, repair, or replacement of marine hardware necessary to secure vessels including, but not limited to, cleats, mooring whips, chocks and mooring bits on docks and piers.~~

~~DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT~~
~~CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION~~

~~1. Application Number (to be assigned) 2. Date 3. For Official Use Only~~

~~Day Mo. Yr.~~

~~4. Name, Address, and Zip Code of Applicant~~

~~Telephone Number ;daterule;~~

~~5. Name, Address, Zip Code, and title of applicant's authorized agent for permit application coordination~~

~~Telephone Number ;daterule;~~

~~6. Describe the proposed activity, its purpose and intended use including a description of the type of structures, if any, to be erected on fills, or pipe or float-supported platforms, and the type, composition, and quantity of materials to be discharged or dumped and means of conveyance.~~

	~~Dredged/Excavated~~				~~Filled/Deposited~~			
~~Volume of Material:~~	~~;daterule;~~	~~CY~~	~~;daterule;~~	~~CY~~	~~;daterule;~~	~~CY~~	~~;daterule;~~	~~CY~~
	~~Waterward of O.H.W. or M.H.W.~~		~~Landward of O.H.W. or M.H.W.~~		~~Waterward of O.H.W. or M.H.W.~~		~~Landward of O.H.W. or M.H.W.~~	

~~7. Proposed Use Private [] Public [] Commercial [] Other [] (explain in remarks)~~

~~8. Name and address including zip code of adjoining property owners whose property also adjoins the waterway~~

~~9. Location where proposed activity exists or will occur~~

~~Longitude ;daterule; Latitude ;daterule; (If known)~~

~~Sec. ;daterule; Twp. ;daterule; Rge. ;daterule;~~

~~State County In City or Town Near City or Town~~

~~10. Name of waterway at location of the activity~~

~~11. Date activity is proposed to commence:~~

~~Date activity is expected to be completed:~~

~~12. Is any portion of the activity for which authorization is south now complete? Yes [] No []~~

~~If answer is "Yes" give reasons in the remarks section. Month and year the activity was completed: ;daterule; Indicate the existing work on the drawings.~~

~~13. List all approvals or certifications required by other Federal interstate, state, or local agencies for any structures, construction, discharges, deposits, or other activities described in the application, including whether the project is a Development of Regional Impact. Issuing Agency Type of Approval Identification No. Date of Application Date of Approval~~

~~14. Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein: Yes [] No [] (If "Yes," explain in remarks)~~

~~15. Remarks~~

~~15a. Estimated project cost =~~

~~15b. Contractor's name and address:~~

~~16. Application is hereby made for a permit or permits to authorize the activities described herein. I agree to provide any additional information/data that may be necessary to provide reasonable assurance or evidence to show that the proposed project will comply with the applicable State Water Quality Standards or other environmental protection standards both during construction and after the project is completed. I also agree to provide entry to the project site for inspectors from the environmental protection agencies for the purpose of making preliminary analyses of the site and monitoring permitted works, if permit is granted. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities.~~

~~Signature of Owner Date~~

~~BEFORE ME, the undersigned authority, personally appeared ;daterule;, who, after being duly sworn, deposes and says that he has read the foregoing, and that the statements contained herein are true and correct to the best of his knowledge and belief. Sworn to and subscribed before me this ;#rule; date of ;daterule;, 19_____.~~

~~Notary Public~~

~~My Commission Expires:~~

~~AFFIDAVIT OF OWNERSHIP~~
~~AND HOLD HARMLESS~~
~~AGREEMENT~~

~~PERSONALLY APPEARED BEFORE ME, ;daterule; the undersigned authority, and hereby swears and affirms under oath as follows:~~

~~1. That your affiant is the record owner of that certain property more fully described as:~~

2. That your affiant is also the riparian and/or littoral owner of that certain property that is the subject matter of Application No. ;#rule; for a Class I permit under and pursuant to Section 24-58 of the Code of Metropolitan Dade County to construct or engage int he following activity:

3. That your affiant hereby swears and affirms its ownership in the above noted property necessary for the work noted in Paragraph 2 above, and hereby agrees: to defend same and hold the County harmless for any and all liability; claims and damages of any nature whatsoever occurring; incurred; or arising as a result of your affiant not having proper title to all lands that are the subject matter of this application.

STATE OF FLORIDA)		
)	SS	Owner/Applicant
COUNTY OF DADE		
)		

-

BEFORE ME, the undersigned authority, personally appeared ;daterule;, who, after being duly sworn, deposes and says that he has read the foregoing, and that the statements contained therein are true and correct to the best of his knowledge and belief.

Sworn to and subscribed before me this ;#rule; day of ;daterule; 19_____.

Notary Public

My Commission Expires:

APPENDIX H - FLOOD CONTROL

NOTICE TO OWNERS AND CONTRACTORS

Effective immediately, the following procedures will be in full effect at the North Bay Village Building Department. These procedures are designed to insure compliance with the Federally Mandated "Flood Damage Prevention Ordinance" (Ordinance No. 93-01) adopted by the Village on January 12, 1993.

1. All Building Permit Applications must be accompanied by an "Application for Permit To Develop in a Flood Hazard Area."

2. If plan review determines that the permit application is for New Construction or Substantial Improvement:

   A. Developer shall submit a formal written plan which outlines the details of all proposed flood mitigation features necessary for the project prior to the issuance of a permit.

   B. "As Building" lowest floor Elevation Certificates will be required prior to the inspection of tie beams by the Building Department.

   C. A final "As built flood protection and Elevation Certificate" which certify the elevation of flood proofing of electrical, heating, ventilation, plumbing, air conditioning and other service facilities identified in the written plan as critical to mitigation will be required prior to the issuance of any temporary Occupancy, Certificate of Occupation or final building inspection.

D. Required documentation forms will be provided to permit applicants by the Building Department. Mitigation plans and Floodproofing Certificates shall be signed and sealed by a Florida registered architect or engineer, or where appropriate, by a registered land surveyor.

NORTH BAY VILLAGE

APPLICATION FOR PERMIT
TO DEVELOP IN A FLOOD HAZARD AREA

The undersigned hereby makes application for a permit to develop in a designated flood hazard area. The work to be performed is described blow and in attachments hereto. The under signed agrees that all such work shall be done in accordance with the requirements of the Flood Damage Prevention Ordinance of North Bay Village and with all other applicable local, state, and federal regulations. All necessary required permits and/or certificates are attached.

Owner's Name: _____
Builder's Name: _____

Address: _____
Address: _____

Telephone: _____
Telephone: _____

A. Description of Work (check appropriate boxes. Note: All references to elevations are in mean sea levels):

1. Proposed Development Description:

_____New Construction
_____Grading

_____Alteration or repair
_____Dredging

_____Filling
_____Manufactured Home

2. Size and location of proposed developments:

_____

_____

_____

3. Is the proposed development in an identified floodway? Yes_____ No_____

4. If yes, has a no-rise certification been obtained and attached? Yes_____ No_____

5. As identified on the (FIRM, FHBM, etc.) what is the zone and panel number in the area of the proposed development? Zone;#rule; Panel #;#rule;

6. Type of Construction

~~_____New Residential~~
~~_____New Non-Residential~~

~~_____Addition~~
~~_____Improvement to existing structure~~

~~_____Accessory Structure~~
~~_____Temporary Structure~~

7. ~~Base Flood elevation at site? ;#rule; feet m.s.l.~~

8. ~~Required lowest floor elevation (including basement)? ;#rule; m.s.l.~~

9. ~~Elevation to which all attendant utilities, including all heating and electrical equipments will be installed or floodproofed. ;#rule; ft. m.s.l.~~

10. ~~Will the proper development require the alteration of any water courses? Yes_____ No_____~~

B. ~~Alterations, additions and improvements to an existing structure.~~

1. ~~What is the estimated market value of the existing structure. $;#rule;~~

2. ~~What is the cost of the proposed construction? $;#rule;~~

C. ~~Non-Residential Construction~~

1. ~~Type of flood protection method?~~

a. ~~Floodproofing _____~~

b. ~~Elevation _____~~

2. ~~Is the structure is floodproofed the required floodproofing elevation is ;#rule; feet m.s.l.~~

D. ~~Subdivisions~~

1. ~~Is this subdivision or other development containing 50 lots or 5 acres (whichever is less)? Yes_____ No_____~~

2. ~~If yes, has flood elevation data been provided by the developer? Yes_____ No_____~~

~~Applicant's Signature _____ Date ;daterule; 19_____~~

~~ADMINISTRATIVE~~

1. ~~Proposed development:~~

a. ~~Must comply with all applicable flood damage prevention standards~~

b. ~~Is exempt from flood damage prevention standards. Attach explanation~~

2. ~~Filing Fee $;$rule; Paid ;daterule; 19_____~~

3. ~~Permit Issued ;daterule; 19_____~~

4. ~~Work inspected by ;daterule; 19_____~~

5. ~~Certificate of compliance for as built construction issued on ;daterule; 19_____~~

6. ~~Permit Denied ;daterule; 19_____ Reasons _____~~

7. As-built elevation of the lowest floor? ;#rule; feet m.s.l. (elevation)

8. As-built floodproofing elevation? ;#rule; feet m.s.l.

9. Appeals.

A. Appeal to the _____ on ;daterule; 19_____

B. Appeal heard on ;daterule; 19_____

C. Decisions of the Board _____

_____

_____

_____

Local Administrator's Signature _____

Date ;daterule; 19_____

NORTH BAY VILLAGE

FLOOD CONTROL ORDINANCE DATA SHEET
PLAN REVIEW SHEET

PROPERTY LOCATION

STREET _____

SUBDIVISION _____ Lot ;#rule; Block ;#rule;

FOLIO NO. 23-3209- _____

ASSESSED VALUATION _____
FIRM MAP # _____

BUILDING _____
PANEL # _____

LAND _____
ZONE _____

TOTAL _____
MAP DATE _____

DATE OF INITIAL CONSTRUCTION _____

_____

NEW CONSTRUCTION: YES_____ NO_____

PRELIMINARY ESTIMATED MARKET VALUE OF BUILDING = _____

ESTIMATED VALUE OF PERMITS (LAST 5 YEARS) (FROM PAGE 2) = _____

ESTIMATED VALUE OF THIS PERMIT = _____

TOTAL FOR 5 YEAR PERIOD = _____

_____

~~PRELIMINARY CALCULATION FOR SUBSTANTIAL IMPROVEMENT~~

~~TOTAL FOR 5 YEAR PERIOD = _____ = _____~~

~~PRELIMINARY EST. MKT. VALUE (BLDG. ONLY)~~

~~IF ABOVE VALUE IS .5 OR GREATER, A CERTIFIED APPRAISER WILL BE REQUIRED TO DETERMINE IF A SUBSTANTIAL IMPROVEMENT EXISTS.~~

~~(ATTACH COPY OF DADE COUNTY PROPERTY RECORD.)~~

~~PERMIT HISTORY~~

~~VALUE FROM PREVIOUS SHEET ;daterule;~~

~~DATE PERMIT # DESCRIPTION ESTIMATED VALUE *5 YEAR Y/N~~

~~_____~~

~~I.T.S. 5 YEAR = VALUE IS WITHIN 5 YEAR RANGE OF ORDINANCE 93-01 PAGE TOTAL ;daterule;~~

~~LAND DEVELOPMENT CODE COMPARATIVE TABLE ORDINANCES~~

~~This table gives the location within this Land Development Code of those ordinances adopted since Ordinance No. 93-14, § 1, adopted Dec. 21, 1993.~~

~~Ordinance Number~~	~~Date~~	~~Section~~	~~Section this Code~~
~~00-06~~	~~3-14-00~~	~~1~~	~~App. F~~
~~02-13~~	~~5-28-02~~	~~2~~	~~2.7.7~~
~~02-19~~	~~6-25-02~~	~~1~~	~~2.6.1~~
		~~2~~	~~2.7.5~~
~~02-21~~	~~7-23-02~~	~~1~~	~~5.2.3(2)~~
~~2002-24~~	~~10-8-02~~	~~1 Added~~	~~5.7~~
~~2003-06~~	~~4-8-03~~	~~1~~	~~5.2.2(a)~~
~~2006-02~~	~~1-10-06~~	~~1~~	~~5.4.1~~

~~2006-17~~	~~11-8-06~~	~~1~~	~~2.4.1(4)~~
~~2012-02~~	~~4-10-12~~	~~4—Rpld~~	~~App. F~~
		~~5~~	~~2.7.2~~
~~2012-07~~	~~12-18-12~~	~~2~~	~~3.4.2~~

-

~~REFERENCE TABLE~~

~~This table shows the location within this Code, either in the text or notes following the text, of references to the Florida Statutes, the North Bay Village Code of Ordinances, or the Dade County Code of Ordinances.~~

~~Land Development Code Section~~	~~Code of Ordinances~~	~~F.S. Section~~	~~Dade County Code Section~~
~~1.2~~	~~10.03~~		
		~~chs. 125, 163~~	
~~1.3~~	~~10.03~~		
		~~ch. 163~~	
~~1.4~~	~~152.002~~		
~~1.5~~	~~30.16, 150.01,~~		
	~~151.01, 151.11,~~		
	~~152.003—152.026,~~		
	~~152.096~~		
~~2.2~~	~~151.11~~		

~~2.3~~	~~151.11~~		
~~2.4.1~~	~~32.30—32.34,~~		
	~~152.101~~		
~~2.4.2~~	~~32.30~~		
~~2.4.3~~	~~32.30, 32.31~~		
~~2.4.4~~	~~32.33~~		
~~2.4.5~~	~~32.33~~		
~~2.5.1~~	~~32.01, 32.11,~~		
	~~32.30~~		
~~2.5.2~~	~~152.998, 153.09~~		
~~2.6~~		~~163.3187~~	
~~2.6.1~~	~~30.16, 152.096, 152.101~~	~~163.3184(15)(b)~~	
~~2.6.2~~	~~30.16~~		
~~2.7~~	~~151.11~~		
~~2.7.2~~	~~152.105~~		
~~2.7.4~~	~~152.101, 152.105~~		
~~2.7.5~~	~~152.096, 152.101,~~		
	~~152.102~~		
~~2.7.6~~	~~152.097~~		
~~2.8.1~~	~~151.11~~	~~ch. 177~~	~~ch. 28~~

~~2.8.2~~			~~chs. 20, 28~~
~~2.9~~	~~151.11~~		
~~2.9.1~~	~~151.01~~		
~~2.9.2~~	~~152.105~~		
~~3.1~~	~~152.002~~		
~~3.2~~	~~152.012~~		
~~3.2.1~~	~~152.026—152.029~~		
~~3.2.2~~	~~152.030, 152.031~~		
~~3.3~~	~~152.025~~		
~~3.4.1~~	~~152.026—152.029~~		
~~3.4.2~~	~~ch. 111~~		
	~~152.029~~		
	~~152.030~~		
	~~152.031~~		
~~3.5~~	~~152.098~~		
~~3.6~~	~~152.028, 152.029,~~		
		~~152.0295, 152.040—152.044~~	
~~3.7~~	~~152.064~~	~~400.402~~	
~~4.1~~	~~Ord. No. 90-03~~		
~~4.1.1~~	~~151.11~~		

~~4.2~~	~~151.11~~		
~~4.3~~		~~163.3220, ch. 380~~	
~~5.2.1~~	~~152.042, 152.043~~		
~~Table 5-1~~	~~152.026—152.031~~		
~~5.2.2~~	~~152.042, 152.045~~		
~~5.2.3~~	~~152.044~~		
~~5.2.4~~	~~152.045~~		
~~5.3~~	~~152.075—152.083~~		
~~5.3.1~~	~~152.075~~		
~~5.3.2~~	~~152.076~~		
~~5.3.3~~	~~152.077~~		
~~5.3.4~~	~~152.078~~		
~~5.3.5~~	~~152.079~~		
~~5.3.6~~	~~152.080~~		
~~5.3.7~~	~~152.081~~		
~~5.3.8~~	~~152.082~~		
~~5.3.9~~	~~152.083~~		
~~5.4.1~~			~~Ord. No. 85-14~~
~~5.4.2~~	~~150.11, 150.12~~		
~~5.5~~		~~17-25(F.A.C.)~~	

~~5.6~~			~~Res. R-95.82~~
~~5.7~~			~~Minimum Housing Code~~
~~6~~	~~Ord. No. 93-01~~		

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~~CODE OF ORDINANCES Chapter 152 - ZONING~~

~~GENERAL PROVISIONS~~

~~§ 152.001 - Title.~~

~~This chapter shall be known as the "Zoning Regulations for North Bay Village, Florida; 1983 Revision."~~

~~(Ord. of 4-1-83)~~

~~§ 152.002 - Purpose and objectives.~~

~~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 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 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, 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.~~

~~(Ord. of 4-1-83)~~

~~§ 152.003 - Definitions.~~

~~For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:~~

~~*Accessory building.* A detached subordinate building or a portion thereof, the use of which is incidental to or customary in connection with the main building or use and which is located on the same lot with such main building.~~

~~*Accessory use.* A subordinate use, which is incidental to or customary in connection with the main building or use and is located on the same lot with such main building use.~~

~~*Acre.*~~

~~(1) *Acre, gross.* 43,560 square feet.~~

~~(2) *Acre, net.* That portion of a gross acre exclusive of dedication for official rights-of-way and other easements.~~

~~*Advertising structure.* Any rigid or semi-rigid material, with or without a sign displayed thereon, situated on or attached to real property or mobile objects and vehicles outdoors for the purpose of furnishing a background, base, or support on which a sign may be posted or displayed.~~

~~*Aggregate area or aggregate width.* The sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.~~

~~*Alcoholic beverage.* As defined by F.S. § 561.01(4).~~

~~*Alley.* A public or private road which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.~~

~~*Amusement center.* Any indoor place or enclosure which contains three or more amusement devices of any description, including but not limited to pinball games, computer games, or games of chance for the public amusement, patronage or recreation.~~

~~*Apartment.* A room or group of rooms within a multifamily dwelling arranged or designed to be used as a home or residence for one family, with kitchen or kitchenette and bathroom for the exclusive use of the one family.~~

~~(1) *Apartment, efficiency.* A dwelling unit consisting of not more than one habitable room, with kitchen or kitchenette and bathroom.~~

~~(2) *Apartment hotel.* A multi-family residential building designed for or containing both apartments and individual guest rooms or rental units under resident supervision, and which maintains an inner lobby through which all tenants must pass to gain access to apartments, rooms, or units.~~

~~*Arterial street.* A street designated as a major arterial street on the circulation plan for the Village.~~

~~*Auction market.* Any premises on which are held, either regularly or periodically, auction sales of merchandise or personal property.~~

~~*Automobile rental agency.* An establishment whose primary purpose is the renting or leasing of passenger vehicles to the public.~~

~~*Awning.* A detachable, roof like cloth or metal cover, supported from the walls of a building for protection from sun or weather.~~

~~*Bar.* An establishment devoted to selling or dispensing any alcoholic beverages, or any place where a sign is displayed indicating that alcoholic beverages are obtainable for consumption on the premises, and where, if entertainment is provided, it is by no more than one person at a time.~~

~~*Barrier.* A fence, dwelling wall or non-dwelling wall or any combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool, especially access from the residence or from the yard outside the barrier.~~

~~*Barrier requirements.* Swimming pools shall comply with all the requirements set forth under the building and zoning requirements as set forth in the Village's ordinances and the Florida Building Code.~~

~~*Basement.* That portion of a building between the floor and ceiling which has at least one-half of its height below the grade of the adjoining ground, and the ceiling of which is not more than four feet six inches above grade.~~

~~*Beer.* As defined in F.S. § 563.01.~~

~~*Biscayne Bay:* Encompasses all of Biscayne Bay and all associated tributaries of the Bay within the Village limits of North Bay Village.~~

~~*Block.* The length of a street between two street intersections.~~

~~*Board.* The Planning and Zoning Board, which is that duly, designated advisory board charged with reviewing Village planning, zoning, and beautification matters.~~

~~*Boundary of district.* The centerline of a street or right-of-way; also the centerline of the alleyway between the side or rear property lines, or where no alleyway or passageway exists, the rear or side property lines of all lots bordering on any district limits.~~

~~*Breezeway.* A covered passageway or space between the main building and an accessory building open on two sides, and the roof of which is structurally integrated with the buildings it separates.~~

~~*Building.* Any structure having a roof supported by columns or walls for the shelter or enclosure of persons on property.~~

~~*Building width.* The width of the lot left to be built upon after the required side yards are provided.~~

~~*Building.* Any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.~~

~~(1) *Building completely enclosed.* A building having no outside openings other than ordinary doors, windows, and ventilators.~~

~~(2) *Building line.* That line between which and the distance on the lot parallel and back from the street line, in which no building or part thereof may be erected, except as provided in these regulations.~~

~~*Building Official.* The Village official responsible for building inspection and the issuance of permits in this respect, or a duly authorized person acting in the same capacity.~~

~~*Bulk.* A term used in these regulations to describe the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.~~

~~*Bulkhead.* A wall constructed along the bay to retain or resist lateral displacement of any material back of it. For the purpose of this chapter, the bayside face of the established bulkhead cap shall be regarded as the point of measurement for setback requirements of all structures fronting on the bay.~~

~~*Cabana.* An accessory structure, usually in connection with a swimming pool.~~

~~*Cabaret.* A bar, which provides entertainment and which may or may not serve food, and which, is accessory to a hotel, motel, or other building as provided in these regulations.~~

~~*Cafeteria.* See *Restaurant.*~~

~~*Canopy.* A detachable, roof like cloth or metal cover supported from the ground, deck, or floor of a building, and from the walls of a building, for protection from sun or weather.~~

~~*Carwash.* Any building or structure, which uses specialized mechanical devices for the washing of motor vehicles.~~

~~*Centerline, street.* A line parallel or nearly parallel to the right-of-way lines of a street and halfway between them as established by the Building and Zoning Official.~~

~~*Certified survey.* A survey, sketch, plan, map, or other exhibit is said to be certified when a written statement regarding its accuracy or conformity to specified standards is signed by the specific professional engineer, registered surveyor, architect, or other legally recognized person.~~

~~*Child care.* See *Day care nursery.*~~

~~*Clinic.* An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together. The term does not include a place for the treatment of animals.~~

~~*Club, private.* Building and a facilities or premises used or operated by an organization or association for some common purpose, such as but not limited to a fraternal, social, educational, or recreational purpose, but not including clubs organized primarily for profit or to render a service, which is customarily carried on as a business. Such organizations and associations shall be incorporated under the laws as a non-profit corporation and the major purpose of such corporations shall not be for the purpose of serving alcoholic beverages to its members or others.~~

~~*Coffee shop, Snack bar,* or *Sandwich shop.* An establishment where sandwiches, coffee, soft drinks, tea, or similar foods are served, but having no kitchen facilities.~~

~~*Commercial school.* A training institution operated on a profit or non-profit basis offering instruction in stenographic, secretarial, bookkeeping, and related business skills; offering training in electronic data a processing techniques, skills, or equipment repair; or offering training leading to proficiency in a vocational skill.~~

~~*Convalescent home.* A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.~~

~~*Customer service area.* Inside/outside seating areas for restaurants, bars, lounges exclusive of kitchen, office, hallways, storage, and similar building areas.~~

~~*Day care nursery.* An establishment providing care of children during the day, but not overnight, including four or more children not members of the resident family; nurseries for children of working mothers; kindergartens; nursery schools for children under the minimum age for admission to public schools, or for after-school care of school children; and other establishments of a similar nature.~~

~~*District.* Any section of the Village within which the zoning regulations are uniform.~~

~~*Dwelling.* A building or portion thereof, designed or used exclusively for residential occupancy, but not including mobile homes.~~

~~(1) *Dwelling, single-family.* A private residence building used or intended to be used as a home in which all living areas are accessible to each other from within the building, and which shall have sleeping quarters, kitchen facilities, bathroom, ventilation, and lighting under control of and designed for the exclusive use of one family.~~

~~(2) *Dwelling, single-family detached.* A single-family dwelling surrounded by yards or other open spaces on the same lot.~~

~~(3) *Dwelling, multifamily.* A building designed for or occupied by three or more families.~~

~~(4) *Dwelling, efficiency.* A residential unit, which is comprised of a single room for sleeping and cooking, exclusive of a bathroom.~~

~~(5) *Dwelling, hotel room.* A residential unit, which is used on a temporary basis by transient guests.~~

~~(6) *Dwelling, hotel suite.* A group of hotel rooms connected together.~~

~~(7) *Dwelling unit.* A room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household, or by a person living alone.~~

~~*Essential services.* The erection, construction, alteration, or maintenance by a public utility or municipal agency of underground or overhead transmission, distribution, or collection systems necessary for the furnishing of adequate service by that utility or agency to the use on the same lot or the surrounding neighborhood of, for the public health, safety, or general welfare.~~

~~*Family.* An individual or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.~~

~~*Fast order food.* Food which is primarily included for immediate consumption; available upon a short waiting line; packaged or preserved in such a manner that it can be readily eaten outside the premises where it is sold; served on paper plates or in paper or styrofoam containers; and of a self-service nature, that is, no waiters or waitresses are involved. Patrons phone in or place their order at a counter and take it to a table on the premises or leave the premises.~~

~~*Fence.* A structure forming a physical barrier which is so constructed that no less than 50% of the vertical surface is open to permit the transmission of light, air, and vision through the surface in a horizontal plane. (For board and other solid barriers, see *Wall*.)~~

~~*Floor area.* The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. However, for the purposes of those regulations, the Gross floor area of a building shall not include:~~

~~(1) Basement space; however, basement space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.~~

~~(2) Accessory water tanks or cooling towers.~~

(3) Uncovered steps and exterior balconies.

(4) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.

(5) Terraces, breezeways, screen enclosures, or open porches.

(6) Floor space used for permitted or required accessory off-street parking spaces located not more than 20 feet above grade, in any building except single-family and two-family dwellings or buildings accessory thereto.

Frontage, lot. The distance for which the front lot line and the street line are coincident.

Garage.

(1) *Garage, parking.* A building or portion thereof used for indoor parking of private passenger vehicles for use of residents in the vicinity.

(2) *Garage, repair.* An establishment or portion thereof used for the equipping, servicing, repairing, hiring, selling, storing, or parking of motor-driven vehicles. The term Repairing shall not include an automotive body repair shop or the rebuilding, dismantling, or storage of wrecked or junked vehicles.

(3) *Garage, storage.* A building or portion thereof, designed or used exclusively for term storage of motor-driven vehicles, as distinguished from daily storage, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

Grade. The highest elevation of a paved street in front of any property.

Guest house. Living quarters within a detached accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

Hardship.

(1) *Hardship, necessary.* Restrictions upon the uses of a particular property which promote the a objectives of these regulations, provided such restrictions apply to all land within the same district (e.g. if commercial uses are prohibited in a district, this may result in a hardship to the property owners; but it is a hardship which is necessary to the purpose of this chapter in the first place).

(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.

Hedge. A row of bushes or small trees planted close together in such a manner as to form a boundary or barrier.

Height of building. The vertical distance from the grade to: the highest point of a flat roof; the deck line of a mansard roof; the average height between eaves and ridge or gable, hip, and gambrel roofs; or the average height between high and low points of a shed roof.

~~*Home occupation.* Any activity for which an occupational license of the Village is required by law, which is conducted within a dwelling unit in a residential district.~~

~~*Hospital.* A building or group of buildings having room facilities for one or more overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, and training facilities. A central service facility must be an integral part of the hospital operations.~~

~~*Hotel.* A building in which lodging is provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times.~~

~~*House of worship.* A church, synagogue, or other structure used on a permanent basis primarily for the worship of God.~~

~~*Kennel.* The keeping of more than three dogs or other animals for breeding, training, sale, or boarding.~~

~~*Kitchen facilities.* Any form or mechanical refrigeration or cooking equipment except a portable mini-refrigerator, portable microwave oven and coffee-maker.~~

~~*Junkyard or Salvage yard.* Any area or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing, or trading in used or discarded metal, glass, cordage, or any used or disabled fixtures, vehicles, or equipment of any kind.~~

~~*Loading space.* A space within the main building or in the same lot providing for the standing, loading, or unloading of trucks.~~

~~*Lot.* Land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory buildings, and the yards, loading, and parking spaces required herein and having its principal frontage upon a street or upon an officially approved place.~~

~~(1) *Lot area.* The total horizontal area within the lot lines of the lot.~~

~~(2) *Lot, corner.* A lot abutting upon two or more streets at their intersection.~~

~~(3) *Lot coverage or Ground coverage.* The area of the lot occupied by the ground floor of all buildings, main and accessory, measured from the exterior faces of exterior walls, or from the exterior faces of supporting exterior columns for any portion of the ground floor not enclosed by exterior walls or from the centerline of walls separating two buildings.~~

~~(4) *Lot depth.* The mean horizontal distance between the front and rear lot lines.~~

~~(5) *Lot, interior.* A lot, other than a corner lot.~~

~~(6) *Lot line.* The boundary line of a lot.~~

~~(7) *Lot of record.* A parcel of land shown on a recorded plat or any parcel of land described by a legally recorded deed.~~

~~(8) *Lot, through (double frontage).* An interior lot having frontages on two parallel or approximately parallel streets.~~

~~(9) *Lot width.* The horizontal distance between the side lot lines measured at the required front yard line and parallel to the front street line.~~

~~*Lumen.* A unit of luminous flux equal to the light emitted in a unit solid angle by a uniform point source of one candle.~~

~~*Marina.* Any area where one or more sites or locations are rented or offered for rent for the location or dockage of boats, vessels, or house boats in water, or to be used for living quarters either temporarily or on a permanent basis.~~

~~*Mezzanine.* An intermediate floor in any story or room with a floor area not exceeding one-third the total floor area in that room or story in which the mezzanine occurs and with a clear height above or below the mezzanine floor construction of not less than seven feet.~~

~~*Mixed occupancy or use.* Occupancy of a building or land for more than one use.~~

~~*Mobile home.* Any unit used for living or sleeping purposes which is equipped with wheels or some device for the purpose of transporting the unit from place to place, whether by motive power or other means, or any unit used for temporary living or sleeping purposes temporarily located in the locality, whether it is on blocks, posts, or any other type of foundation.~~

~~*Motel.* A building in which lodging is provided and offered to the public for compensation. Accommodations are usually designed to serve tourists traveling by automobile. Ingress and egress to rooms need not be through a lobby or office, and parking usually is adjacent to the guest room.~~

~~*Nightclub.* An establishment defined by section 111.01 of this Code.~~

~~*Nonconforming use.* The lawful use of land or a building or portion thereof, which use does not conform with the use regulations of the district in which it is located.~~

~~*Occupancy.* A condition of an activity or use being upon a lot and/or within a building.~~

~~*Official rights-of-way.* A right-of-way established by ordinance.~~

~~*Open space.* That portion of a lot which:~~

~~(1) Is open and unobstructed from grade upward.~~

~~(2) Is accessible without restrictions except as may be required for safety.~~

~~(3) Is of a previous nature.~~

~~*Outdoor dining.* A use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main restaurant for consumption on the premises. The term also include outdoor bars and outdoor ice cream parlors.~~

~~*Parcel.* A piece of land assembled for a single purpose.~~

~~*Parking space, off-street.* An all-weather surfaced area, exclusive of streets, alleys, and driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by an all-weather surfaced driveway, which affords ingress and egress for a vehicle without requiring another vehicle to be moved. When developing single lot sites under the PRD regulations found in section 152.0296, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.~~

~~*Penthouse.* Any structure above the main roof of a building used for residential, professional, or commercial purposes, or for housing elevator machinery and water storage tanks. Each story of a penthouse, except when used for machinery or a storage for water, is considered as an additional story to the height of the building.~~

~~*Permit, building.* A certificate issued by the Building Official authorizing the construction, reconstruction, remodeling, alteration, or repair of a building or other structure, upon approval of the submitted application and plans.~~

~~*Previous area.* The surface area of a parcel, which is capable of being penetrated by water.~~

~~*Planning and zoning board.* The Planning and Zoning Board of the Village, as established by this chapter.~~

~~*Premises.* A lot, together with all buildings and structures thereon.~~

~~*Principal building.* The building within which the principal, predominant, or main use or activity upon the lot is conducted. In the event more than one building is upon one lot, the one containing the greatest floor area is the "principal building."~~

~~*Principal use.* The predominant activity or use conducted within a particular building or upon a particular lot.~~

~~*Public use.* Any public building, structure, or land used primarily for public or quasi-public purposes where the building, structure, or land is not privately owned or operated.~~

~~*Regulations.* The whole body of regulations, charts, tables, diagrams, maps, notations, references, and symbols, contained in or referred to in this chapter.~~

~~*Restaurant.* An establishment in which food is prepared and served for compensation.~~

~~*Right-of-way.* See *Street line.*~~

~~*Screen enclosure.* A frame of metal, wood, or other approved structural material supporting no roof or walls, with only approved insect screening, which screening possesses at least 50 percent open area per square inch.~~

~~*Service station.* An establishment devoted to the sale at retail of motor vehicle fuels, oils, or accessories or for the servicing or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting.~~

~~*Setback.* The minimum horizontal distance between the street and the building; the lot bulkhead or water line and the building; or the side lot lines and the building.~~

~~*Shopping center.* One or more retail stores, commercial buildings, or an office complex with a unified plan or architectural scheme, on a single parcel of land or on separate parcels contiguously arranged.~~

~~*Story.*~~

~~(1) *Story.* That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor next above it, then the space between the floor and the ceiling next above it.~~

~~(2) *Story, half.* A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished for use. A half-story containing independent apartments or living quarters shall be counted as a full story.~~

~~*Street.* A public thoroughfare which affords the principal means of access to abutting property.~~

~~(1) *Street, collector.* A public thoroughfare which collects traffic from residential areas for distribution to a major arterial, as defined on the North Bay Village Circulation Plan.~~

~~(2) *Street or right-of-way line.* A dividing line between a lot and a contiguous street.~~

~~*Structural alterations.* Any change, except those required by law or ordinance, which would prolong the life or change the shape or size of any portion of a building or structure or of the supporting members of a building or structure, such as bearing walls, columns, beams, arches, floor or roof joists, or girders, not including openings in bearing walls as permitted by other ordinances.~~

~~*Structure.* Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing: signs, backstops for tennis courts, fences, screen enclosures, and pergolas.~~

~~*Subdivision.* Shall be interpreted as defined in the subdivision regulations of Dade County or, if not so defined, then a Subdivision shall be the division of land into two or more lots, or other division of land into parcels of five acres or less for the purpose, whether immediate or of transfer of ownership or building development.~~

~~*Swimming pool.* Any portable, pool or permanent structure containing a body of water 18 inches or more in depth and 250 square feet or more of water surface area located in a residential area that is intended for swimming or recreational bathing and containing 18 inches or more in depth, including but not limited to in-ground, aboveground, and on-ground swimming pools, hot tubs, and non-portable spas, but not including an ornamental reflecting pool or fish pond, unless it is located and designed so as to create a hazard or be used for swimming or wading.~~

~~*Tent.* A canvas or other cloth shelter from sun or weather supported by a wood or metal frame or by poles, stakes, and ropes, or both, and not attached to any building.~~

~~*Time-sharing condominiums.* Any structure, service, improvement, or real property, which is made available to purchasers of a time sharing plan as defined by the Florida Real Estate Time Sharing Act, F.S. § 72.01 et seq.~~

~~*Trailer, utility.* A vehicle lacking a means of self-propulsion intended to be towed by another vehicle and designed to be used for the transport or hauling of chattel.~~

~~*Trash.* Cuttings from vegetation, refuse, paper, bottles, rags.~~

~~*Utilities.* Structures of public or municipal utility in excess of lines, piping, conduit, transformers, or other essential utilities. A substation, pumping station, storage yard, or similar installation. Normally a significant structure or combination of structures often enclosed within a building.~~

~~*Use.* Any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; any occupation, business, activity, or operation to be carried on or intended to be carried on in a building or other structure or on land; or a name of a building or other structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained, or occupied.~~

~~(1) *Use, commercial.* Any use which is operated as or is accessory to a business.~~

~~(2) *Use, residential.* A use, which accommodates persons, not institutional in character, such as a single-family dwelling or multifamily dwelling, including apartments and hotel or motel rooms.~~

~~*Variance.* A dispensation permitted on individual parcels of property as a method of relieving an unnecessary hardship, by allowing a reasonable use of the building, structure, or property, which, because of unusual or unique circumstances, is denied by the provisions of this chapter.~~

~~*Vehicle, commercial.* Any vehicle designed, intended, or used for the transportation of people, goods, or things, other than private passenger vehicles and trailers for private non-profit transport of goods and/or boats.~~

~~*Wall.* A structure forming a physical barrier which is so constructed that less than 50 percent of the vertical surface is open to permit the transmission of light, air, and vision through such surface in a horizontal plane.~~

~~*Waterfront.* Any site shall be considered as waterfront premises provided any or all of its lot lines abut on or are contiguous to any body of water.~~

~~*Wine.* Shall be as defined in F.S. § 561.01(4).~~

~~*Yard.* An open area, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.~~

~~(1) *Yard, front.* A yard across the full width of the lot extending from the nearest line of any main or accessory building to the front street right-of-way line of the lot.~~

~~(2) *Yard, rear.* A yard across the full width of the lot extending from the nearest line of any main or accessory building to the rear line of the: lot.~~

~~(3) *Yard, side.* A yard extending from the front yard to the rear yard, between the side lot line and the nearest line of any main or accessory building.~~

~~(Ord., passed 4-1-83; Ord. No. 94-01, § 1, 5-10-94; Ord. No. 02-23, § 1, 10-8-02; Ord. No. 03-18, § 1, 11-25-03; Ord. No. 2008-10, § 1, 9-3-08; Ord. No. 2008-23, § 1, 10-14-08; Ord. No. 2014-03, §§ 2, 3, 4-8-14; Ord. No. 2015-12, § 2, 9-8-15)~~

~~§ 152.004 - Nonconforming uses.~~

~~(A) *Purpose and intent.* It is the purpose and intent of this section 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 or future amendment thereto. For purposes of this section, 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 [Jan. 22, 2002].~~

~~This section 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.~~

~~It is the further purpose and intent of this section to allow 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 North Bay Village, prior to the effective date of this section any more than is necessary for the proper exercise of police powers relating to the general public welfare of the residents of North Bay Village.~~

~~*Nonconforming classifications.* Within the zoning districts established by this section, or amendments that may be later adopted to this section, there may exist:~~

~~(B) *Nonconforming classifications.* Within the zoning districts established by this Code, or amendments that may be later adopted to this Code, there may exist:~~

~~(1) Nonconforming structures;~~

~~(2) Nonconforming uses;~~

~~(3) Nonconforming characteristics of use;~~

~~(4) Combinations of nonconforming lots, nonconforming structures, nonconforming uses and nonconforming characteristics of use.~~

~~These nonconforming classifications are declared by this section 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.~~

~~(C) *Scope.* In order to avoid undue hardship, nothing in this section 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 and upon which actual building construction has been carried on diligently.~~

~~For the purposes of this section, 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.~~

~~(D) *Nonconforming lots of record.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on a single lot, tract, or parcel of land of record at the effective date of adoption of this section, notwithstanding limitations imposed by other provisions of this section.~~

~~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, that are applicable in the zoning district in which the lot, parcel, or tract is located, provided, however, that 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.~~

~~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, and if all or part of the lots do not meet the requirements established for lot areas, width or depth, 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 requirements.~~

~~(E) *Nonconforming uses of land.* The lawful use of land existing at the time of the passage of this section or an amendment thereto, although such uses do not conform to provisions of this 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.~~

~~(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, 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.~~

~~(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.* In the event that any existing nonconforming use as provided for in this section is destroyed by more than 50 percent 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.~~

~~If such nonconforming use is destroyed to a level of less than 50 percent 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 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. 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.~~

~~(7) *Abandonment or discontinuance of use.* The abandonment or discontinuance of a nonconforming use for a period of 180 consecutive days or six 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.~~

~~(F) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this section, and it could not be built under the terms of this 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.* 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, but 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 Managers designee from ordering the compliance with all applicable building construction and safety related codes.~~

~~(2) *Replacement, restoration and reconstruction of nonconforming structure.* 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 percent of its total appraised 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 replacement, restoration and reconstruction can 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. 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.~~

~~(3) *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.~~

~~(4) *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.~~

~~(5) *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.~~

~~(6) *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.~~

~~(G) *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.~~

~~(H) *Nonconforming lots, structures. Uses and characteristics of use in combinations.* If on the effective date of this section, 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, 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. Subsections (E) and (F) shall apply to all nonconforming lots or record, structures, uses and characteristics of use, and combinations of any or all of them.~~

~~(Ord. No. 02-04, § 1, 1-22-02; Ord. No. 02-11, § 1, 4-23-02)~~

~~ZONING DISTRICTS AND DISTRICT MAP~~

~~§ 152.010 - Establishment of districts; purpose and intent.~~

~~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 a 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 § 152.026).~~

~~(2) RS-2 Medium Density Single-Family Residential District (See § 152.027).~~

~~(B) Multiple Family Residential Districts.~~

~~(1) RM-40 Medium Density Multiple Family Residential District (See § 152.028).~~

~~(2) RM-70 High Density Multiple Family Residential District (See § 152.029).~~

~~(C) Commercial District.~~

~~(1) CG General Commercial District (See § 152.030).~~

~~(2) CL Limited Commercial District (See § 152.031).~~

~~(Ord., passed 4-1-83)~~

~~§ 152.011 - 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 family districts.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.012 - Identifications 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 Village, dated and certified by the 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 Village Manager or his designate. These regulations shall be similarly dated, filed, and made available for public reference.~~

~~(Ord., passed 4-1-83; Am. Ord. 85-05, passed 5-28-85)~~

~~§ 152.013 - Publication of district maps.~~

~~(A) The Village Manager or his designate 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 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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.014 - 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 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 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 Village limit lines or county limit lines.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.015 - New land area.~~

~~Any land hereafter created within or annexed to the corporate area of the 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.~~

~~(Ord., passed 4-1-83)~~

~~DISTRICT REGULATIONS~~

~~§ 152.025 - 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 building on one lot.~~

~~(Ord., passed 4-1-83)~~

~~**Cross reference** — Penalty, § 152.999.~~

~~§ 152.026 - RS-1 Low Density Single-Family Residential District.~~

(A) *Purpose and intent.* The purpose of this District is to provide for low-density single-family residential development in a spacious setting, together with such accessory uses as may be necessary and compatible.

(B) *Uses permitted.* Single-family residential dwellings including duly licensed home occupation.

(C) *Site development standards.*

(1) Minimum lot size:

Area—7,000 square feet

Frontage—70 feet

(2) 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.

(3) Maximum building height: Three stories, or 25 feet plus the required FEMA base flood elevation, neither to exceed a cumulative total of 35 feet.

(4) Minimum floor area:

One story—2,000 square feet

Two story—2,600 square feet

(Ord., passed 4-1-83; Ord. No. 02-20, § 1, 7-9-02; Ord. No. 03-01, § 1, 3-11-03)

Cross reference—Penalty, § 152.999.

§ 152.027 - RS-2 Medium Density Single-Family Residential District.

(A) *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 such accessory uses as may be necessary and compatible.

(B) *Uses permitted.* Single-family residential dwellings including duly licensed home occupation.

(C) *Site development standards.*

(1) Minimum lot size:

Area—6,000 square feet

Frontage—60 feet

(2) Minimum yard setbacks:

Setback	Distance (Feet)
Front	20
Side (corner)	15
Side (interior)	7½
Rear	15
Waterfront	25

(3) Maximum height: Three stories, or 25 feet plus the required FEMA base flood elevation, neither to exceed cumulative total of 35 feet.

(4) Minimum floor area:

One story—1,500 square feet

Two story—2,000 square feet

(Ord., passed 4-1-83; Ord. No. 94-01, § 3, 5-10-94; Ord. No. 02-20, § 2, 7-9-02; Ord. No. 03-01, § 2, 3-11-03)

Cross reference—Penalty, § 152.999.

§ 152.028 - RM-40 Medium Density Multiple-Family Residential District.

(A) *Purpose and intent.* The purpose of this District is to provide for medium density multifamily residential development, together with 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.

~~(B) *Uses permitted.*~~

~~(1) Multifamily residential dwellings.~~

~~(2) Management offices within structures containing eight or more dwelling units.~~

~~(3) Duly licensed home occupation.~~

~~(C) *Site development standards.*~~

~~(1) Minimum lot size:~~

~~Area—10,000 square feet~~

~~Frontage—100 feet~~

~~(2) Minimum yard setbacks:~~

~~Setback~~	~~Distance (Feet)~~
~~Front~~	~~25~~
~~Side (corner)~~	~~25~~
~~Side (interior)~~	~~20~~
~~Rear~~	~~15~~
~~Waterfront~~	~~25~~
~~Adjacent single-family structure~~	~~100~~

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~~(3) Maximum density: 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~~	~~1,320~~	~~33.0~~

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~~(4) Maximum building height: 45 feet or four stories, whichever is less. However, a grade level of parking, not exceeding ten feet in height, shall not be included in this height limitation. The grade level parking floor may include other nonresidential uses, including laundry rooms, recreational rooms, storage rooms, and an office for building management.~~

~~(5) Minimum pervious area: 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.~~

~~(6) Minimum floor area:~~

~~Unit Type~~	~~Floor Area (Sq. Ft.)~~
~~Efficiency~~	~~400~~
~~One-bedroom~~	~~750~~
~~Two-bedroom~~	~~1,000~~
~~Three-bedroom or larger~~	~~1,150~~

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~~(D) *Special uses permitted.* Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions:~~

~~(1) Single family homes consistent with the setback provisions of the RS-1 (Low Density Single Family Residential District).~~

~~(Ord., passed 4-1-83; Ord. No. 94-01, § 4, 5-10-94; Ord. No. 00-08, § 1, 8-8-00)~~

~~**Cross reference** — Penalty, § 152.999.~~

~~§ 152.029 - RM-70 High Density Multiple-Family Residential District.~~

~~(A) *Purpose and intent.* The purpose of this district is to provide for high-density multifamily residential structures.~~

~~(B) *Use permitted.*~~

~~(1) Multifamily residential dwellings.~~

~~(2) Management offices within structures containing eight or more dwellings units or guest rooms.~~

(3) Office retail and service commercial facilities of an ancillary nature within structures containing 100 or more dwelling units or guest rooms. Access to such nonresidential facilities shall be only inside the building and there shall be no external advertising signs, display windows or entrances, provided, however, that within a building containing 400 or more dwelling units, entrances, external signs and display windows which 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 such external signs shall be affixed flat against the facade or awning canopy of the commercial facility; not exceed in area ten percent of the area of the facade of the facility; be compatible as to materials, background and style with all adjacent and contiguous commercial facilities, and not self-illuminated, "activated," "animated," "flashing," or "beacon light" signs as defined in § 152.076 of the Code.

(C) *Site development standards.*

(1) Minimum lot size:

Area B—27,000 square feet

Frontage—75 feet

(2) 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

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The total side setback area free of structures at the ground level shall be at least 60 feet.

(3) Maximum density: 70 efficiency or one 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~~	~~70.3~~
~~One-bedroom~~	~~620~~	~~70.3~~
~~Two-bedroom~~	~~685~~	~~63.6~~
~~Three-bedroom or larger~~	~~750~~	~~58.1~~

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~~(4) Maximum building height: 150 feet [or] 15 stories, whichever is less, a maximum of four stories may be utilized for a parking structure. (See subsection (7) below.)~~

~~(5) Minimum previous [pervious] area: 20 percent of the total parcel. The lot area at grade level shall be retained as previous [pervious] area and shall be landscaped.~~

~~(6) 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~~

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~~(7) Minimum boardwalk/baywalk accessibility criteria: 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. These properties shall also provide a connective public easement connecting contiguous properties and the public right-of-way to these building shoreline access areas.~~

~~(8) Bonus. The following maximum building height bonuses are permitted in the RM-70 District when any of the design bonus alternatives listed in 8(A) through 8(H) are incorporated into proposed project and the incorporated alternatives are subsequently approved by the Village Commission upon recommendation of the Planning & Zoning Board. Bonus approval shall be done at the time of Site Plan Review as required by 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.~~

~~The 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 Village's Comprehensive Plan.~~

~~(A) *Twenty-foot height bonus.* An additional impact fee of $1,500.00 per unit in the building shall be paid to 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~~

~~(B) *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 Village-wide boardwalk. {This fee shall be set towards a Boardwalk Fund} and/or~~

~~(C) *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~~

~~(D) *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~~

~~(E) *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~~

~~(F) *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}~~

~~(G) *Reserved.*~~

~~(H) *Density bonus.* Each parcel shall have the ability to purchase additional buildable units from North Bay Village for a price of $40,000.00 per unit. These units shall be derived from land currently owned by the Village, which will not be developed into residential buildings in the future. The money from these units shall be utilized for future Village parks and for the purchase of land for additional open green space. These units are to come from the development rights of Village Hall as well as the public works property on Treasure Island. The total buildable units are: 129 Efficiencies; 129 1-Bedroom Units; 117 2-Bedroom Units; 106 3-Bedroom Units. Monies due from development under the bonus participation program shall be paid to North Bay Village within 90 days of site plan approval by the Village Commission. Thereafter, the appropriate number of units will be deemed to the property. {This fee shall be set towards a Village Park Fund}.~~

~~(9) All properties developed under the RM-70 Zoning requirements shall provide the following:~~

~~1. A Public access boardwalk as required by the Miami Dade County Shoreline Review Committee. (Developer shall dedicate an easement to the Village conveying the boardwalk and a public access corridor).~~

~~2. All exterior paving surfaces, except for covered parking garages, shall be constructed of brick pavers.~~

~~3. A water feature shall be provided in the front of each development.~~

~~4. 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.~~

~~5. Developments shall provide streetscape benches along the boardwalk areas.~~

~~6. All parking garages shall be constructed with architectural features that hide them from public view. (glass, screening, greenery etc.).~~

7. Lighting shall be provided in all areas in the front of development where trees are planted.

Funds paid to North Bay Village as a result of the bonus participation program shall be transferred between all accounts created for the purposes listed herein.

(Ord., passed 4-1-83; Ord. No. 93-06, § 1, 5-11-93; Ord. No. 94-01, § 5, 5-10-94; Ord. No. 97-14, § 1, 12-9-97; Ord. No. 00-12, § 1, 12-12-00; Ord. No. 01-05, § 1, 6-26-01; Ord. No. 01-07, § 1, 11-27-01; Ord. No. 02-03, § 1, 1-22-02; Ord. No. 02-30, § 1, 1-28-03; Ord. No. 03-18, § 2, 11-25-03)

Cross reference — Penalty, § 152.999.

§ 152.0295 - Special exceptions in high density multiple family residential district.

(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 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 Village'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).

(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).

(2) Minimum yard setbacks shall be the same as specified in § 152.029(C)(2) 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) hereafter.

(3) Maximum density shall be as prescribed in § 152.029(C)(3) except that (a) on minimum undersized parcels there shall be a maximum of six 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).

(4) The maximum building height on minimum undersized parcels shall be three stories or 36 feet above code-approved grade, whichever is less. However, 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 of the area of the second floor for each foot of nonconforming encroachment into the setback area.

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.

Provided further, as to buildings newly constructed under the provisions of this Code, grade level beneath the building parking not exceeding ten 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.

(6) Minimum floor area: 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 shall apply to buildings under this section except that every dwelling unit, regardless of size, shall require two parking spaces.

(8) All requirements of landscaping of the Village and county code shall be fully applicable to buildings under this section.

(Ord. No. 93-07, § 1, 7-13-93)

§ 152.0296 - Planned Residential Development (PRD) Zoning Overlay.

(A) Purpose and intent. The purpose and intent of the Planned Residential Development (PRD) Overlay Zoning District is to create a living environment that is responsive to the needs of its residents; to provide flexibility in planning, design, and development consistent with the Village's Comprehensive Plan; to encourage innovative approaches for the design of community environments; to provide for an efficient use of land, to provide an environment compatible with surrounding land use; to adapt the zoning process to changes in development and construction technology; to encourage infill and the redevelopment of the Village's multi-family areas; and to promote the public health, safety and general welfare of North Bay Village. The PRD Ordinance shall be deemed an Overlay Zoning District and shall be approved only after public hearings for a specific site.

(B) When applying the terms and conditions imposed by this section, the Planning and Zoning Board and the Village Commission shall determine compatibility with already existing zoning for the property subject to the application and shall require applicants for PRD approval to demonstrate compatibility with already existing or approved developments adjacent to the application property.

(C) Ownership requirements. An application for approval of a PRD shall be either the owner(s) or the contract purchaser or lessee of the entire property encompassed by the PRD application. If the applicant is the contract purchaser or a lessee, then the owner of the entire property shall execute a notarized consent to the filing of the application. The application for approval of a PRD shall not be assignable or transferable to other parties.

(D) Development parameters. All applications for PRD shall comply with the following applicable development parameters:

(1) The subject property shall be zoned for RM-70 multi-family use;

(2) The subject property shall contain a minimum of one legally platted lot for the construction of no less than ten residential units and 20 parking spaces (off-street), or two, but not more than three, platted lots contiguous, as of the effective date of this section [Jan. 22, 2002];

(3) The subject property shall be deemed one parcel of land and in the event that two or more platted lots shall constitute a PRD, the applicant shall submit a Unity of Title in a form acceptable to the Village Attorney;

(4) The following definitions shall apply to this section:

(a) *Floor area ratio (FAR).* Total gross area of a building or buildings, excluding parking garage structure, on any lot divided by the area of the lots. No structure shall contain a FAR of greater than 3.0 for one lot; 3.75 for two lots; and 4.00 for three lots.

(b) *Gross floor area.* Total area of all floors of a building that are enclosed including common areas such as elevators (area of shafts at ground floor only), stairs (except open stairways and enclosed stairways which are means of egress required by the fire department), corridors, interior recreation areas, storage, cabana, lobby, restrooms, etc. All these items are excluded: The garage structure with any required means of egress, and any open but covered walkways, exterior balconies, open decks, and terraces at the recreational area.

(c) *Restricted use of floor area.* No more than one-half of a floor area used for amenities can be allocated for dwelling units.

(d) *Building height.* No structure shall exceed 170 feet in overall height above base flood elevation (BFE) including all structures for stairways, storage, mechanical, elevator, recreational uses, et cetera. The total area of these uses shall not exceed 30 percent of the footprint of the last residential floor. Moreover, an elevator shaft may exceed 160 feet in height based on evidence of necessity as a result of requirements for elevator construction. The roof of any residential dwelling unit shall not be higher than 150 feet from BFE.

(e) *Pedestal.* Portion of a building that contains the parking level entry lobby, office, manager's unit, storage, mechanical room, recreational facilities, and parking structures.

(f) *Tower.* Portion of the building that contains residential units, parking structures, and may also include recreational facilities.

(E) The following uses are permitted in the PRD: Multifamily residential and recreational facilities ancillary thereof.

(F) Site.

(1) *Setbacks.* Setbacks for a new building without pedestal and tower design shall follow setback requirements outlined in the RM-70 Multi-family High Density Residential Zoning District:

(a) Front pedestal—20 feet

(b) Front tower—25 feet

(c) Rear pedestal/tower—25 feet

(d) Sides pedestal—Ten feet

1. Tower—One side—15 feet

2. Tower—Other side—20 percent of frontage

(2) *Flex setback.* Designer has the option to offer creative design solutions to the building configurations and the Village will allow the tower (and pedestal for one-lot sites only) to encroach into the setbacks as per the "flex box" criteria.

The total floor area of encroachment (which shall exclude a maximum of 25 percent of the total square footage of all the balconies on the plan), into the setbacks must be adjusted by deducting it from the buildable "box" allowed under the standard setback regulations provided below and in no instance is the designer allowed to build more area per floor than what is permitted under this buildable box, and in no instance may any wall length which encroaches into any side yard setback be longer than one-third of the length of a wall (which shall not include balconies with railings or other physical containment which do not exceed 42 inches in height) which is permitted under the buildable box and the standard setback regulations provided below. The length of wall measurement shall be made at the point of maximum encroachment into the flex setback area.

(3) *Building height.* No structure shall exceed 150 feet from base flood elevation to the roof of the last residential floor and 160 feet for the overall height of the structure, as defined in section (4)d. further provided, no pedestal shall exceed 30 feet in height.

(4) *Off-street parking.*

(a) Off-street parking shall be required on a basis of two spaces per residential unit, and such other requirements as defined in section 152.042 except as defined herein.

(b) All parking spaces must be screened from ground level view.

(5) *Design.*

(a) A standard space shall be a minimum of nine feet by 18 feet zero inches long, except for parallel parking in which the space shall be nine feet six inches wide by 21 feet zero inches

~~long. The driveway required in 90-degree parking shall be a minimum of 22 feet zero inches wide. Not less than two percent of required parking spaces shall be allocated for handicapped usage. The parking design for handicapped spaces shall be consistent with applicable state standards.~~

~~(b) For single lot sites only: Driveways and maneuvering areas shall be designed in order to ensure safe travel in and out of the garage structure. Drives and access ramps are permitted to be smaller than 22 feet in width if they are either limited to one-way traffic or designed so that gates or other barriers prevent the entry of more than one vehicle at a time. No drive aisle may be less than 10.5 feet in width.~~

~~Notwithstanding the above or the requirements of section 152.042, mechanical parking lifts may be permitted in an enclosed garage structure if approved by the Village Commission through the PRD site plan review process. A mechanical parking lift is an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion. Both parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces. A mechanical parking structure may be permitted if it meets the following standards:~~

~~1. The mechanical parking lifts and the garage structure shall be designed so that the noise or vibration from the operation of the lifts shall not be plainly audible to, or felt by, any individual standing outside on property adjacent to the garage structure. Noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions.~~

~~2. All mechanical parking lifts must be installed by the manufacturer or a manufacturer-approved installer.~~

~~3. All lifts must be maintained and kept in good working order and must be inspected by a licensed mechanical engineer at least once every six months. A copy of the inspection report must be provided to the Village.~~

~~4. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.~~

~~5. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.~~

~~6. All mechanical lift components shall be Underwriters Laboratories (UL) approved.~~

~~7. All non-mechanical parking spaces in the garage structure must measure at least nine feet in width by 18 feet in depth.~~

~~8. The building owner or condominium association must maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of lifts. Proof of the service contract must be provided to the Village annually.~~

~~9. The ceiling height of any parking level with parking lifts within a garage shall be a minimum of 11 feet six inches.~~

~~10. The parking lift platform must be sealed and of a sufficient width and length to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.~~

~~(6) *Entrance feature/porte cochere.* A covered/sheltered entrance feature shall be permitted to the front property line. Fourteen feet of vertical clearance shall be provided. If loading spaces are provided at this location, 14½ feet of vertical clearance shall be provided. Columns may be provided to support porte cochere.~~

(7) *Balconies.* Exterior balconies/terraces and covered walkways excluding rooftops and other non-covered areas may extend into setbacks a maximum of 25 percent of the allowable setback measurement but may not extend beyond the pedestal setback. Balconies projecting into setbacks shall be deemed as encroachments herein, but shall not be calculated as part of the floor area ratio. Notwithstanding anything herein to the contrary, in no event shall the total square footage of balconies exceed more than 25 percent of the total square footage of the buildable box.

(8) *Landscape requirements.* A minimum of 30 percent of the exposed roof deck of the pedestal and any open areas with amenities shall be landscaped, and in addition "hardscape" (pavers, fountains, awnings, etc.) may be permitted if approved by the Village. An applicant shall be required to submit a detailed landscape plan to the Village. The landscape plan shall be sensitive to surrounding properties and shall be utilized to enhance the subject property.

(9) *Unit size.* All units shall comply with the minimum size requirements as follows:

Unit Type	Floor Area (Sq. Ft.)
Efficiency	600
One-bedroom	900
Two-bedroom	1,200
Three-bedroom or larger	1,350

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(G) Application procedure. The applicant shall submit an application to the Village Manager, or his/her designee, on a form(s) prescribed by the Village Manager. The Village Manager shall require at least the following information which shall be considered the PRD application:

(1) Letter of intent;

(2) Payment of $5,000.00 development review application fee for each application submitted. Fees incurred by the Village for special planning and/or legal consultant services during the development plan approval process shall be reimbursed to the Village by the applicant;

(3) A detailed site plan showing dimensions of building(s), structure(s), setback(s), open space(s), landscaping and off-street parking. The landscaping plan shall provide buffering and/or masking of all parking facilities;

(4) Proposed floor plans and elevations (including signage) for all buildings and structures encompassing the size, placement and number of units;

(5) A complete list of uses and the square footage for each use;

(6) A certified copy of a land survey;

(7) Detailed calculations of water consumption increase and calculation of wastewater;

(8) Any other documentation as the Village Manager, or his/her designee, reasonably determines is necessary to properly review the proposed project; and

~~(9) Within ten days prior to the Planning and Zoning Board public hearing, the applicant shall furnish to the Village Manager, or his/her designee to make available for viewing an architectural model built to scale and photographs depicting same. Said model shall be retrieved by the developer within 30 calendar days following the final public hearing before the Village Commission, and the photographs depicting the model shall become a part of the public records. Said model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that all setbacks for the new structure shall not conflict with the existing or approved structure on either side of the proposed structure.~~

~~(H) Public hearing procedure. At a public hearing, the applicant shall have the burden of proof in demonstrating that the PRD application complies with the purpose and intent of the PRD ordinance. In determining whether to grant approval of the PRD application, with or without appropriate and necessary conditions and safeguards, the Planning and Zoning Board and Village Commission shall determine whether the application complies with the purpose and intent of this section and shall make the following findings:~~

~~(1) Whether the application is consistent with the Village's Comprehensive Plan.~~

~~(2) Whether the proposed development will have a favorable effect on the economy of the Village.~~

~~(3) Whether the proposed development application will generate or result in excessive noise or traffic.~~

~~(4) Whether the proposed development will cause an undue or excessive burden on public facilities and services, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities, which have been constructed, or which are planned or budgeted for construction.~~

~~(5) Whether the proposed development will tend to create a fire hazard or other dangerous conditions.~~

~~(6) Whether the proposed development will cause excessive overcrowding or concentration of people or population that would create evacuation concerns.~~

~~(7) Whether the proposed development will be compatible with the surrounding area and its development, and will demonstrate innovative design in order to minimize impact on surrounding properties.~~

~~(8) Whether the proposed development is a reasonable use of the property and results in a public benefit including, but not limited to, the enhancement of the subject real property and/or the redevelopment of structures in deteriorated or poor condition.~~

~~(I) Legal effect of PRD. Notwithstanding anything in the Code to the contrary, the approval of a PRD application shall be deemed an Overlay Zoning District to the existing zoning of the property. The approved PRD application shall encompass the approved development and the development regulations applicable to the property, and shall not be subject to any variances as may be required by other sections of this Code. However, the Village Commission shall be prohibited from approving a PRD application that would increase the intensity, density or height above that which is permitted in these PRD regulations.~~

~~In the event that the owner wishes to modify an approved PRD application in any fashion which would increase the amount of square footage of the building(s) or lessen landscaping or open space, or create an undue burden on any public facilities, a new PRD application shall be filed and shall be subject to the terms and conditions of this section. In the further event that the owner shall not begin development pursuant to the approved PRD application for a period exceeding 12 months, the PRD designation shall lapse and the Overlay Zoning District for the subject property shall terminate.~~

~~The Village Commission shall have full authority to approve, approve with modifications, or deny a PRD application based upon its legislative determination that the application, as proposed or modified, serves and protects or does not serve and protect the public health, safety and welfare to at least an equivalent degree as the underlying zoning. Likewise, the Village Commission shall have authority to~~

~~impose reasonable conditions and safeguards necessary to protect the public health, safety and welfare upon the approval of any PRD application.~~

~~Nothing contained in this section shall supersede or abrogate the express provisions of the Village's Comprehensive Plan, and all development orders issued by the Village shall not exceed the density limitations imposed by the Village's Comprehensive Plan. It shall be the duty of the Village Manager, or his/her designee, to advise the Village Commission whether any individual application will cause the density to exceed any density restrictions imposed by the Village's Comprehensive Plan.~~

~~(Ord. No. 01-09, § 1, 11-27-01; Ord. No. 02-02, § 1, 1-22-02; Ord. No. 02-28, § 1, 11-12-02; Ord. No. 03-07, §§ 1—4, 4-8-03; Ord. No. 2008-06, § 1, 6-10-08; Ord. No. 2015-12, § 3, 9-8-15)~~

~~§ 152.030 - CG General Commercial District.~~

~~(A) *Purpose and intent.* The purpose of this district is to encourage the development of general office, retail, and service commercial uses.~~

~~(B) *Uses permitted:*~~

~~(1) Bank or financial institution.~~

~~(2) Clinic or hospital.~~

~~(3) Dry cleaning substation.~~

~~(4) Lounge or nightclub (subject to the provisions of Chapter 111 of the Village Code).~~

~~(5) Medical or dental laboratory.~~

~~(6) Personal services establishments, including but not limited to shoe repair, barber and beauty shop, stock brokerage, employment agency, travel bureau, and messenger service.~~

~~(7) Post office.~~

~~(8) Professional offices, including but not limited to architecture, accounting, engineering, investigative, investment and tax counseling law, medicine, and real estate.~~

~~(9) Restaurants, coffee shops, or delicatessens; but not to include a fast order food establishment (See subsection (C)(1) below). Outdoor dining shall be permitted as follows:~~

~~A. Outdoor seating/dining.~~

~~(1) An application must be filed with the Village Manager, or his/her designee, for administrative review and approval, which shall include layout of all tables, chairs, benches, and other furniture; pedestrian ingress and egress; location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating/dining use and area (all drawings must be titled, indicate orientation, and be at an acceptable scale).~~

~~(2) Outdoor seating/dining areas and uses of the public right-of-way and/or any private property may be approved, denied, or approved with conditions, modifications, safeguards, or stipulations appropriately and reasonably related to the intent, purposes, standards, and requirements of the related regulations by the Village Manager. Such permit shall not be transferable in any manner and is strictly a conditional use permit, issued for a period of one year, renewable annually via payment of the annual occupational license fee for such outdoor seating/dining uses.~~

~~(3) The fee for outdoor dining/seating use and area will be charged annually in the amount of $250.00; the permit fee shall be added to the occupational license fee for the main business.~~

~~(4) The applicant shall provide an indemnity agreement that is acceptable to the Village Manager. This agreement will include specification of liability insurance provided.~~

~~(5) The conditional use permitting of outdoor seating/dining use and area may be revoked by the Village Manager or his/her designee, upon finding that one or more conditions of these regulations have been violated, or that the outdoor seating/dining area and use are being operated in a manner that constitutes a public nuisance, or in any way that constitutes a reasonable risk of potential liability to the Village.~~

~~(6) Outdoor seating/dining use and area may be temporarily suspended by the Village for public use/purpose, utility, sidewalk or road repairs, emergency situations, or violations of provisions contained herein. The length of suspension shall be determined by the Village Manager as necessary. Removal of all street furniture and related obstructions shall be the responsibility of the owner/operator of the outdoor seating/dining.~~

~~(7) Outdoor seating/dining area shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris. The applicant shall be responsible for daily cleaning and sweeping of the outdoor seating/dining area and for the cleanliness and maintenance of any outdoor planters immediately adjacent to the outdoor seating/dining area. Use of Village sidewalks for trash and garbage removal shall be prohibited.~~

~~(8) Outdoor seating/dining use and area shall not interfere with the free and unobstructed pedestrian or vehicular circulation of traffic, public access to any street intersections, crosswalks, public seating areas and conveniences, bus stops, alleys, service easements, handicap facilities, or access to any other commercial establishments. The width and location of the sidewalk pedestrian passage shall be as follows:~~

~~If there is seating on one side of the sidewalk, a minimum of five feet of sidewalk must remain clear and unobstructed for pedestrian passage;~~

~~(9) Outdoor seating/dining area on the public rights-of-way shall be open and unenclosed. No building structures of any kind shall be allowed in and over any portion of the outdoor seating/dining area located on public property.~~

~~(10) Tables, chairs and all other furniture used in the operation of an outdoor seating/dining area shall not be anchored or restrained in any manner. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating/dining area and where applicable, shall have a minimum clearance height of seven feet above grade.~~

~~(11) Outdoor seating/dining use and area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe or other establishment~~

~~(12) Outdoor seating/dining area shall be at the same elevation as the adjoining sidewalk or public right-of-way.~~

~~(13) Carts and trays for serving food are permitted in the outdoor seating/dining area.~~

~~(14) Outdoor seating/dining use and area shall not be provided with amplified sound of any kind.~~

~~(15) Outdoor seating/dining areas may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only; provided no entertainment of any kind is furnished. No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.~~

~~(16) Any administrative decision may be appealed to the Village Commission in accordance with the requirements of this Code.~~

~~(17) The hours of operation shall coincide with that of the primary restaurant.~~

~~(10) Retail sales establishments, including but not limited to the sale of appliances, books, stationery, drugs, hardware, liquor, groceries, meats, produce and fish; however, such retail sales shall be restricted to merchandise stored and displayed within the main structure.~~

~~(11) Radio and television transmitting station and studio.~~

~~(12) Storage facilities in connection with permitted uses or non-industrial mini-storage facilities in conjunction with other retail, commercial or mixed uses, including the rental of motor vehicles and trailers consistent with off-street parking restrictions (§ 152.041(C)(3)(a)) for self-hauling purposes and the storage of said vehicles on premises, subject to site plan approval by the Village Commission; provided, however, that all such material, including waste and cooling systems and the above described motor vehicles and trailers shall be stored or erected entirely within the walls of a building. Such rental vehicles shall not be over 30 feet in length. Parking shall be provided for the storage facility portion of any mixed-use facility at the rate of one space for every 8,000 square feet of storage area.~~

~~(13) Studios for artists, photographers, sculptors, or musicians, including: the teaching of art, music, dancing, or artistic instruction.~~

~~(C) *Special uses permitted.* Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions.~~

~~(1) Fast order food establishments.~~

~~(2) Marinas, provided that the following provisions are adhered to:~~

~~(a) No docks or piers, including mooring piles, catwalks, and other appurtenances, shall be constructed closer than ten feet to any adjacent property line.~~

~~(b) In no case shall a dock or pier project more than ten percent into the width of any waterway.~~

~~(c) Where a marina is constructed separately from any other use, 50 square feet of landscaped open space shall be required per boat slip, 50 percent of which shall be pervious area.~~

~~(d) Fire prevention and fire control equipment shall be provided as required by Chapter 3805.5 through 3807.26 of the South Florida Building Code.~~

~~(e) In conjunction with the dockage of moorage of vessels, the following water-related activities, vessels and structures are prohibited:~~

~~1. Commercial vessels.~~

~~2. Haul-out facilities for major boat repair or overhaul work.~~

~~3. Unscreened storage of boating supplies or accessories in the required front yard setback area.~~

~~4. Permanent live-aboard vessels except as required for work or security purposes.~~

~~(f) All the requirements, standards, and regulations of §§ 150.01 through 150.03, 150.10 through 150.12 and 150.15 through 15.21 of the Village Code shall be complied with.~~

~~(3) Mixed-use commercial and multifamily structures, provided they conform with all site development standards as set forth under § 152.029(C). Commercial uses located in mixed-use developments shall not be subject to the requirements of § 152.029(B)(3).~~

~~(4) Printing and publishing establishments, including blueprinting and photostating, provided that no such use shall occupy more than 1,500 square feet of gross floor area.~~

~~(5) Service stations, provided that the following provisions are adhered to:~~

~~(a) All structures shall be designed in a manner that is compatible with the overall environmental and architectural design goals of the community.~~

~~(b) All properties shall have at least 150 feet of frontage.~~

(c) All new and used merchandise shall be stored and displayed within the main structure except tires, accessories, and lubrication items, which may be maintained in movable or enclosed cabinets.

(d) No used or discarded automotive parts or equipment or permanently disabled or wrecked vehicles shall be located outside the main structure except within an enclosed trash storage area.

(e) Major repairs or engine overhauling or transmission repair, painting, body and fender repair, and tire recapping is not permitted.

(f) The rental of heavy equipment and the sale or rental of merchandise not related to the motoring public, other than as specified herein, is excluded.

(g) The storage of up to ten rental trailers or automobiles is permitted, provided that the trailers or automobiles are backed up against a six-foot high wall, and located not less than 20 feet from any sidewalk, street, or driveway.

(h) Car washes are permitted as an ancillary use subject to being located 200 feet from residential uses and subject to hours of operation.

(i) Trash shall be stored in areas shielded from public view. Storage trash containers shall be enclosed and covered.

(j) Any lights provided to illuminate or advertise the service station, shall be installed and maintained in a manner so as not to create an undue glare on adjacent properties.

(k) Structures shall not occupy more than 30 percent of the total lot area.

(l) Driveways shall be permitted at the intersections of primary and secondary arterials, provided the construction of driveway entrances is within the curb return, but shall be at least five feet beyond the end of the curb return. At all intersections, whenever possible, combine driveways servicing both service station and adjacent uses, shall be designated and provided.

(m) Planter areas and tree wells shall be constructed and equipped with irrigation and drainage facilities and landscaped prior to final building inspection.

(n) Whenever the use abuts a residential district, a wall shall be erected along the property line eight feet in height.

(o) Service stations shall not be permitted within 300 feet of the property line of any church, synagogue, hospital, and school.

(p) No more than four service stations shall be permitted within the Village at any one time.

(6) Theaters for the showing of motion pictures shall provide no less than 400 fixed seats. When the theater is to be used solely for activities of a performing art, or an event of a cultural or civic nature, a lesser number of seats may be required by the Commission.

(7) Yacht clubs, provided they have a minimum of 150 feet of water frontage and no main building is less than 4,000 square feet in gross floor area.

(D) *Site development standards.*

(1) Minimum lot size:

Area—10,000 square feet

Frontage—75 feet

(2) Minimum yard setbacks:

~~Location~~	~~Distance (Feet)~~
~~Kennedy Causeway (north side)~~	~~40~~
~~Kennedy Causeway (south side)~~	~~60~~
~~Other street frontages~~	~~25~~
~~Rear~~	~~25~~
~~Side, (each)~~	~~15, plus five feet for each story over three~~

-

~~(3) Maximum building height: 130 feet or 12 stories, whichever is less, two stories of which may be utilized for a parking structure.~~

~~(4) Minimum pervious area: 20 percent of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.~~

~~(E) *Prohibited uses.* Boat storage facilities utilized for the purpose of storing boats shall be prohibited in the CG (General Commercial) District.~~

~~(Ord., passed 4-1-83; Ord. No. 98-03, § 1, 9-15-98; Ord. No. 01-02, § 1, 2-13-01; Ord. No. 01-08, § 1, 11-27-01; Ord. No. 2006-19, § 1, 11-8-06; Ord. No. 2006-21, § 1, 12-28-06; Ord. No. 2008-24, § 1, 10-14-08)~~

~~**Cross reference**— Penalty, § 152.999.~~

~~§ 152.031 - Limited commercial district.~~

~~(A) *Purpose and intent.* The purpose of this district is to provide for an area in which tourist accommodation, including but not limited to hotels and motels and accessory uses thereto, will be permitted.~~

~~(B) *Uses permitted.*~~

~~(1) Hotels or motels.~~

~~(2) Multifamily residential dwellings including tourist units or lodging for transients, including any units designed or intended to provide an accommodation or facility of a time sharing plan divided into time sharing periods, including but not limited to units regulated by F.S. Ch. 721, being the Florida Real Estate Time Sharing Act.~~

~~(3) Management offices within structures containing eight or more dwelling units, time share units, or guestrooms.~~

~~(4) Office, retail, and service commercial facilities of an ancillary nature within structures containing 100 or more dwelling units, time sharing units, or guestrooms. Access to such nonresidential facilities shall be only from inside the building and there shall be no external advertising signs, display windows, or entrances. Said uses shall be considered accessory uses to the building and~~

~~not independent therefrom. Such commercial facilities shall be on a separate floor or otherwise segregated from dwelling units.~~

~~(C) *Site development standards.*~~

~~(1) Minimum lot size:~~

~~Area—28,000 square feet~~

~~Frontage—200 feet~~

~~(2) 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~~
~~Side, (interior)~~	~~15, plus five feet for each story over three~~

~~(3) *Maximum density.* 70 one-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~~
~~Hotel or motel room~~	~~440~~	~~99.0~~
~~Efficiency~~	~~500~~	~~87.1~~
~~One-bedroom~~	~~620~~	~~70.3~~
~~Two-bedroom~~	~~685~~	~~63.6~~

~~Three-bedroom or larger~~	~~750~~	~~58.1~~

-

~~(4) *Maximum building height.* 130 feet or 12 stories, whichever is less, two stories of which may be utilized for a parking structure. When a CL zoned property is located in the Bay View Overlay District, all provisions of Section 152.032 shall apply. When the provisions of the Bay View Overlay District are applied to a property in this zoning district, the bonus height provisions of Section 152.029(c)(8) shall also apply.~~

~~(5) *Minimum pervious area.* 20 percent of total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.~~

~~(6) *Minimum floor area:*~~

~~Unit Type~~	~~Floor Area (Sq. Ft.)~~
~~Efficiency or hotel room~~	~~400~~
~~One-bedroom~~	~~750~~
~~Two-bedroom~~	~~1,000~~
~~Three-bedroom or larger~~	~~1,150~~

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~~(Ord. of 4-1-83; Ord. No. 2013-05, § 2, 6-11-13)~~

~~**Cross reference**—Penalty, § 10.99.~~

~~§ 152.032 - Bay View Overlay (BVO) District.~~

~~(A) *General requirements.*~~

~~(1) *Purpose and intent.* The BVO District is intended to encourage taller, narrower, mixed use buildings on commercial lots on the north side of Kennedy Causeway where such lots front directly on, and provide unimpeded views north to Biscayne Bay. As such, this district provides the opportunity for development and redevelopment of mixed use residential buildings at greater heights than are otherwise permitted in the CG or CL Zoning Districts if certain requirements are met. In order to provide incentives for re-development and streamline the development approval process, the BVO District has been pre-designated on the official zoning map. Application of the development incentives available in the BVO District to individual properties will be reviewed and approved by the Planning and Zoning Board and Village Commission concurrently with the site plan approval process.~~

~~(2) *Applicability.*~~

(a) The BVO District provides for an optional set of development regulations that may be voluntarily employed in the mixed use development of lands located within geographic limits of the BVO District shown on the official zoning map.

(b) All regulations of the underlying zoning district that are not otherwise addressed in these regulations shall apply. Where the underlying zoning district and the BVO District both apply, the BVO District shall govern.

(c) If a property owner should elect not to develop under these optional regulations, only the regulations of the underlying zoning district shall apply.

(3) *Procedure.*

(a) *BVO standards review.* Applications to use the development standards provided in the BVO District shall be processed concurrently with all other required development applications. At a minimum, the following applications are necessary and shall be considered in the following order:

1. Special use exception review required by subsection 152.030(C)(3), if the property is located in the CG Zoning District;

2. Building height bonus review to 240 feet pursuant to subsections 152.029(C)(8)8(A) through 8(F);

3. Bay View Overlay District standards review; and

4. Site plan review required by subsection 152.105(C)(9).

(b) *Approval.* Applications require approval by the Village Commission following a single public hearing and a recommendation from the Planning and Zoning Board. In order to approve an application, the Village Commission shall find that the development proposed:

1. Is compatible with surrounding intensities and densities of development;

2. Provides access to adequate light and air for surrounding properties; and

3. Preserves views of, and view corridors to, Biscayne Bay consistent with the Village's 2007 Master Charrette Plan.

(B) *Allowable uses.* All uses listed as permitted or special exception uses in the underlying zoning district shall be permitted equally in the BVO District, and such use shall be subject to all conditions, requirements or limitations applicable to the use in the underlying zoning district, except as may otherwise be set forth in this section.

(C) *Building heights.* A building height of up to a maximum of 340 feet may be proposed under the following conditions:

(1) *Lots over 500 feet in depth.* For parcels where the lot depth is more than 500 feet, the following conditions shall apply:

(a) The property is approved for a building height of 240 feet under the building height bonus provisions of subsections 152.029(C)(8)8(A) through 8(F).

(b) The portion of any building that is more than 240 feet in height must be set back from the front property line by a distance that is not less than the height of said portion of the building.

(c) If any portion of a building on the site exceeds 240 feet in height, no part of any building on the site may be closer to either side property line than a distance equal to 20 percent of the width of the lot.

(2) *Lots under 500 feet in depth.* For parcels where the lot depth is less than 500 feet, the following conditions shall apply:

(a) The property is approved for a building height of 240 feet under the building height bonus provisions of subsections 152.029(C)(8)8(A) through 8(F);

(b) The entire portion of a building that is more than 240 feet in height must be set back from the front property line by a distance that is at least 40 feet, plus two feet for each foot of the highest building height in excess of 240 feet.

(c) If any portion of a building on the site exceeds 240 feet in height, the two side yards together must total 60 percent of the width of the lot, provided the smallest side yard may not be less than 20 percent of the width of the lot.

(D) *Parking.* If the building height provisions of subsection (C) above are utilized, the limitations for parking structure stories of subsection 152.029(C)(4) shall not apply if the structure is architecturally designed or screened so that no part of the parking structure, other than the entrance, is visible or discernable from the public right of way.

(Ord. No. 2012-08, § 2, 12-18-12)

OFF-STREET PARKING AND LOADING FACILITIES

§ 152.040 - Purpose and intent.

It is the purpose and intent of this subchapter to establish minimum space and design requirements for off-street parking and loading facilities to accommodate both public and private uses. The ever-increasing number of vehicles generated from and attracted to residential, commercial and public activities requires that adequate parking and loading facilities, which permit safe and efficient vehicle and pedestrian movement, be provided in order to protect the health, safety and welfare of the residents of the Village.

(Ord. of 4-1-83)

§ 152.041 - Off-street parking requirements.

(A) *General requirements:*

(1) Every use or structure shall provide off-street parking facilities for the use of occupants, employees, visitors or patrons. The provision of off-street parking spaces in conjunction with all land or building uses shall be completed prior to the issuance of a certificate of occupancy and such parking facilities shall be maintained as long as the use is continued.

(2) No owner or operator of any use or structure shall discontinue or cause a discontinuance or reduction in required off-street parking facilities required by the applicable code provisions existing at the time of construction, use or occupancy without establishing alternate parking facilities which meet the requirements of this subchapter.

(3) When any use or structure is altered or enlarged, with a resultant increase in floor area capacity, or space occupied, whatever necessary additional off-street parking that may be required shall be provided, and a revised site plan shall be submitted for review and approval.

(4) Where a use or structure which existed at the effective date of this subchapter is changed in use or occupancy to a category of use or occupancy that requires more off-street parking facilities, the increased amount of those facilities shall be provided.

(B) *Joint use of facilities:*

(1) All parking spaces required herein shall be located on the same parcel with the building or use served, except that where an increase in the number of spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the use being served.

~~(2) Up to 50 percent of the parking spaces required for theaters, auditoriums and nightclubs, and up to 100 percent of the parking spaces required for churches may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as theaters, auditoriums, nightclubs or churches; however, a written agreement thereto shall be properly executed and filed as specified below.~~

~~(3) In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, approved as to form by the Village Attorney, shall be filed and recorded in the public records of Dade County, Florida.~~

~~(C) *Restrictions:*~~

~~(1) The storage, sale or repair of merchandise or vehicles or the display of signs or advertising devices on vehicles, structures or land, and the storage and parking of commercial vehicles as defined in subparagraph (2)(a), shall not be permitted in any off-street residential parking areas. This provision shall not prohibit persons from parking vehicles in such areas that contain information that is required by any applicable laws, ordinances or regulations, if such information is provided only to the extent and in the manner required by such laws, ordinances or regulations, nor shall it prohibit the storage or parking of such commercial vehicles in such areas when such vehicles are owned or controlled by a resident of the appurtenant building and where such vehicles nor any part of them are not visible from the public right-of-way.~~

~~(2) Except as herein provided, in any residential district, it shall be unlawful to park any commercial vehicle for a period of time in excess of two hours between 7:00 a.m. and 6:00 p.m. or at any time between 6:00 p.m. and 7:00 a.m.~~

~~(a) The term "commercial vehicle," as herein used, shall mean a motor vehicle of one-ton capacity or more or a motor vehicle or trailer of any size or capacity which is used in commerce. A motor vehicle shall be conclusively presumed to be used in commerce if the vehicle bears a sign, insignia, trademark, tradename or business designation of any nature, wherever the same may be located on the vehicle; or the vehicle is used for the transportation of persons or property for compensation. A motor vehicle will be presumed to be used in commerce if, upon visual inspection, it contains equipment and other personal property regularly, normally and ordinarily used in commerce business or trade, such as, for example, construction tools and equipment, commercial lawn mowers, tractors, ladders, paint, auto mechanics' tools, such as hydraulic jacks, tire changing equipment and towing equipment. Such presumption shall be subject to rebuttal by competent evidence.~~

~~(b) The fact that a motor vehicle used in commerce as above-described is designed for private use or is only used commercially on a part-time basis shall not abrogate or reduce the presumption of use in commerce. Provided, however, that the placement of a temporary (magnetic or otherwise) cover over the sign, insignia, trademark, trade name or business designation shall cause the vehicle to be in compliance.~~

~~(c) The foregoing prohibition shall not apply to vehicles used by licensed contractors or service establishments actually doing work on the premises reasonably proximate to the location where parked, nor to vehicles of less than one ton capacity containing federal, state or local government insignia.~~

~~(3) (a)~~

~~No truck tractor, semitrailer, tandem trailer truck or special mobile equipment as hereafter defined shall be parked or permitted on any parcel of land in any district zoned Parks or General Commercial ("GC") or Mixed Use ("MU"), except for purposes of loading or unloading and except as provided elsewhere in chapter 152 of the North Bay Village Code.~~

~~(b) Definitions. The following terms shall have the following respective meanings:~~

1. *Truck tractor.* Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed to carry a load other than a part of the weight of the vehicle and load so drawn.

2. *Semitrailer.* Any vehicle with or without motive power other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its rests upon or is carried by another vehicle.

3. *Tandem trailer truck.* Any combination of a truck tractor, semitrailer and trailer coupled together so as to operate as a complete unit.

4. *Special mobile equipment.* Any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch digging apparatus, well boring apparatus and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifies, earth moving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(b) Any person who parks, or permits parking of a truck tractor, semitrailer, tandem trailer truck or special mobile equipment in violation of section 152.041 shall be guilty of a civil infraction and subject to the procedures and penalties prescribed in chapter 153.

(D) *Driveway usage.* On-site driveways for single-family dwellings in residential districts shall be considered as off-street parking spaces, provided sufficient space is available on such driveways to meet the requirements of this subchapter.

(E) [*County-designated streets.*] The Village Manager is authorized to request Dade County Public Works to designate streets in residential districts, which are not part of the county's system of arterial highways, as restricted parking, in accordance with the restrictions provided in § 152.042(C).

(Ord. of 4-1-83; Ord. No. 85-07, 7-23-85; Ord. No. 89-01, 1-10-89; Ord. No. 90-16, §§ 1, 2, 11-27-90; Ord. No. 96-07, § 1, 9-24-96)

§ 152.042 - Design standards.

(A) *Definition.* For the purpose of this subchapter an "off-street parking space" is an all-weather surfaced area, at grade or above, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. On single lot sites only, mechanical parking lifts, which may require another automobile to be moved, may be approved within enclosed garage structures in the PRD Overlay district, if they meet the standards of section 152.0296(F)(5). When developing under the PRD regulations found in section 152.0296, mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

(B) *Paving and drainage:*

(1) All off-street parking facilities shall be surfaced with a minimum of a rolled six-inch rock base and one-inch durable weatherproof asphaltic pavement. The occupancy or use of a given structure or premises shall be prohibited until the required off-street parking area has been improved, inspected and approved.

(2) All required off-street parking facilities shall be properly drained so that no nuisance will be caused to adjacent or nearby properties. All construction shall comply with design standards as established by all applicable laws, ordinances, and regulations.

(C) *Traffic control.* Traffic control signs and pavement marking shall be used as necessary to ensure safe and efficient circulation within off-street parking areas. All traffic control measures located on private property shall be approved by the Village.

(D) *Handicapped spaces required.* Within all required off-street parking facilities of 20 spaces or more, not less than two percent of all such spaces shall be designed and allocated for handicapped usage. Such handicapped spaces shall be located as near as possible to the principal entrance of the use or structure being served and shall be clearly identified as such.

(E) *Compact spaces permitted.* Upon special approval by the Village Commission in accordance with the provisions on use exceptions, up to 20 percent of all required parking spaces may be designed specifically for small vehicles of the compact or foreign type, provided such spaces are clearly marked "for compact cars only" and collectively located in a defined area.

(F) *Space dimensions.* Required and permitted off-street parking spaces shall be clear of columns or other obstructions and have the following minimum dimensions:

Type of Space	Length	Width
Standard	20	10
Handicapped	20	13
Compact	16	8

(G) *Markings.* All off-street parking spaces shall be marked by solid stripes of at least four inches in width along each side of the space, except those sides which permit vehicle entry or abut curbs.

(H) *Wheel stops.* Wheel stops or continuous curbing shall be placed two feet from the front of all parking spaces, except those in a parallel configuration. Wheel stops shall be at least six feet in width and be of a design and material approved by the Village.

(I) *Illumination.* All off-street parking facilities, except those which serve single-family residential dwellings, shall be illuminated according to the standards contained herein.

(1) For the purpose of this section, open off-street parking facilities shall include the surface of open-to-the-sky parking spaces, driveways, and accessways. Enclosed off-street parking facilities shall include multi-level parking garages and covered grade-level parking facilities.

(2) Intensity of illumination.

(a) Open parking facilities shall provide an average illumination intensity of one footcandle equal to one lumen per square foot, and shall be well distributed on the pavement areas; however, at no point shall illumination be less than one-third footcandles.

(b) Enclosed parking facilities shall provide an average illumination intensity of 50 footcandles at the entrance, ten footcandles in traffic lanes, and five footcandles in vehicle storage areas.

(c) The most current edition of the IES Lighting Handbook, published by the Illumination Engineers Society, shall be used as a standard for the design and testing of parking facility lighting.

(3) All site plans shall include a parking facility illumination plan. That plan shall be certified by a registered architect or engineer as providing illumination in accordance with the applicable minimum standards set forth above. Subsequent construction must comply with that lighting plan. If there exists a question concerning whether the work was done in accordance with specifications, the Village may require as a prerequisite to the issuance of a certificate of occupancy that the architect or engineer who prepared the plans certify that all work was done in accordance with specifications.

(4) All required illumination shall be controlled by automatic devices.

(a) For commercial uses with open or enclosed parking facilities, the required illumination shall be provided at least 30 minutes after the closing time of any establishment served by the parking facility.

(b) Any parking facility that serves a multifamily residential use must maintain the minimum levels of illumination established by this subchapter through the use of natural or artificial light 24 hours per day.

(5) All lighting shall be shaded or screened and positioned in such a manner as to minimize offensiveness to any neighboring property.

(6) All property owners and lessees shall be responsible for the replacement or repair of any light that becomes nonfunctional and reduces the illumination below the required standard.

(7) All additional regulations, standards, and requirements stated in section 151.26 of the Village Code shall be complied with.

(J) *Landscaping.* All parking areas shall be properly landscaped according to the provisions of the current Dade County landscaping ordinance.

(K) *Right-of-way setback.* A minimum setback of 20 feet shall be required between a public street right-of-way line, exclusive of alleys, and the entrance to the nearest parking space.

(L) *Maintenance.*

(1) Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.

(2) The surface shall be maintained in a structurally sound condition and free of potholes. A pothole is defined as crack, hole, aperture or opening in the surface which penetrates beneath the asphalt layer to any depth and is of any diameter.

(M) *Separation from walkways and streets.* Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by an approved wall, fence, curbing, or other protective device.

(N) *Entrances and exits.* Location and design of entrances and exits shall be in accordance with the requirements of the Village, based upon reasonable requirements for safety traffic regulations and standards. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

(O) *Interior drives.* Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, as prescribed by the Village.

(P) *Back-out parking prohibited.* All off-street parking spaces, except those relating to single-family residential dwellings, shall be designed so that no vehicle shall be required to back into a public street right-of-way to obtain egress.

(Q) *Reduction of parking space dimensions.* Upon special approval by the Village Commission, parking stall spaces may be reduced in size to nine by 20 feet. In such instances, there shall be clearcut

demonstration that the reduction of stall space size serves the purpose of these regulations to relieve congestion in the streets, and that a reduction of size and stall space does not thereby increase the permitted density or maximum number of units of commercially used space and/or dwelling units on the property.

(Ord., passed 4-1-83; Am. Ord. 90-06, passed 5-22-90; Ord. No. 03-06, § 1, 4-8-03; Ord. No. 2015-12, § 4, 9-8-15)

Cross reference — Penalty, § 152.999.

§ 152.043 - Site plan review required.

(A) All proposed off-street parking facilities shall be subject to site plan review and approval. Whenever site plan review is otherwise required in conjunction with a specific use, that review shall satisfy the requirements of this section.

(B) Site plans shall include the following:

(1) All off-street parking facilities shall be designed with consideration given to surrounding street patterns, adjacent properties, and other neighborhood improvements. Consideration shall be given to the number of vehicles to be accommodated, hours of operation, and types of uses served.

(2) All site plans shall show the location, size, dimensions, and design of:

(a) On-site buildings and structures.

(b) Parking spaces, loading spaces, driveways, and accessways.

(c) Directional markings, traffic-control devices, and signs.

(d) Walls, fences, pervious areas, berms, changes of grade, and planting materials.

(e) Number of parking spaces required and number provided, amount of landscaping required, and amount of landscaping provided.

(f) Any other related information that may be reasonably required by the Village.

(3) When off-street parking facilities are located within an enclosed structure or upon the roof of a building, the site plan shall also include interior circulation patterns, slope of ramps, and location of interior structural columns.

(Ord., passed 4-1-83)

Cross reference — Penalty, § 152.999.

§ 152.044 - Minimum space requirements.

All uses shall be subject to the following minimum space requirements unless additional spaces may be required as the condition for securing a permitted conditional use. All fractional space requirements shall be rounded off to the next highest number.

(A) *Residential uses.*

(1) Single-family: Two spaces for each dwelling unit.

(2) Multifamily: One and one-half (1.5) space for each efficiency unit, two parking spaces for one and two-bedroom units, and three parking spaces for three-bedroom units or larger and two-bedroom units, which contain an enclosed den or other space convertible to a bedroom

~~plus an additional ten) percent of the total number of required spaces for guest parking, which shall be identified as such.~~

~~(3) Hotels, motels, and other tourist accommodations: One space for each rental sleeping unit, plus an additional ten) percent of the total number of required spaces.~~

~~(B) *Commercial uses.*~~

~~(1) Banks and financial institutions: One space for each 300 feet of gross floor area, plus sufficient area for eight stacking spaces for each drive-thru window. Drive-thru lanes shall be designed so as to be totally separated from required off-street parking spaces and driveways.~~

~~(2) Business, vocational, and trade schools: One space for each 100 square feet of gross floor area.~~

~~(3) Lodges, fraternal organizations, and union halls: One space for each 100 square feet of gross floor area.~~

~~(4) Offices (business, professional, medical, dental, or clinic): One space for each 300 square feet of gross floor area.~~

~~(5) Personal service establishments (dry cleaners, laundromats, exercise studios, and other similar uses): One space for each 200 square feet of gross floor area.~~

~~(6) Repair service establishments (shoes, watches, appliances, and other similar uses): One space for each 200 square feet of gross floor area.~~

~~(7) Restaurants, lounges, and nightclubs: One space for each 75 square feet of customer service area.~~

~~(8) Retail sales establishments: One space for each 200 square feet of gross floor area, plus sufficient area for four stacking spaces for every drive-thru window. Drive-thru lanes shall be designed so as to be totally separated from required off-street parking spaces and driveways.~~

~~(9) Service stations: Three spaces, plus three spaces for every service bay.~~

~~(10) Theaters (motion picture): One space for each three seats or other accommodations provided.~~

~~(11) Vehicle sales, rental, repair, and service operations: One space for every 400 square feet of enclosed floor area for sales or rental display, plus two spaces for each service bay.~~

~~(12) Wholesale trade establishments: One space for every 300 square feet of gross floor area.~~

~~(C) *Community facilities.*~~

~~(1) Adult congregate living facilities: Three-quarter space per living unit.~~

~~(2) Churches, synagogues, and other houses for worship: One space for each four seats in the principal assembly area.~~

~~(3) Government offices and facilities: One space for every 300 square feet of gross floor area, plus one space for every four seats in any public assembly area.~~

~~(4) Hospitals: One space for each patient bed.~~

~~(5) Marinas: One space for every boat slip or berth, plus such additional spaces as may be required for permitted uses such as retail stores and restaurants.~~

~~(6) Museums, art galleries, and libraries: One space for every 400 square feet of gross floor area.~~

~~(7) Nursing or convalescent home: One-half (½) space for each bed.~~

(8) Tennis, handball, and racquetball facilities (indoor or outdoor): Five spaces for every court, plus such additional spaces as may be required for permitted uses such as retail stores and restaurants.

(D) *Supplemental requirements.*

(1) Off-street parking requirements for those uses not enumerated but which are closely related and similar to the uses listed above shall be determined by the Planning and Zoning Board in accordance with the requirements for the listed similar use. Requirements for all nonsimilar uses shall be set by the Village Commission after a recommendation by the Planning and Zoning Board.

(2) For theaters, auditoriums, churches, or other places of public assembly in which occupants may utilize benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

(E) *Exceptions to parking requirements.*

(1) Off-street parking areas adjacent to or within a reasonable distance (the reasonableness of the distance to be determined by the Village Commission) from the premises on which parking areas are required by the parking regulations of this subchapter, where practical difficulties or unnecessary hardships are encountered in locating such parking area on the premises and where the purpose of these regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

(2) To waive or reduce the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.

(Ord., passed 4-1-83; Ord. No. 02-21, § 2, 7-23-02; Ord. No. 05-03, § 1, 3-15-05; Ord. No. 2008-25, § 1, 10-14-08)

Cross reference — Penalty, § 152.999.

§ 152.045 - Off-street loading requirements.

(A) *General regulations.*

(1) At the time of the erection of any multifamily residential or nonresidential use or at the time any such use is altered, enlarged, or increased in capacity by adding dwelling units or floor area, there shall be space provided and maintained for the loading and unloading of materials, goods, or supplies, and for delivery and shipping so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets, parking facilities, and alleys by pedestrians and other vehicles.

(2) No owner or operator of any such structure or use shall discontinue, dispense with, or cause a discontinuance or reduction in required loading facilities required herein and existing at the time of construction, use, or occupancy without establishing alternate loading facilities which meet the requirements of this subchapter.

(3) When any such structure or use is modernized, altered, converted, or enlarged with a resultant increase in floor area, additional off-street loading spaces that may be required shall be provided, and a revised site plan shall be submitted for review and approval.

(B) *Space dimensions.* An off-street loading space shall include an area of at least 12-feet wide by 30-feet long with 14½ feet vertical clearance. Each off-street loading space shall be easily accessible and arranged for convenient and safe ingress and egress by motor truck or trailer combination.

(C) *Joint usage.* Combined or joint off-street loading spaces for two or more uses may be collectively provided if off-street loading facilities are equal in size and capacity to the combined requirements of the several uses and are so located and arranged as to be usable by all.

(D) *Paving and drainage.* Proposed grading and drainage for off-street loading facilities shall be approved by the Village. All loading areas shall be surfaced with a minimum of a rolled six-inch rock base and a one-inch durable weatherproof asphaltic pavement. Loading areas shall be maintained in a manner so as to not create a hazard or nuisance.

(E) *Restrictions.* No areas supplied to meet required off-street parking facilities shall be utilized for or deemed to meet the requirements for off-street loading facilities.

(F) *Off-street loading requirements.*

Use Category	Gross Floor Area (Square Feet)	Spaces Required
(1) Retail, personal service, restaurant, or wholesale operation	under 10,000	0
	10,000—20,000	1
	20,000—40,000	2
	40,000—60,000	3
	over 60,000	4
(2) Multifamily residential use, hotel, motel, office, hospital, spa, place of public assembly, or similar use.	under 25,000	0
	25,000—50,000	1
	50,000—100,000	2
	over 100,000	3

(Ord., passed 4-1-83)

~~**Cross reference**—Penalty, § 152.999.~~

~~SUPPLEMENTAL REGULATIONS~~

~~§ 152.055 - Fences, walls, and hedges.~~

~~(A) *When required.*~~

~~(1) An eight-foot high wall, hedge, or fence shall be required along all side and rear commercial property lines which are contiguous to a residential zoned property, subject to vision clearance requirements established elsewhere in this section.~~

~~(2) All permitted outdoor storage areas in multifamily residential and commercial zones shall be visually screened from public view by an eight-foot high solid wood or masonry fence or wall.~~

~~(3) Fences or walls to be built in connection with other permitted recreational uses such as baseball backstops, tennis courts, handball courts, and the like shall be permitted at the height necessary for the particular use.~~

~~(4) All vacant lots adjacent to Kennedy Causeway shall be hedged along that portion of the lot which is adjacent to Kennedy Causeway. The hedge shall not exceed four feet in height and not be lower than two feet in height and shall be of sufficient thickness and density so as to provide a physical barrier similar in effect to a fence. The hedges shall be continuously and regularly trimmed, and any dead plants, or plants which fail to bear leaves, shall be regularly and timely replaced. The remainder of the lots shall be fenced or hedged so as to prevent the unauthorized entry of motor vehicles thereon.~~

~~(5) Concrete Block Walls. No fence, solid contiguous wall or ledge consisting of blocks or concrete shall be erected, constructed, installed or maintained in any manner parallel to the 79th Street Causeway.~~

~~(B) *Prohibitions.*~~

~~(1) No fence, wall, or hedge may be constructed, installed, or maintained within six feet of any fire hydrant or other emergency apparatus.~~

~~(2) No fence, wall, or hedge may be constructed, installed, or maintained which in any manner creates a visual obstruction to vehicular traffic. In no event shall any fence which obstructs or obscures vision, or any wall or hedge exceed four feet in height within 30 feet of the intersection of official right-of-way lines.~~

~~(3) No wall or fence shall exceed five feet in height within any required front yard setback, provided such fence or wall does not create a visual obstruction to pedestrian or vehicular traffic. Additionally, landscaping shall be required on the street side of any such wall or fence. Any concrete wall or concrete block wall shall be sustained in a finished condition. Hedges shall not exceed 12 feet in height in the RS-1 and RS-2 Districts.~~

~~(4) Walls and fences in the rear and side setbacks will be limited to a height of six feet. Hedge heights will be limited to twelve (12) feet in the front, rear and side setbacks in the RS-1 and RS-2 Districts, provided that such hedges do not interfere with vehicular traffic or visibility on public rights-of-way and are neatly trimmed. The property owner responsible for planting the hedge shall maintain the entire hedge, including the sides facing the neighboring properties in order avoid any hindrance to said neighboring property. Hedge planting is strictly prohibited within the Village right-of-way or easement area.~~

~~(5) No wood, chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, or any vinyl clad fencing will be permitted within front setbacks. (This includes all areas past the front edge of the house running towards the street.)~~

~~(6) Ornamental entrances, fountains, plant containers, and similar architectural features exceeding the wall height restriction will be permitted, provided that:~~

~~(a) No such feature shall exceed in height the wall height restriction for that district plus three feet; and~~

~~(b) There shall be only one such feature in any front, side or rear yard, except that there may be two entrance gates.~~

~~(7) Planting of vegetation in easement areas shall conform to the following:~~

~~(a) No trees may be planted within any easement or public right-of-way area as shown on the recorded plats of the various subdivisions of the Village ("easement areas"). Nothing in this section shall be construed to prohibit the planting of low growth landscaping in the easement or right-of-way areas ("easement landscaping"). Easement or right-of-way landscaping is subject to removal by the Village without notice in the event that this landscaping impedes access to these areas. The Village shall not be responsible for damage to the removed landscaping;~~

~~(b) Prior to planting such easement or right-of-way areas, a landscaping plan shall be provided to the Village for review to ensure compliance with subsection (a) above; and~~

~~(c) Prior to planting such easement landscaping in easement areas, the property owner shall execute a permission for removal, release and indemnification agreement, in a form acceptable to the Village, pertaining to such easement.~~

~~(8) *North Bay Island.* The linear footage of any property's street front Village easement or right-of-way area must maintain a greenspace (pervious) area whereby the permissible paved area is to be limited to only 40 percent of that total linear footage. The protected greenspace shall be restricted from any paving materials including but not limited to asphalt, concrete, brick, pavers, gravel or solid cover of mulch. The depth of that protected pervious area must be maintained at full easement depth from the street to the property boundaries. Any paving of the property frontage beyond the easement area (within front yard), and greater than 40 percent of the permitted linear footage must create a green landscape facade to decrease the sight line of that paved surface from the street view.~~

~~*All islands.* Front yard area may be paved up to 40 percent of the total linear footage. The balance of footage may only be paved if a greenspace is created between the Village's sidewalk and the paved area, for a depth of no less than 48 inches, and heavily landscaped to create green landscape facade to decrease the sight line of that paved surface from the street.~~

~~(9) *Nonconforming uses of land.* The lawful use of land existing at the time of the passage of this ordinance or an amendment thereto, although such uses do not conform to the provisions of this ordinance, may be continued subject to the following provisions:~~

~~(a) Front yard areas may not be increased in paved areas.~~

~~(b) All rights and obligations subject to the nonconforming use of the 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.~~

~~(C) *General requirements.*~~

~~(1) Construction and materials. No fence or wall may be constructed of materials which will be hazardous to the health, safety, or welfare of persons or animals. Fences which are erected with sheathing, pickets or slats on one side only shall have such materials placed on the side of the fence facing the adjacent property in such a manner as to conceal the structural elements of the fence from off premises view. Walls or fences constructed of concrete block shall be constructed so that the side facing away from the property on which the wall or fence is located shall be finished with stucco or some other approved material.~~

(2) Maintenance. All fences, walls, and hedges shall be maintained in a safe, attractive, and non-hazardous condition. Hedges shall not extend over or into the public right-of-way for the full height of the hedge.

(3) Maximum height.

(a) No fence or wall shall exceed six feet in height and no hedge shall exceed six feet except as may be permitted or further restricted elsewhere in this section.

(b) The height of a wall, fence, or hedge shall be the vertical distance measured from the average elevation of the finished building site to the top of the wall, fence, or hedge. The average elevation shall be measured along the wall, fence, or hedge line that the same is to be placed. The land within the area which the wall, fence, or hedge is to be placed may not be increased or decreased to effect the permitted height unless the entire building site is to be graded to level off this area.

(D) *Temporary fence around construction site.* Nothing in this section shall be deemed to prohibit the erection and maintenance of a temporary fence around construction sites on which actual construction activity is taking place pursuant to a valid active building permit. The fence may exceed the height limitations in this zoning code if the fence is constructed of solid wood (or plywood) and is decorated in an attractive and artful design as shall be determined by the Village Beautification Board. In no event shall the fence exceed eight feet in height. Chain link fences shall not be the permitted around construction sites unless screening is used with the chain link to conceal construction materials from outside view.

(E) *Existing nonconforming fences and/or walls; removal.*

(1) Intent. It is the intent of this division to recognize that the eventual elimination of existing fences that do not conform with the provisions of this chapter in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new fences that would violate the provisions of these regulations. It is also the intent of this division that there shall not be any unreasonable burden upon established private property rights.

(2) Continuance. Subject to the amortization schedule below, a nonconforming fence may be continued and shall be maintained in good condition, but shall not be:

(a) Enlarged or changed to another nonconforming fence.

(b) Reestablished after its removal.

(c) Reestablished after being damaged or deteriorated whereby the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost.

(3) It shall be the responsibility of the Code Enforcement Officer to make an inventory and a record of all nonconforming fences and to serve notice on the owners or users of such fences within 30 days after the adoption of these regulations. The period of nonconformity shall nonetheless begin as of the date of the passing of this division. The inventory shall include the following.

(a) Owner.

(b) Type of fence.

(c) Location.

(d) Reason for classification as nonconforming.

(e) Date fence was erected.

(Ord., passed 4-1-83; Am. Ord. 85-01, passed 1-22-85; Am. Ord. 85-06, passed 5-28-85; Ord. No. 93-04, § 1, 4-13-93; Ord. No. 97-03, § 1, 3-25-97; Ord. No. 02-01, § 1, 1-8-02; Ord. No. 02-

~~22, § 1, 7-23-02; Ord. No. 03-10, § 1, 6-10-03; Ord. No. 04-11, § 1, 5-11-04; Ord. No. 2010-04, § 1, 7-13-10)~~

~~**Cross reference**—Penalty, § 152.999.~~

~~§ 152.056 - Setback encroachments.~~

~~Every part of every required front, side, and rear yard setback shall be open and unobstructed from the ground to the sky except as herein provided.~~

~~(A) Cornices, roof overhangs, window air conditioning units, awnings, chimneys, and sills may extend into a required side or rear yard, provided any such extension does not exceed 36 inches into the required yard. Balconies shall be permitted to project to a distance of 48 inches into the required yard, provided there is a seven-foot clear span.~~

~~(B) A canopy shall be permitted to extend from the entrance door to the street line of any main building in multi-family residential districts. Where a sidewalk and curb exist, the canopy may extend to within 18 inches of the curb line. Such canopies shall not exceed 15 feet in width or 12 feet in height or be screened or enclosed in any manner, and shall provide an unobstructed, clear space between the grade and the bottom of the valance of at least six and one-half feet. Such canopies shall be required to be removed during hurricane warning periods.~~

~~(C) A "garden window" is defined for this subsection as a premanufactured window unit constructed to form an interior shelf or shelves enclosed by glass to serve as a miniature greenhouse for the cultivation of small potted plants. A garden window shall be permitted to extend outward from the building into a setback. A perpendicular distance not to exceed 24 inches.~~

~~(D) In the single-family zoning districts, ground mounted mechanical equipment, including air conditioning equipment, pool equipment, heat pumps, water heaters, generators and other similar equipment, may be placed in a side yard setback area; provided:~~

~~(1) The unobstructed side setback area is not reduced by more than 50 percent of what is required in the zoning district regulations; and~~

~~(2) The equipment placed in the setback area does not operate above 70 decibels; and~~

~~(3) The equipment placed in the setback area does not exceed a height of 48 inches above ground level.~~

~~(Ord., passed 4-1-83; Ord. No. 94-08, § 1, 12-13-94; Ord. No. 2014-09, § 2, 9-9-14)~~

~~**Cross reference**—Penalty, § 152.999.~~

~~§ 152.057 - Height exceptions.~~

~~Church steeples, bell towers, chimneys, tanks, decorative features, elevator lift housing, air conditioning units, or other mechanical or functional features may exceed zoning district height requirements, except as may be otherwise stipulated herein.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.058 - Towers, aerials, antennas, poles, and masts.~~

~~Prior to the erection of a water tower, standpipe, windmill, tower, aerial, antenna, pole, mast, or other vertical structure over ten feet in height above the roof of a permitted structure, or over 20 feet in height if erected at grade, the requirements of this section and the South Florida Building Code shall be observed.~~

~~(A) Plans and specifications required. Plans and specifications for the structures listed above shall be submitted to the Building Official showing all dimensions, size, and kind of members, footings, and guy wires; the location, depth, and type of guy anchors and footings; the type and weight of the antenna, apparatus, or structure to be attached to or supported by the structure; and an application made for a permit.~~

~~(B) Maximum height.~~

~~(1) The vertical height of any of the above structures shall not be greater than 90 percent of the horizontal distance from its base to the nearest adjacent street right-of-way line. Radio towers, where incidental to a business use in the commercial district, may extend to a height of 150 feet measured from ground elevation.~~

~~(2) Poles, masts, and towers for supporting antenna used in the operation of amateur radio stations, citizen band radio stations, and citizen band radio stations licensed by the Federal Communications Commission shall be excepted from the above regulations and shall be governed by the following requirements:~~

~~(a) All poles, masts, towers, and beam array antennas shall be placed not less than five feet from a public right-of-way line or adjacent property line, or nearer than one foot from any easement.~~

~~(b) All such installations shall conform to the requirements of the National Electrical Code and applicable FCC regulations, and be located not less than eight feet from any power line over 250 volts, including the beam elements or any part thereof.~~

~~(c) Permits shall be required for the installation of any poles, masts, or towers over 20 feet above the roof of any structure to which they may be attached, and for any installation over 35 feet in height when erected from grade. Applications for permits shall be accompanied by plans and specifications, three copies showing all dimensions, size and kind of members, footings and guy wires; the location, depth and type of guy anchors and footings; and the type and weight of the antenna, apparatus or structure to be attached to or supported by the structure.~~

~~(d) Poles shall be of an approved creosoted type or treated or painted with a chemical preservative and an outer coat of oil base paint before installation. The color shall match the surrounding development.~~

~~(e) The recommended depth of holes for various type poles shall be subject to acceptable engineering standards:~~

~~Pole Height Above-ground (feet)~~	~~Hole Depth In Firm Ground (feet)~~	~~Hole Depth In Rock Ground (feet)~~
~~16~~	~~3½~~	~~3~~
~~20~~	~~4~~	~~3~~
~~25~~	~~5~~	~~3~~

~~35~~	~~6~~	~~4~~
~~50~~	~~7~~	~~½~~

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~~If the earth is damp or soggy, the depth of hole is to be increased by one foot. If carrying a beam, poles must be properly guyed, as is the case where the pulling effect of the wire antenna or weight of other installations will require guying.~~

~~(f) Wood masts shall be chemically treated, painted with an outside coat of oil base paint, and suitably guyed at the top and middle in at least three different directions. Masts to support a beam, whether of wood or metal pipe, shall comply with all the applicable regulations in regard to the location, guying and the like, and the maximum allowable weight of antenna, rotator and components shall not exceed 150 pounds.~~

~~(g) Towers of steel, iron or aluminum, whether of the rigid nondemountable type or the rigid, demountable type with the crank-up, crank-down and either the hinged base or swivel crank-over features shall carry no more weight on the top than specified by the manufacturers specifications.~~

~~(h) In calculating the height of demountable type towers, the top of the lower rigid section shall be considered the top for the purpose of this section.~~

~~(i) Beam array antennas shall be mounted so as to provide easy servicing and easy access for the removal at approach of hurricanes, or provide for the lowering of such beam.~~

~~(Ord. No. 4-1-83)~~

~~**Cross reference**—Penalty, § 10.99.~~

~~§ 152.0581 - Dish antennas.~~

~~(A) *Application.* This section shall apply only to private noncommercial dish antennas as defined in subsection (B)(2). This section shall supplement and not repeal or modify the requirements of section 152.064(R).~~

~~(B) *Definitions:*~~

~~(1) *Dish antenna* means a dish antenna intended for the purpose of receiving communications from orbiting satellites and other extraterrestrial sources, a low noise amplifier (L.N.A) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building.~~

~~(2) *A private noncommercial dish antenna* is a dish antenna for a single-family residence which is erected solely for the use of its owners. Said antenna shall not be used for the purpose of obtaining revenue.~~

~~(C) *Placement.* Private noncommercial dish antennae may be permitted in North Bay Village provided:~~

~~(1) They are located in the rear yard.~~

(2) They are placed no closer to any property boundary line than a distance equal to their height as measured from ground level to the top of the antenna but in no event closer than ten feet to said property lines.

(3) On corner properties, no portion of the apparatus may extend beyond the imaginary extension of the line of the house structure.

(4) Roof-mounted dish antennae shall not be permitted except on two-story buildings with a flat roof, provided the antenna cannot be viewed from ground level, and in no instance is to exceed in height 15 [feet] above the roof.

(D) *Dimensions.* The height of dish antennas, on the ground, shall not exceed 15 feet from ground level nor shall their diameter exceed 12 feet.

(E) *Number allowed; color.* Only one dish antenna shall be allowed per single-family house, and antennas shall be neutral in color, and one color only.

(F) *Anchorage.* All dish antennae shall be anchored securely to the ground or structure in compliance with the requirements of the South Florida Building Code relative to structures.

(G) *Permit required.* No dish antenna shall be erected until a permit has been issued by North Bay Village. All applications for a permit shall be accompanied by a site plan showing the proposed location of the antenna, the type, color, height and diameter of the antenna and the proposed landscaping.

(H) *Screening.* A private noncommercial dish antenna shall be screened by landscaping on its sides so as to obscure its visibility from the abutting properties' ground view.

(I) Once installed, dish antennas and related appurtenances must be maintained in good and operable condition, and the surrounding landscaping shall likewise be continuously maintained for the intended screening purpose.

(J) *Nonconforming uses.* All dish antennas that are legally existing on October 23, 1990, shall be allowed to remain until such time that they may be replaced, or the cost of repairs exceeds 50 percent of the replacement at which time they shall conform in all respects to this section.

(Ord. No. 90-15, § 1, 10-23-90)

Cross reference— Penalty, § 152.999.

§ 152.0582 - Screening of mechanical equipment.

Lack of, or inadequate screening of, mechanical equipment can have negative visual impacts on the Village's streetscape, ambient landscape, and community image. Such impacts shall be minimized through compliance with the following requirements:

1. Mechanical equipment located on the ground, such as air conditioning units, heating units, satellite dishes, irrigation pumps, propane tank displays and refilling areas, utilities lift stations and the like shall be screened from public view. Screening shall, at a minimum be at the same height as the equipment. Structural screening shall be architecturally integrated into the overall project design and shall be compatible, in terms of style, construction materials, colors, and finish, with the principle structure(s). Landscaping may be substituted for structural screening if plantings are compatible with the landscape plan for the project and are of such size and maturity as to be able to provide a fully opaque screen at time of planting.

2. Equipment and appurtenances mounted on roof tops shall be kept to a minimum. All exposed roof top mounted equipment and appurtenances shall be fully screened from view from any public right-of-way. All screening shall, at a minimum be at the same height as the equipment and appurtenances. Screening shall be an integral part of the design of the building(s) and shall be architecturally consistent with the style, colors, construction materials and finish of the building(s).

~~Painting of exposed appurtenances to blend with the color of adjacent materials of the building may be approved where utilization of approved roof designs precludes full screening of exposed surfaces.~~

~~(Ord. No. 02-24, § 2, 10-8-02)~~

~~§ 152.059 - Boats, docks and piers.~~

~~Dockage space and facilities for the mooring of pleasure boats, yachts and other noncommercial watercraft may be permitted in any residential district on any waterway as an accessory use, provided that:~~

~~(A) No boat may be used or maintained for overnight sleeping or living purposes, as a place of residence, or for any commercial purpose.~~

~~(B) No docks, piers, mooring posts, or combinations thereof, may project more than 25 feet from any bulkhead line, nor extend nearer than seven and one-half feet to any adjacent property line. A waiver may be granted by the Village Commission pursuant to Section 150.11(A), upon completion of a marine survey demonstrating the minimum distances from the seawall necessary to meet the minimum depth requirements, approved by DERM, and completed by a licensed professional surveyor and mapper registered to practice in the State of Florida.~~

~~(C) No temporary piers, floating docks, or similar temporary moorings shall be permitted.~~

~~(D) All the regulations, standards, and requirements of Chapter 150 of the Village Code shall be complied with.~~

~~(E) Barges and vessels shall be permitted in residential districts only for loading, unloading and on-site construction, in compliance with Chapter 150.~~

~~(Ord. of 4-1-83; Ord. No. 2011-02, § 2, 2-22-11)~~

~~**Cross reference**— Penalty, § 10.99.~~

~~§ 152.060 - Swimming pools.~~

~~The Legislature finds that drowning is the leading cause of death of young children in this state and is also a significant cause of death for medically frail elderly persons in this state, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa or hot tub will reduce drowning and near-drowning incident.~~

~~In addition to the incalculable human cost of the submersion incidents, the health care costs, loss of lifetime productivity and legal and administrative expenses associated with drowning of young children and medically frail elderly persons in this state each year and the lifetime costs for the care and treatment of young children who have suffered brain disability due to near-drowning incident each year is enormous.~~

~~Therefore, North Bay Village adopts the Florida Building Code and sets forth the following parameters:~~

~~Any swimming pool operated by a residential homeowner or condominium association or by the resident of a single-family dwelling shall be permitted as an accessory use and shall exist only in conjunction with the principal use on the same lot, subject to the regulations stated herein.~~

~~(A) *Minimum setbacks.* A swimming pool may be permitted in any rear yard; however, in no instance shall it be located nearer than the following distances from any property line or structure:~~

~~Setback From~~	~~Distance (Feet)~~

~~Front~~	~~25~~
~~Side (interior)~~	~~7½~~
~~Rear or easement~~	~~7½~~
~~Structure~~	~~5~~
~~Side (corner)~~	~~15~~

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~~(B) *Access.* Exterior access to a swimming pool shall be through a self-closing and self-latching gate with latches placed at least four feet above grade and operable from the pool area only.~~

~~(C) *Drainage.* If a patio is provided adjacent to or surrounding a swimming pool, it shall be designed so as to be self-draining away from the pool.~~

~~(D) *Lighting.* Artificial lighting used to illuminate the premises shall be shielded and directed away from adjacent properties and streets, shining only on the subject site.~~

~~(F) *Height.* Swimming pools and appurtenances shall not exceed a height of two feet above grade.~~

~~(G) *Additional requirements.* In addition to the foregoing requirements, all regulations and standards of §§ 151.01 through 151.18 of the Village's Code, and the Florida Building Code shall be complied with.~~

~~(Ord. of 4-1-83; Ord. No. 2008-08, § 1, 6-10-08)~~

~~§ 152.0601 - Swimming pool, including spas and hot tub as defined in § 152.003; barriers.~~

~~Barriers must be placed around the perimeter of the pool, spa or hot tub and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, spa or hot tub that is being used as part of the barrier, and meets the barrier requirements of this chapter, chapter 151 of this Code, and the Florida Building Code.~~

~~(Ord. No. 2008-08, § 1, 6-10-08)~~

~~§ 152.0602 - Swimming pool, including spas and hot tub as defined in § 152.003; barrier construction.~~

~~A. A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide direct access from the home to the swimming pool, spa or hot tub.~~

~~B. Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:~~

~~1. All doors and windows providing direct access from the home to the pool, spa or hot tub shall be equipped with an exit alarm complying with this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code that has a minimum sound pressure rating of 85 dB.~~

~~2. At 10 feet the exit alarm shall produce a continuous audible warning when the door and its screen are opened. The alarm shall sound immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall be equipped with~~

~~a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than 15 seconds. The deactivation switch shall be located at least 54 inches above the threshold of the door. Separate alarms are not required for each door or window if sensors wired to a central alarm sound when contact is broken at any opening.~~

3. ~~All doors providing direct access form the home to the pool, spa or hot but must be equipped with a self-closing, self-latching device with positive mechanical latching/locking installed a minimum of 54 inches above the threshold, which is approved by the authority having jurisdiction.~~

4. ~~Exceptions:~~

   a. ~~Screened or protected windows having a bottom sill height of 48 inches or more measured from the interior finished floor at the pool, spa or hot tub access level.~~

   b. ~~Windows facing the pool, spa or hot tub on floor above the first story. Screened or protected pass-through kitchen windows 42 inches or higher with a counter beneath.~~

C. ~~The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool, spa and/or hot tub. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool, spa and/or hot tub. Where the top of the pool, spa or hot tub structure is above grade the barrier may be at ground level or mounted on top of the pool, spa or hot tub structure. Where the barrier is mounted on top of the pool, spa or hot tub structure, the maximum vertical clearance between the top of the pool, spa or hot tub structure and the bottom of the barrier shall be 4 inches.~~

D. ~~Maximum mesh size for chain link fences shall be a 2¼ inch square unless the fence is provided with slats fastened at the top or bottom which reduce the openings to no more than 1¾ inches. A mesh safety barrier meeting the following minimum requirements shall be considered a barrier as defined in this section:~~

1. ~~Individual component vertical support posts shall be capable of resisting a minimum of 52 pounds (229 N) of horizontal force prior to breakage when measured at a 36-inch height above grade. Vertical posts of the child mesh safety barrier shall extend a minimum of 3 inches below deck level and shall be spaced no greater than 36 inches apart.~~

2. ~~The mesh utilized in the barrier shall have a minimum tensile strength according to ASTM D 5034 of 100 lbf., and a minimum ball burst strength according to ASTM D 3787 of 150 lbf. The mesh shall not be capable of deformation such that a ¼ inch round object could pass through the mesh. The mesh shall receive a descriptive performance rating of no less than "trace discoloration" or "slight discoloration" when tested according to ASTM G 53 (Weatherability, 1,200 hours).~~

3. ~~When using a molding strip to attach the mesh to the vertical posts, this strip shall contain, at a minimum, #8 by percent-inch screws with a minimum of two screws at the top and two at the bottom with the remaining screws spaced a maximum of 6 inches apart on center.~~

4. ~~Patio deck sleeves (vertical post receptacles) placed inside the patio surface shall be of a nonconductive material.~~

5. ~~A latching device shall attach each barrier section at a height no lower than 45 inches above grade. Common latching devices which include, but are not limited to, devices that provide the security equal to or greater than that of a hook and eye type latch incorporating a spring actuated retaining level (commonly referred to as a safety gate hook).~~

6. ~~The bottom of the child mesh safety barrier shall not be more than 1 inch above the deck or installed surface (grade).~~

E. ~~The barrier may not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier as herein described below. One end of a removable child barrier shall not be removable without the aid of tools. Openings in any barrier shall not allow passage of a 4-inch-diameter sphere.~~

~~F. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool, spa or hot tub side of the fence. Spacing between vertical members shall not exceed 1¾ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.~~

~~G. Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than 1¾ inches.~~

~~H. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.~~

~~I. Where an aboveground pool, spa or hot tub structure is used as a barrier or where the barrier is mounted on top of the pool, spa or hot tub structure, and the means of access is a ladder or steps, the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements of this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter sphere.~~

~~J. Any permitted swimming pool may be enclosed by a screen enclosure, provided the enclosure is constructed of material which is 90 percent screening. Screen enclosures shall have the same minimum side setbacks as those stated above for swimming pools. They may be located up to five feet from any rear property line except where an easement in excess of five feet exists, in which case the easement line will govern. Standard screen enclosures which meet the requirements of set forth in this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code, may be utilized as part of or all of the "barrier" and shall be considered a "non-dwelling" wall.~~

~~K. Removable child barriers shall have one end of the barrier non-removable without the aid of tools. Removable child barriers must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may manage to penetrate the barrier from immediately falling into the water. Sufficiently away from the water's edge shall mean no less than 20 inches from the barrier to the water's edge. Dwelling or non-dwelling walls including screen enclosures, when used as part or all of the "barrier" and meeting the other barrier requirements, may be as close to the water's edge as permitted by this Code.~~

~~L. A barrier may not be located in a way that allows any permanent structure, equipment, or window that opens to provide access from the home to the swimming pool, spa and/or hot tub.~~

~~(Ord. No. 2008-08, § 1, 6-10-08)~~

~~§ 152.0603 - Access to swimming pools, spas and hot tubs.~~

~~Access gates, when provided, shall be self-closing and shall comply with the requirements of this chapter and chapter 151 of this Village's Code and shall be equipped with a self-latching locking device located on the pool, spa or hot tub side of the gate. Where the device release is located no less than 54 inches from the bottom of the gate, the device release mechanism may be located on either side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap from the outside. Gates that provide access to the swimming pool, spa or hot tub must open outward away from the pool, spa or hot tub. The gates and barrier shall have no opening greater than ½ inch within 18 inches of the release mechanism.~~

~~(Ord. No. 2008-08, § 1, 6-10-08)~~

~~§ 152.0604 - Adjacent waterways.~~

~~Permanent natural or permanent man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a public or private swimming pool, spa or hot tub may be permitted as a barrier when approved by the authority having jurisdiction. When evaluating such barrier features, the authority may perform on-site inspections and review evidence such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify, at a minimum, the following:~~

1. ~~The barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as provided by the code.~~
2. ~~The barrier feature clearly impedes, prohibits or restricts access to the swimming pool, spa or hot tub.~~

~~(Ord. No. 2008-08, § 1, 6-10-08)~~

~~§ 152.0605 - Swimming pools; schedule of penalties.~~

~~Failure to comply with the requirements of any section of this chapter may result in a penalty as provided in § 153 of the North Bay Village Code.~~

~~(Ord. No. 2008-08, § 1, 6-10-08)~~

~~**Cross reference**— Penalty, § 10.99.~~

~~§ 152.061 - Accessory uses and structures.~~

~~The following accessory uses and structures shall be permitted when such uses or structures are ancillary, in connection with, and incidental to, the principal use or structure allowed within the zoning district in question.~~

~~(A) *Permitted accessory uses by zoning district:*~~

~~(1) In all residential districts:~~

~~(a) Private garages or carports.~~

~~1. No solid wall exterior facades or enclosures are allowed, enclosures must create window facades proportional to the existing windows at the front of the home, and create a landscaped area in front of the enclosed garage of a depth of 24" inches and covering the width of the original garage opening; and such greenspace shall be cut out from any existing driveway material that may run up to the new enclosure, or enclosure may maintain a garage door facade.~~

~~(b) Private swimming pools, cabanas, whirlpools, saunas, spas and hot tubs.~~

~~(c) Private tennis, basketball or volleyball courts or other similar outdoor recreational uses.~~

~~(2) In all zoning districts:~~

~~(a) Television and radio antenna structures, except for those of a microwave relay or transmission nature, subject to the provisions of § 152.058.~~

~~(b) Caretaker or watchman quarters when such quarters are associated with an active construction project.~~

~~(c) Storage structures, provided no structure exceeds 150 square feet in gross floor area.~~

~~(d) Doghouse, pens, and other similar structures for the keeping of commonly accepted household pets, provided, however, the requirements of §§ 91.03 and 91.10 through 91.12 of the Village Code are complied with.~~

(e) Disaster shelters.

(B) *Special regulations.* The following regulations shall apply to all accessory uses and structures:

(1) No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

(2) All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which they are located.

(3) All accessory uses and structures shall comply with the site development standards applicable in the zoning district in which they are located, unless specifically authorized otherwise herein.

(4) All accessory uses shall be arranged and maintained so as not to encroach into any required yard setback area, unless specifically authorized otherwise within the provisions of this chapter.

(5) All accessory structures shall comply with all provisions of the South Florida Building Code, as amended.

(Ord., passed 4-1-83; Ord. No. 03-09, § 1, 6-10-03)

Cross reference— Penalty, § 152.999.

§ 152.062 - Recreational and camping equipment.

Recreational and camping equipment in the form of travel and camping trailers, truck trailers, and motor travel homes, designed and used as temporary living quarters for recreation, camping, or travel use may be parked in the open on sites containing single-family residences, subject to the following conditions:

(A) No more than one piece of recreation or camping equipment shall be parked on the site.

(B) Such parking shall be limited to the equipment owned or leased by the owner-occupant or occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-Dade County house guest of the occupant of the site concerned, with the parking of such equipment by the guest not to exceed 14 days.

(C) The location for such parked equipment shall be to the rear of the front building line and behind the side street building line, in each case the building line referred to being that portion furthest from the street.

(D) Such equipment and the area of parking shall be maintained in a clean, neat, and presentable manner and the equipment shall be in a usable condition at all times.

(E) Such equipment shall, at all times, have attached a current vehicle registration license tag.

(F) No major repairs or overhaul work on such equipment shall be made or performed on the site or any other work performed thereon which would constitute a nuisance under existing ordinances.

(G) When parked on the site, such equipment shall not be used for living or sleeping quarters, or for housekeeping or storage purposes and shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment.

(H) The maximum length permitted for such equipment shall not exceed 30 feet and the maximum height shall not exceed ten feet.

(I) Such equipment shall be so secured that it will not be a hazard or menace during high winds or a hurricane.

(Ord. of 4-1-83)

~~**Cross reference**—Penalty, § 152.999.~~

~~§ 152.063 - Construction materials on premises before permit issued; removal of materials.~~

~~Construction materials and equipment shall not be deposited on any premises, lot, or proposed building site in any district prior to the obtaining of a building permit as required herein. Surplus materials and construction equipment shall be removed from the premises if the job is abandoned, and before occupancy of the completed structure will be permitted.~~

~~(Ord. of 4-1-83)~~

~~**Cross reference**—Penalty, § 152.999.~~

~~§ 152.064 - Unusual and new uses.~~

~~Unless approved upon public hearing, the following uses or uses similar thereto shall not be permitted in any district:~~

~~(A) Amusement rides and enterprises.~~

~~(B) Amusement centers.~~

~~(C) Auction market.~~

~~(D) Auto truck or machinery salvage yards.~~

~~(E) Boat salvage.~~

~~(F) carnival and circuses.~~

~~(G) Cemeteries.~~

~~(H) Convalescent homes.~~

~~(I) Dog kennel.~~

~~(J) Funeral homes.~~

~~(K) Heliports and helipads.~~

~~(L) Homes for dependent children.~~

~~(M) Junk yards.~~

~~(N) Movie theaters (open air) or drive-in theaters.~~

~~(O) Nursing homes.~~

~~(P) Palmists and psychic readers.~~

~~(Q) Pawnbroker.~~

~~(R) Satellite and communications structures. No new satellite or communications structure or devices shall be constructed along the 79th Street Causeway.~~

~~(S) Adult congregate living facilities (ACLFs) as defined in F.S. § 400.402.~~

~~(Ord. of 4-1-83; Am. Ord. § 4-16, 12-11-84; Ord. No. 04-10, 5-11-04)~~

~~**Cross reference**—Penalty, § 152.999.~~

~~§ 152.065 - Clotheslines.~~

~~No clotheslines, drying racks, poles, railings, or other similar devices for hanging clothes, rags, or other fabrics shall be erected or maintained in a front or corner side yard.~~

~~(Ord. of 4-1-83)~~

~~**Cross reference**— Penalty, § 152.999.~~

~~§ 152.066 - Security guards.~~

~~(A) Definitions: The term security guards shall be synonymous with burglar guards and shall refer to steel bars commonly installed on the exterior or interior of doors or entryways and windows or breezeways or private residences, including free standing as well as multifamily residences and commercial and industrial buildings.~~

~~(B) No security guards may be installed on the exterior of doors and entryways, windows and breezeways on front and side elevations of buildings which face a street or public right-of-way.~~

~~(C) Continuance and removal of nonconforming security guards. A nonconforming security guard (one which is in existence at the effective date of this section) may be maintained and continued in use as a legal nonconforming use. However, no such security guard may be enlarged or replaced by another nonconforming device, and provided further that at such time as title to the property changes, said right of nonconforming use shall terminate and be of no further force and effect. Title change shall be defined to mean any change of record ownership, other than by survival or by inheritance of a tenant by the entreaties.~~

~~(Ord. No. 97-05, § 1, 4-8-97)~~

~~SIGN REGULATIONS~~

~~§ 152.075 - Purpose.~~

~~The purpose of these regulations is to create a legal framework for a comprehensive and balanced system of street graphics and signs and thereby to facilitate an easy and aesthetically pleasing communication between the public and their environment. With this purpose in mind, it is the intention of these regulations to authorize the use of street graphics and signs which are compatible with their surroundings; appropriate to the type of activity to which they pertain; expressive of the identity of individual proprietors or of the community as a whole; and legible in the environment in which they are seen. (See illustrative sketches labeled Figures 1, 2, and 3 on pages 20, 21 and 22 located in Appendix B.~~

~~(Ord. of 4-1-83; Am. Ord. 90-05, 5-8-90; Ord. No. 99-09, § 1, 9-23-99)~~

~~§ 152.076 - Definitions.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~*Sign.* An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business.~~

~~*Sign, accessory.* A supplemental sign relating to products or services sold, affiliations, or uses of the premises on which the sign is located (e.g.: credit card affiliations, brand symbols).~~

~~*Sign area.* The area of the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign. Such area shall be that total surface of one common sign structure which may be viewed from one direction of approach. Such surface area is exclusive of frame embellishment considered as border and not for the purpose of transmission of message, which additional frame surface shall not be greater than 30 percent of the total gross area. Any symbol, mural background, pole decoration, or illustrative material contributing to the meaning or promotional effect of the message shall be considered as sign surface area. The sign area shall extend to the perimeter of the area of all letters, figures, characters, clocks, thermometers, and temperature or time data devices.~~

~~*Sign area, multi-faced.* On any sign with more than one face, the maximum number of advertising surfaces visible from any location will be counted; provided, however, that all advertising surfaces of multi-faced signs shall be equal in size and height on all sides. If faces are different in size and height, each face is counted individually.~~

~~*Sign, detached.* A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a detached sign.~~

~~*Sign, directional.* A sign indicating the direction or allocation of some service or facility to a use, or indicating an instruction (e.g.: "no trespassing").~~

~~*Sign, flat.* A sign erected parallel to the face of or erected or painted on the outside wall of any building, and supported throughout its length by wall, cantilever, or marquee projections extending from the wall. The outer edge of a flat sign shall not be further than 18 inches, measured horizontally, from the building wall or extend further than the outside edge of a supporting marquee or cantilever, whichever distance is the larger; nor may the highest point of a flat sign extend more than 12 inches above the highest flat roof, parapet, or eave line.~~

~~*Sign, identification.* A sign which indicates the name of a use, owner, activity, business, or enterprise.~~

~~*Sign, outdoor advertising display (character).*~~

~~(1) *Activated sign.* Any sign which contains or uses for illumination any light, lighting device, or lights which change color flash or alternate, or change the appearance of the sign or any part thereof automatically. (For the purpose of these regulations, a slowly rotating sign, not exceeding ten revolutions per minute, illuminated but not flashing, shall not be considered an activated sign).~~

~~(2) *Animated sign.* Any sign upon which a character, letter, figure, or group or combination thereof, show movement or motion to such an extent as to be readily detected.~~

~~(3) *Banner sign.* Any sign possessing characters, letters, illustrations, or ornamentations applied to cloth, paper, or fabric of any kind, either with or without frames.~~

~~(4) *Banners, streamers, spinners, pennants.* Any device, with or without letters or symbols, erected for the purpose of attracting attention to an area or point.~~

~~(5) *Beacon light.* Any light with one or more beams capable of being directed in any direction, capable of being revolved automatically, or capable of having any part thereof revolve automatically.~~

~~(6) *Double-faced sign.* Any sign which has two display surfaces backed against each other or against the same background, one face of which is designed to be seen from one direction, and the other from the opposite direction.~~

~~(7) *Flashing sign.* Any sign in which the electrical lighting device or devices go on and off alternately, either all of such lights or lighting devices or part thereof, or are designed to cause a deliberate intensity change for the purpose of affecting attraction. Signs that alternately display only time and temperature are excluded from this definition.~~

~~*Sign, outdoor advertising display (type).* A sign which contains any letter, figure, character, mark, plane, point, marquee, poster, pictorial picture, stroke, stripe, line, trademark, reading matter, or illuminated~~

~~surface, which shall be so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever which is displayed in any manner out-of-doors. These shall include, but are not necessarily limited to, the following:~~

~~(1) *Combination sign.* Any sign incorporating any combination of the features of ground, projecting, or roof signs.~~

~~(2) *Fluorescent painted sign.* Any sign which is wholly or partially composed of letters, symbols, or characters, or the background of which is of fluorescent qualities causing a reflective light to illuminate.~~

~~(3) *Ground sign.* Any sign which is supported by uprights or braces in or upon the ground (also referred to as a *Pole sign*).~~

~~(4) *Illuminated sign.* Any sign which has characters, letters, figures, designs, or an outline illuminated by electric lights or luminous tubes, whether or not the lights or tubes are a part of the sign proper.~~

~~(5) *Marquee sign.* Any sign attached to or hung from a marquee. A marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building, building line, or property line.~~

~~(6) *Non-illuminated sign.* Any sign which is not illuminated by internal or external lights which are designed for such illumination, nor is designed with any special light-reflective surfaces.~~

~~(7) *Projection sign.* Any sign other than a wall sign which projects from and is supported by a wall, building or overhand (see Figure 1 of Appendix B).~~

~~(8) *Real estate sign.* Any structure, device display board, screen, surface, or wall with characters, letters, or illustrations placed thereto, thereon, or thereunder, by any method or means whatsoever, where the matter displayed thereon shall be used solely for the purpose of offering for sale, lease, or rent, the exact property on which the sign is placed.~~

~~(9) *Roof sign.* Any sign which is fastened to and supported by or on the roof of a building, or which extends above the highest flat roof, parapet, or eave line of a building.~~

~~(10) *Sandwich sign.* Any sign which is either single- or double-faced, is portable, and may readily be moved from place to place.~~

~~(11) *Shingle sign.* Any projection or wall sign not more than six square feet in area, constructed of metal or other noncombustible material attached securely to a building.~~

~~(12) *Snipe sign.* Any small sign of any material including paper, cardboard, wood, or metal, which is tacked, nailed, or attached in any way to trees or other objects; such sign may or may not apply to the premises.~~

~~(13) *Window sign—Permanent.* Any sign visible from the exterior of a building or structure and which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper or other material and placed on or displayed on a window for the specific purpose of identifying the proprietor or the name of the business to the passerby (see Figure 1 of Appendix B).~~

~~(14) *Window sign—Temporary.* Any sign visible from the exterior of a building or structure and which is painted, attached, glued or otherwise affixed to a window or door or depicted upon a card, paper or other material and placed on, taped on or displayed on a window for the specific purpose of attracting attention of the passerby to a sale or to promotional items or other products or services, other than the identity of the proprietor or the name of the business (see Figure 1 of Appendix B).~~

~~*Sign, outdoor advertising display usage.*~~

~~(1) *Changeable copy sign.* Any sign with a permanent, enframed surface area principally devoted to and designed for changeable text information pertaining to entertainment, menu, prices, and the like.~~

(2) *Directory sign.* Any sign which gives the name and/or occupation of the occupants of the building or gives the use of the building including office building directories, church directories, and apartment building directories. When an identification of an entity is placed on a common directory board with identical uniform style and size of letter, such entity shall not be defined as a separate sign, but rather shall be considered as a part of a directory board sign.

(3) *Identification: individual entity.* Any person who is the lessee, owner, or who has a proprietary interest in the business for which the sign is proposed. Each business shall be considered to be an individual entity. Eligibility for identification as an individual entity shall not exist when the lessee is under the same roof and with the same entrance or access or the same lessor or owner; in such case of leased floor space the occupant is not defined as an individual entity. However, eligibility for identification as an individual entity may apply to the lessee if the owner or the lessor of record makes a transfer to the Building Official or other official as designated by the Village Manager, a transfer (assignment) of all or part of his computed eligibility to the lessee.

(4) (a) *Informational sign.* Any sign which contains any combination of directory, directional, and/or explanatory information.

(b) *Sign information item.* Any syllable, group of numbers, initial, abbreviation, logo or pictograph larger than a three inches in height, with the official name of an establishment counting a maximum of four items towards the ten permitted information items.

(5) *Outdoor advertising display: off-premises (commercial advertising.)* Any sign upon which advertising matter may be painted or upon which posters may be pasted or otherwise secured to the face thereof, advertising goods, services, or other things not sold or available upon the premises upon which the sign is located.

(6) *Outdoor advertising display: premises.* Any sign advertising a product for sale or service to be rendered on the immediate premises where the sign is located.

(7) *Point of purchase sign.* Any structure, device, display board, screen, surface, or wall with characters, letters, or illustrations placed thereto, thereon, or thereunder by any means whatsoever, where the matter displayed is used for advertising a product actually or actively offered for sale thereon or therein.

(8) *Facade.* Any separate face of a building, including parapet walls or any part of a building which encloses, or covers usable space.

(9) *Frontage.* That part of a building that faces a public thoroughfare.

(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 99-09, § 1, 9-23-99)

Cross reference — Penalty, § 152.999.

§ 152.077 - Existing nonconforming signs; removal.

(A) It is the intent of this section to recognize that the eventual elimination of existing signs that are not in conformity with the provisions of these regulations, in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new signs that would violate the provisions of these regulations. It is also the intent of this section that there shall not be any unreasonable invasion of established private property rights.

(B) Any sign which is nonconforming shall adhere to these regulations within five years from the adoption of these revised regulations or be removed.

(C) Any sign, including the supporting structure, now or hereafter existing, which advertises a business no longer conducted, or a product no longer sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign may be

~~found. Such removal shall be within 30 days after notification by the Building Official or other official as designated by the Village Manager.~~

~~(D) Snipe signs and sandwich signs shall be removed immediately.~~

~~(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 99-09, § 1, 9-23-99)~~

~~**Cross reference**— Penalty, § 152.999.~~

~~§ 152.078 - Regulations and specifications.~~

~~(A) *General regulations governing signs.* Signs erected or maintained under the provisions of these regulations are subject to the following requirements:~~

~~(1) *Interference with public.*~~

~~(a) The sign must not create a traffic or fire hazard, be dangerous to the general welfare, or interfere with the free use of public streets or sidewalks.~~

~~(b) Safety requirements.~~

~~1. No sign shall be erected or maintained at any location in such a manner as to obstruct free and clear vision at the intersection of any streets or other public ways. No sign shall be erected or maintained at any location where, by reason of the position, illumination, shape, or color it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, nor shall it make use of the words, "STOP," "LOOK," "DANGER," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the motoring public.~~

~~2. Intensely lighted areas created for the purpose of sales attraction, may be considered to be distractive displays. Such displays may be a hazard to the safe passage of vehicular traffic and divert attention from certain necessary traffic controls or pedestrian crossing zones. Such intensely lighted areas may be prohibited at certain locations by the Police Department and confirmed by the Village Commission.~~

~~(2) *Repair and maintenance.* All signs must be kept in good condition, neat appearance, and good state of repair. Any sign more than 50 percent destroyed must be immediately removed at the owner's expense and a new permit secured before the sign is replaced. If a damaged sign is not repaired within 90 days, the sign shall be deemed to constitute a public nuisance and shall be removed at the owner's expense.~~

~~(3) *Avoidance of fire hazard.* Weeds shall be kept cut and debris shall be kept clear within a ten-foot area of any sign.~~

~~(4) *Imprint of owner's name.* All signs requiring permits shall be marked with the owner's name, date, and number of the permit.~~

~~(5) *Obstruction of doors, windows, and fire escapes.* No sign shall be attached to or be placed against a building in such a manner as to prevent ingress or egress through any door or window of any building, nor shall any sign obstruct or be attached to a fire escape.~~

~~(6) *Posting or tacking notices and signs.* No person shall paint, paste, print, nail, or fasten in any manner whatsoever, any banner, sign, paper, or any advertisement or notice of any kind, or cause the same to be done, on any curbs tone, pavement, or any other portion or part of any sidewalk or street, or upon any trees, lampposts, parking meter posts, telephone or telegraph poles, hydrants, or workshops, or upon any structure within the limits of any streets within the Village.~~

~~(7) *Removal of signs for right-of-way acquisitions.* All signs shall be removed by the owner, at no expense to the Village, when such signs are found to be within the right-of-way of present or future roads. This exception to relocation and permit limitations shall cover only lateral (right~~

~~angle) relocations to the road right-of-way and shall require a building permit. This statement shall not supersede federal or state statutes and regulations.~~

~~(B) *Regulations governing specific type signage.* Prohibited sign situations:~~

~~(1) Off-premise outdoor advertising display (commercial advertising) signs.~~

~~(2) Signs within or upon public property and rights-of-way.~~

~~(3) Pole (ground) signs projecting over rights-of-way.~~

~~(4) Flashing, activated, and animated signs.~~

~~(5) Pennants, streamers, spinners, advertising balloons and all other fluttering, spinning, or similar type signs and advertising devices.~~

~~(6) Roof signs.~~

~~(7) Snipe and sandwich signs.~~

~~(8) Provided, however, that national flags and flags of political subdivisions of the United States; flags of bona fide civic, charitable, fraternal, and welfare organizations; banner signs; and, during nationally recognized holiday periods, pennants, banners, streamers, and other fluttering, spinning, or similar type advertising devices pertaining to said holiday periods, may be provided on a temporary basis as provided below in this subchapter.~~

~~(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 99-09, § 1, 9-23-99)~~

~~**Cross reference**—Penalty, § 152.999.~~

~~§ 152.079 - Sign permits and fees.~~

~~(A) No sign shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this subchapter and in these regulations, until a permit has been issued by the Building Official or other official as designated by the Village Manager.~~

~~(1) Before any permit is issued, an application, including written approval of the owner of the property, shall be filed, together with five sets of drawings or specifications (one set to be returned to the applicant upon disposition of the application) as may be necessary to fully advise and acquaint the Building Official or other official as designated by the Village Manager with the location, construction materials, manner of illuminating and securing or fastening, number of signs applied for, and the wording of the sign or advertisement to be carried on the sign. For buildings over three stories, the scale shall be 1/8" = 1' 0". A separate scaled drawing shall be prepared at ½ = 1' 0" showing dimensions, sizes, colors, materials, and method of installation.~~

~~(2) All signs which are electrically illuminated shall require a separate electrical permit and inspection. All signs shall be erected on or before the expiration of 60 days from the date of issuance of the permit; otherwise, the permit shall become null and void and a new permit shall be required.~~

~~(B) The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Building Official or other official as designated by the Village Manager.~~

~~(C) The Building Official or other official as designated by the Village Manager shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within ten days after receiving written notice of the violation. Removal of a sign by the Building Official or other official as designated by the Village Manager shall not affect any proceedings instituted prior to the removal of the sign.~~

~~(D) Fees for sign permits shall be in accordance with the schedule adopted by ordinance, a copy of which is maintained in the office of the Building Official or other official as designated by the Village Manager.~~

~~(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 99-09, § 1, 9-23-99)~~

~~§ 152.080 - Exempted signs.~~

~~The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the South Florida Building Code and in accordance with § 152.083.~~

~~(A) Official traffic signs or sign structures, and provisional warning signs or sign structures, when erected or required by a government agency.~~

~~(B) Changing of the copy of a bulletin board, poster board, display encasement, or marquee.~~

~~(C) Temporary nonilluminated signs, as permitted by the district regulations, advertising real estate for sale or lease, or announcing contemplated improvements of real estate, and located on the premises.~~

~~(D) Temporary nonilluminated signs, as permitted by the district regulations, erected in connected with new construction work and displayed on the premises during such time as the actual construction work is in progress. Once the construction work has been completed, such signs shall be removed immediately.~~

~~(E) Signs on a truck, bus, or other vehicle while in use in the normal course of business, provided that no such vehicle with attached signs shall be parked on public or private property for the purpose of advertising a business or firm or calling attention to the location of a business or firm.~~

~~(F) Temporary political signs within commercial districts.~~

~~(G) In the commercial districts, nonilluminated signs not exceeding 15 square feet in area with letters not exceeding six inches in height which are painted, stamped, perforated, or stitched on the valance area of an awning, canopy or roller curtain. Signs shall be limited to the name of the owner or trade name of the business and the street number of the business.~~

~~(H) Signs posted by the Village.~~

~~(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 92-05, § 1, 10-13-92; Ord. No. 99-09, § 1, 9-23-99)~~

~~§ 152.081 - Temporary sign permits.~~

~~The Building Official or other official as designated by the Village Manager, upon application as required in § 152.079, may issue temporary permits for signs and displays for a period of up to 90 days (including one renewal period up to an additional 30 days) when, the use of such signs and displays would be in the public interest and would not result in damage to private property, such as but not limited to the following:~~

~~(A) Signs advertising a special civic or cultural event, such as a fair or exposition, play, concert, or meeting sponsored by a governmental or charitable organization.~~

~~(B) Special decorative displays used for holidays, public demonstrations, or promotion of nonpartisan civic purposes.~~

~~(C) Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.~~

~~The Building Official is authorized to grant administrative approval for request for temporary signs that exceeds the size requirements up to a maximum size of 60 square feet, upon proper application for a Building Permit.~~

~~(Ord. of 4-1-83; Ord. No. 99-09, § 1, 9-23-99; Ord. No. 2008-12, § 1, 9-3-08)~~

~~§ 152.082 - Removal of signs.~~

~~(A) Any sign previously associated with a vacated premises shall be removed from the premises by either the owner or lessee not later than 30 days from the time such activity ceases to exist.~~

~~(B) Political signs shall be removed within seven days after the last election in which the candidate or issue was on the ballot.~~

~~(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 99-09, § 1, 9-23-99)~~

~~**Cross reference**— Penalty, § 152.999.~~

~~§ 152.083 - District sign regulations.~~

~~(A) *Single-Family Residential (RS-1, RS-2) Districts.* No sign will be allowed in these districts except the following, or signs otherwise exempted in this subchapter:~~

~~(1) A nameplate (identification sign), not to exceed one square foot in area, nonilluminated, to identify the owner or occupant of the dwelling or building.~~

~~(2) A private directional sign, nonilluminated, not to exceed one square foot in area.~~

~~(3) One temporary non-illuminated real estate sign per parcel not to exceed 18" × 18." One "rider" sign not exceeding two inches vertically and the width of the base sign horizontally may be suspended from or attached to the base sign. Nothing contained herein shall be construed as prohibiting the same wording from being on both the front and back of the base and rider sign. The sign (including the rider) shall also be subject to the following conditions and restrictions:~~

~~a. Unless there is a wall or building closer upon which the sign may be placed, it shall be located on the owner's property at least five feet from any sidewalk, the sign may be placed no closer than five feet from the edge of the pavement. The top of the sign shall not be more than four feet above the finished grade of the ground. Any such sign shall be immediately removed upon the sale or lease of the lot and/or improvements upon which it is displayed.~~

~~b. The sign shall be constructed of metal, plastic, wood, or pressed wood. Said signs shall be fastened to a supporting member constructed of angle iron not exceeding one inch by one inch or two inches by two inches for a wooden post. Said supporting members shall be all white or black in color and have no letters or numbers upon it.~~

~~c. Where such sign is suspended from an arm of the support, such arm shall not exceed a length of 16 inches.~~

~~d. The sign shall be placed so that its center line is parallel or perpendicular to the front property line.~~

~~e. Only one sign shall be permitted on any one premises, provided, however, that where the property abuts a waterway, a sign may also be placed to be visible from such waterway with a setback from the waterway of not less than ten feet.~~

~~f. The sign shall be kept in good repair and shall not be illuminated or constructed of a reflective material. Flags, streamers, movable items or like devices shall not be attached to the sign.~~

~~(4) One temporary nonilluminated political sign per parcel not to exceed three square feet in area.~~

~~(B) *Multifamily Residential (RM-40, RM-70) Districts.* No sign will be allowed in these districts except the following, or signs otherwise exempted in this subchapter:~~

~~(1) Accessory signs and directional signs, all nonilluminated, and, individually, not to exceed an area of one square foot, except that illuminated fire exit signs, as required by the South Florida Building Code, shall also be permitted.~~

~~(2) One temporary nonilluminated sign per building or on such permit unit basis as may be allowed by applicable condominium or homeowners association bylaws, rules and regulations, such sign not to exceed 12 square feet in area in RM-40 Districts and not to exceed 24 square feet in area in RM-70 Districts, advertising real estate for sale or for lease, or announcing contemplated improvements of the premises on which the sign is located.~~

~~(3) One temporary nonilluminated political sign per building or on such per unit basis as may be allowed by applicable condominium or homeowners association bylaws, rules and regulations, such sign not to exceed 12 square feet in area in RM-40 Districts and not to exceed 20 square feet in area in RM-70 Districts.~~

~~(4) A permanent, nonilluminated, flat or detached identification sign, not to exceed 24 square feet, identifying the name and/or address of a multifamily dwelling, group of multifamily dwellings, or the name of the motel or hotel. In the case of a detached sign, it shall not be located in any required rear or side yard setback area, nor closer than ten feet from the front property line, nor shall any part of the sign be more than ten feet above the ground.~~

~~(5) Nonilluminated signs not exceeding 15 square feet in area with letters not exceeding six inches in height which are painted, stamped, perforated, or stitched on the valance area of an awning, canopy, roller curtain. Signs shall be limited to the name of the owner and the street number of the building.~~

~~(6) A temporary nonilluminated sign, not to exceed 40 square feet, erected in connection with new construction work and displayed on the premises only during the progress of actual construction. Once construction has been completed, the sign shall be removed immediately.~~

~~(C) *Commercial (CG, CL) Districts.* No sign will be allowed in these districts except the following, or signs otherwise excepted in this subchapter:~~

~~(1) Accessory signs and directional signs, all nonilluminated, and, individually, not to exceed an area of one square foot, except that illuminated fire exit signs, as required by the South Florida Building Code, shall also be permitted.~~

~~(2) A temporary nonilluminated real estate sign, not to exceed 24 square feet, advertising real estate for sale or for lease. A temporary nonilluminated sign may announce contemplated improvements of real estate, provided such sign does not exceed 24 square feet. Political signs are exempt from application of § 152.083(C).~~

~~(3) A temporary nonilluminated sign, not to exceed 40 square feet, erected in connection with new construction work and displayed on the premises only during the progress of actual construction. Once construction has been completed, the sign shall be removed immediately.~~

~~(4) A permanent flat illuminated or nonilluminated sign may be erected on one facade of a building or each portion of a building occupied by a separate commercial or office use, provided the sign does not exceed an area equal to ten percent of the area of the facade upon which it is erected, and for any single establishment user, contains no more than ten sign information items. For calculation purposes, the maximum single building storefront is limited to 75 feet, the maximum storefront 15 feet. In the case of a commercial or office use located on the ground floor of a multistory building, only the first floor facade area shall be used for the purpose of calculating the permissible sign area. Where an establishment fronts on more than one street, the above area of signs may be permitted on each street frontage; however, signs on side frontages will not be permitted if they face a residential area. Signs shall not be permitted on any wide bay frontage.~~

(a) All adjacent contiguous retail and service establishments located in premises under the same ownership shall be required in lease agreements to maintain all permanent sign lettering and background in the same style and color.

(b) For existing commercial establishments, facade signage may be increased to 11 percent of the total building facade and a total of 11 sign "items" per establishment may be used when all the lettering and background is uniform in style and color for signs in a shopping center or for any three consecutive separate establishments. Uniform agreements must be made a part of any lease or deed restriction.

(5) (a) A projection sign, placed at an angle of 90 degrees from the building and clearing the sidewalk by eight feet. It shall project no more than four feet from the building or one-third of the sidewalk width, whichever is less, and be spaced no less than 50 feet apart unless displaying symbols only in which case there is no restriction on proximity (see Appendix B).

(b) All adjacent contiguous, retail and service establishments located in premises under the same ownership shall be required in lease agreements to maintain all projection signs, materials, lettering and background in the same style and color.

(6) A permanent detached illuminated sign may be permitted, not to exceed a total area of 100 square feet per side. When a single building on the property consists of two or more different commercial or office occupancies, an additional one square foot of sign area shall be permitted for each six lineal feet of street frontage in excess of 50 feet; however, the total sign area for a building with multiple occupancy shall not exceed 160 square feet in any case, nor may there be more than one detached sign on the property. No part of such detached signs shall be located in the side or rear yards, nor shall any detached sign be located closer than ten feet from the front property line. No detached sign shall exceed a height of 24 feet above the ground.

(7) A temporary sign may be attached to street frontage windows. However, the total area of such signs shall not exceed ten percent of the total area of such windows and doors or within five feet of the rear of the window (see Appendix B).

(Ord. of 4-1-83; Am. Ord. No. 90-05, 5-8-90; Ord. No. 92-05, § 2, 10-13-92; Ord. No. 96-05, § 1, 5-28-96; Ord. No. 97-06, § 1, 4-24-97; Ord. No. 97-07, § 1, 8-26-97; Ord. No. 99-09, § 1, 9-23-99; Ord. No. 02-07, § 1, 3-26-02; Ord. No. 07-12, § 1, 9-11-07)

Cross reference—Penalty, § 152.999.

§ 152.084 - Variances, planning.

There might be instances in which relief from the strict requirements of the sign ordinance would result in improved planning or zoning, and would benefit the community. The standards for granting the planning variance are:

(A) The sign variance must relate to a particular piece of land;

(B) The sign variance can be granted without substantial detriment to the public good;

(C) The benefits of the deviation would outweigh any detriment; and,

(D) The variance would not substantially impair the intent or purpose of the Village's Comprehensive Plan and/or Zoning Ordinance.

(Ord. No. 99-09, § 1, 9-23-99)

ADMINISTRATION

~~§ 152.095 - 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. 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.~~

~~(Ord. of 4-1-83)~~

~~§ 152.096 - Hearing and notices.~~

~~(A) All applications for amendments to these regulations and boundaries of the Zoning District Map; for variances special use exceptions and other applications for development approval; for an amendment, change, or supplement to the comprehensive plan or appeals of an administrative decision shall be considered at public hearings before the Planning and Zoning Board and the Village Commission.~~

~~(1) 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.~~

~~(2) The comprehensive plan and land development regulations shall be amended by ordinance, and the notice and hearing requirements shall be as provided by §2.6.1 of the Land Development Regulations. Amendments to the Zoning Map and to the actual list of permitted, conditional, or prohibited uses within a zoning category shall be by ordinance, and the notice and hearing requirements shall be as required by F.S. § 166.041(3)(a) and (c); provided, however, for amendments that require two public hearings by the Village Commission, the second hearing shall be advertised at least 10 days before the public hearing. Notice of public hearings before the Planning and Zoning Board and Village Commission shall be given by publishing the time, place, and nature of the hearing at least ten days after the date that the advertisement is published. Notice of the date, time, place, and nature of the hearing shall also be posted conspicuously for a period of at least ten days prior to the hearing on any property for which a petition for a variance, special use exception, or zoning district boundary change has been submitted. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land containing ten contiguous acres or less, notice of the public hearing on the proposed change shall be given to property owners at least 30 days prior to the date set for the public hearing, as required by F.S. § 166.041(3)(c)1. As a courtesy notice, a written announcement of a public hearing shall be mailed at least 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. The failure to mail this courtesy notice shall not affect the validity of the final action.~~

~~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.~~

~~(B) Notice to adjacent municipalities. When any proposed change of a zoning district boundary lies within 500 feet of the boundary of a municipality, notice of the proposed change, together with the date, time, and place of the public hearing shall be forwarded to the planning board, if such exists, or the governing body of the municipality, in order to give the municipality an opportunity to appear at the hearing and express its opinion on the effect of the boundary change.~~

~~(C) Withdrawal of petition or request for postponement. Any petition may be withdrawn by a request in writing from the petitioner at any time before a decision by the Village Commission; however, filing fees shall not be refunded upon any withdrawal. Postponement of a scheduled hearing will normally not be granted unless evidence which is vital to the decision is unavoidably missing or there is objective evidence of the illness or incapacity of a principal.~~

~~(Ord. of 4-1-83; Ord. No. 02-19, § 4, 6-25-02)~~

~~§ 152.097 - Variances.~~

~~(A) The 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. However, under no circumstances shall the Village Commission grant a variance to permit a use not permitted in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in that district.~~

~~(B) In order to authorize any variance from the strict application of the provisions of this Ordinance, the Village Commission must and shall find:~~

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

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

~~(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.~~

~~(C) In order to recommend approval of a variance, or grant a variance, the Planning and Zoning Board, or the Village Commission, as the case may be, must make an affirmative finding with respect to the criteria contained in division (B) above. These findings may be made by one motion addressed to all three 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. The findings shall be made prior to the vote on the application. The variance application shall be considered as a whole unless any member of the Planning and Zoning Board, or Village 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. 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.~~

~~(Ord., passed 4-1-83; Am. Ord. 85-04, passed 5-14-85)~~

~~§ 152.0971 - Non-use variances.~~

~~(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 Village Commission may consider requests for non-use variances 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.~~

~~(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 variance request is to be considered shall be provided in writing by regular mail posted at least seven days prior to the meeting to all property owners and residents of property abutting the subject property and immediately across the street.~~

~~(Ord. 89-04, passed 11-14-89; Ord. No. 93-03, §§ 1, 2, 4-13-93)~~

~~§ 152.098 - Use exceptions.~~

~~(A) In order to provide for adjustment in the relative locations of uses and buildings of the same or of different classifications; to promote the usefulness of these regulations as instruments for fact-finding, interpretation, application, and adjustment; and to supply the necessary flexibility to their efficient operation, special use exceptions are permitted by these regulations.~~

~~(B) The Village Commission may permit the following buildings and uses as special exceptions, provided there are clear indications that such exceptions will not substantially affect adversely the uses permitted in these regulations of adjacent property.~~

~~(1) Day nursery.~~

~~(2) Religious institution.~~

~~(3) Private or commercially operated swimming pools or tennis courts, when not a permitted accessory use, and commercial recreational facilities.~~

~~(4) Exposition center, civic center, art gallery.~~

~~(5) Golf course, marina.~~

~~(6) Public buildings and facilities.~~

~~(7) Public utilities or public service uses, and appurtenances thereto.~~

~~(8) Structural alterations to special uses, after these uses are approved by the Village Commission.~~

~~(9) Other special uses as may be enumerated in specific zoning districts.~~

~~(10) Reserved.~~

~~(Ord., passed 4-1-83; Ord. No. 02-04, § 2, 1-22-02)~~

~~§ 152.099 - Appeal of administrative decisions.~~

~~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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.100 - Amendments and changes to zoning, comprehensive plan regulations.~~

~~(A) The Village Commission may, from time to time, after a public hearing, 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) Spot zoning.~~

~~(1) Spot zoning shall be prohibited with regard to all amendments or changes in the district boundaries of the Zoning District Map or these regulations, and the granting of variances, special use exceptions, or appeals of administration decisions shall avoid spot zoning, spot zoning, for the purposes of these regulations, is defined as having one or more of the following characteristics:~~

~~(a) Individuals seeking to have property rezoned for their private use, with the application showing little or no evidence of consideration of the general welfare of the public, the effect on the surrounding property (including adequate buffers), whether all uses permitted in the classification sought are appropriate to the location proposed, or conformity to the comprehensive master plan or 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 is small (one acre or less).~~

~~(c) The proposed rezoning would grant privileges not generally extended to property similarly located in the area.~~

~~(2) 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.~~

~~(C) 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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.101 - Planning and zoning board; authority and duties.~~

~~(A) 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; amendments; changes in the district boundaries of the Zoning District Map; or petitions appealing an administrative decision. 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.~~

~~(B) 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.~~

~~(C) Decisions.~~

~~(1) 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.~~

~~(2) 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.~~

~~(3) 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.~~

~~(Ord., passed 4-1-83)~~

~~**Cross reference** — Establishment, organization of Planning and Zoning Board, §§ 32.30 — 32.34.~~

~~§ 152.102 - Action by Village Commission.~~

~~(A) If an application is before the Village Commission pursuant to this subchapter, 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. In making any final decision, the Commission shall be guided by these regulations and the purposes thereof stated in § 152.107 of this subchapter, and by sound comprehensive planning and zoning principles, and may take any action within the confines of such guides and standards. The action of the Commission may impose conditions or be more restrictive than any petition being considered. No further variances may be granted without prior notice and hearing before the Planning and Zoning Board. 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.~~

~~(B) Before action is taken by the Village Commission on any petition, the Commission shall consider the recommendations and reports of the Planning and Zoning Board and of the Building Official and Plan Examiner.~~

~~(C) 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 a all of the members of the Village Commission.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.103 - Lapse of special exception or variance.~~

~~After the Village Commission has approved a special use exception or granted a variance, the special use exception or variance so approved or granted shall lapse after the expiration of one year, measured from the date of final Commission action, if no substantial construct ion or change of use has taken place in accordance with the plans for which the special use exception or variance was granted.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.104 - 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 a 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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.105 - Permits, plans, models and specifications fees.~~

~~(A) *Permits.*~~

~~(1) No building shall be erected, constructed, altered, moved, converted, extended, or enlarged except in conformity with the provisions of the building and zoning regulations of the Village and the Florida Building Code, and where governed by Miami-Dade County or state laws, shall have the prior approval of the appropriate county or state official. The Building Official and Plan Examiner shall certify that the plans and specifications (submitted in accordance with division (B) of this section) meet all of the requirements of the above-mentioned regulations prior to issuance of a building permit.~~

(a) No temporary building permits are to be issued for the structure, based on incomplete plans, which leave open to question whether or not all regulations are being met.

(b) If the plans and specifications require variances or special use exceptions, such variances or special use exceptions shall have prior approval of the Village Commission at a public hearing. No permit shall be valid unless the Building Official has first received and reviewed the decisions of the Village Commission and determined that the complete plans are in conformance therewith.

(2) If charges are to be made after issuance of a building permit which affect the size, location, or type of use of the building, structure, or property, such changes shall be shown and submitted in corrected copies of the plans and specifications. The changes shall not be made in the building, structure, or property until the corrected plans and specifications have been certified by the Building Official as also having met all requirements of the regulations.

(3) No building permit lawfully issued by the Building Official prior to the effective date of these regulations or of any amendments hereto, and which permit by its own terms and provisions is in full force and effect at said date, shall be invalidated by the passage of these regulations or any such amendment, but shall remain a valid permit, subject only to its own terms, provisions, ordinances, rules, and regulations appertaining thereto and in effect at the time of the issuance of the permit. However, all such permits shall expire not later than 60 days from the effective date of these regulations unless actual construction has begun and continued pursuant to the terms of the permit.

(B) *Plans and specifications.* All applications for a permit to erect, construct, alter, move, convert, extend, or enlarge a building or structure shall be accompanied by three sets of plan specifications, detailed and prepared in accordance with the requirements of the Florida Building Code, or as may be required by the Building Official and Plan Examiner. The drawings shall include a survey prepared by a registered land surveyor showing, at a scale of not less than 1/16 -inch to the foot, the lot lines, building or buildings and their location on the lot, and such other information as may be necessary to provide for the enforcement of these regulations. The drawings shall contain suitable notations indicating the proposed use of all land and buildings. A careful record of the original copy of such applications and the approved plans and specifications shall be kept in the office of the Village Clerk and a duplicate copy shall be kept in Village Hall at all times.

(C) *Site plan and model required.* For any proposed development or redevelopment within the Village other than a single-family residence, a site plan and an architectural model built to scale shall be required and furnish to the Village Manager, or his/her designee. Within 10 days prior to the Planning and Zoning Board public hearing, the applicant shall make available for viewing an architectural model and photographs depicting same. Said model shall be retrieved by the developer within 30 days following the final public hearing before the Village Commission, and the photographs depicting the model shall become a part of the public records. Said model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that all setbacks for the new structure shall not conflict with the existing or approved structure on either side of the proposed structure.

Approval of the site plan shall meet the requirements of § 152.095. The site plan shall include but not be necessarily limited to the following material, including conformance with all 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 owner ships 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) Site plans for a building or buildings which contain more than two 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. 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. 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:~~

~~(a) Protects against and minimizes any undesirable effects upon contiguous and nearby property.~~

~~(b) 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.~~

~~(c) Provides a sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.~~

~~(d) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.~~

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

~~(10) 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 Sections 152.095 and 152.105(C) may be approved by the Village Manager upon recommendation of the Village Planner 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 North Bay Village's Code of Ordinances.~~

~~(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 North Bay Village's Code of Ordinances. 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 North Bay Village's Code of Ordinances. 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 North Bay Village's Code of Ordinances 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 (a)(1) or (a)(2), provided that the modification shall be substantially consistent with the approved site plan and not in violation of North Bay Village's Code of Ordinances or any applicable state of 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 North Bay Village's Code of Ordinances.~~

~~(b) Any modifications approved by the Village Manager upon recommendation of the Village Planner pursuant to this Section 152.105(C)(10) 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) 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).~~

~~(2) Modifications to an approved site plan approved pursuant to this subsection 152.105(C)(10) shall take effect upon approval by the Village Manager, upon recommendation of the Village Planner.~~

~~(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), hearing and notices, of North Bay Village's Code of Ordinances.~~

~~(11) Site plans approved in accordance with these regulations shall expire two years following final approval by the Village Commission. Such Site Plans may be granted no more than two one-year renewals subject to approval by the Village Commission. Site Plans already approved shall expire four 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.~~

~~(D) *Filing fees.*~~

~~(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 a in the newspaper, and notices to property owners as provided in this Chapter.~~

~~(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.~~

~~(E) *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.~~

~~(F) *Errors and violations.*~~

~~(1) 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. No permit presuming to give the authority to violate or cancel the provisions of this chapter shall be valid except insofar as the work or use which it authorizes is lawful.~~

~~(2) 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, or any ordinance of the Village.~~

~~(Ord., passed 4-1-83; Am. Ord. 84-17, passed 12-11-84; Ord. No. 02-13, § 1, 5-28-02; Ord. No. 2006-18, § 1, 11-8-06; Ord. No. 07-11, § 1, 9-11-07; Ord. No. 2008-07, § 1, 6-10-08; Ord. No. 2012-02, § 2, 4-10-12)~~

~~§ 152.106 - Certificate 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) 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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.107 - 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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.108 - 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.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.109 - 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, is hereby repealed.~~

~~(Ord., passed 4-1-83)~~

~~§ 152.110 - Filing fees and cost recovery.~~

~~A. *Consultants.*~~

~~1. The Village Manager and/or his/her designee as part of the review of any development application presented to the Village, may refer any such application to such engineering, planning, legal, technical, environmental, or other professional(s) consultants employed or retained by the Village ("consultant(s)") as the manager shall deem reasonably necessary to enable him/her to review such application as required by law.~~

~~2. Charges made by such consultants shall be made in accordance 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 the consultant.~~

~~3. The consultant's services shall be charged at the hourly rates specified in the particular consultant's agreement with the Village. The Village shall provide the applicant with a copy of the consultant's invoice for any services charged against the applicant's cost recovery deposit.~~

~~B. *Cost recovery established.*~~

~~1. The applicant shall reimburse the Village for the actual cost of Consultant or employed professional review services pursuant to the cost recovery procedures and requirements of subsection C below.~~

~~2. Payment in full by the applicant to the Village of the Village's actual expenditures for review of the application shall be a written condition of any development order. These cost recovery deposits~~

~~fees shall be in addition to any and all other fees required by law, rule, or regulation of the Village Code.~~

~~C. *Cost recovery procedures.*~~

~~1. At the time of submission of any application for development approval, the applicant shall pay the minimum cost recovery deposit fee outlined in the development approval fee and cost recovery deposit schedule set forth in this section, which funds shall be deposited into a cost recovery escrow account established for this purpose. Withdrawals shall be made to reimburse the Village for the cost of consultant services.~~

~~2. The Village shall provide the applicant with a copy of the consultant's invoice for any services charged against the applicant's cost recovery escrow account.~~

~~3. When the balance in the Village's cost recovery escrow account is reduced to one-half (½) 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 30 calendar days after the applicant is notified, in writing, of the requirement of such additional deposit, the Village may shall suspend its review of the application and the application shall be deemed withdrawn.~~

~~4. If an application is suspended due to nonpayment of the additional escrow deposit specified in subsection 3, a resubmission fee shall be paid and the cost recovery deposit shall be replenished to a minimum of one-half of the original deposit amount before the application will be reviewed.~~

~~5. Prior to the scheduling or noticing of any board or commission hearing, the Village Manager's review of the application shall be complete and the cost recovery escrow account balance shall be replenished to equal at least one-half of the initial deposit amount.~~

~~D. *Review of consultant's charges.* Upon a determination by the Village Manager or his/her designee that there has been a miscalculation concerning a consultant's fees, the Village Manager or his/her designee is authorized to review the charges and issue a credit or refund a portion of the cost recovery deposit.~~

~~E. *Schedule of fees and cost recovery deposits.* No new development application shall be accepted and no building permit or certificate of occupancy shall be issued for any 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. All fees and cost recovery deposits shall be paid according to the development approval fee and cost recovery deposit schedule below:~~

~~Development Approval Fee and Cost Recovery Deposit Schedule~~

~~Type of Request~~	~~Filing Fee~~	~~Cost Recovery Deposit*~~
~~Land use plan map/comprehensive plan text amendments~~	~~$2,000.00~~	~~$10,000.00~~
~~Rezoning or code text amendment~~	~~$2,000.00~~	~~$10,000.00~~
~~Site plan review~~		
~~- Residential - 1 unit, existing commercial~~	~~$1,000.00~~	~~$2,000.00~~
~~- Residential over 1 unit, new commercial~~	~~$1,000.00 BASE~~	~~$6,000.00~~

~~(BASE + SIZE/UNIT FEES)~~		
~~SIZE/UNIT FEES~~		
~~Size of building (non-residential, square feet) Fee~~		
~~399 and under~~	~~$700.00~~	
~~400—19,999~~	~~$1,100.00~~	
~~20,000—99,999~~	~~$2,500.00~~	
~~100,000 and over~~	~~$3,500.00~~	
~~Number of units (residential) Fee~~		
~~2—19~~	~~$900.00~~	
~~20—100~~	~~$1,500.00~~	
~~101—199~~	~~$2,500.00~~	
~~200 and over~~	~~$3,500.00~~	
~~Site plan modification (no commission review)~~		
~~Residential - 1 unit, existing commercial~~	~~$600.00~~	~~$1,000.00~~
~~Residential over 1 unit, new commercial~~	~~$600.00~~	~~$4,000.00~~
~~Site plan modification (commission review)~~		
~~Residential - 1 unit, existing commercial~~	~~$1,000.00~~	~~$2,000.00~~
~~Residential over 1 unit, new commercial~~	~~$1,000.00~~	~~$6,000.00~~
~~Site plan renewal~~		~~$1,000.00~~

~~- Residential - 1 unit, existing commercial~~	~~50% of original filing fee~~	~~$1,000.00~~
~~- Residential over 1 unit, New Commercial~~	~~50% of original filing fee~~	~~$2,000.00~~
~~Dock waiver~~	~~$300.00~~	
~~Alcohol variance~~	~~$600.00~~	
~~Variances~~	~~(per variance)~~	
~~- Residential - 1 unit non-use variances~~	~~$100.00~~	
~~- Residential - 1 unit, existing commercial~~	~~$200.00~~	~~$1,000.00~~
~~- Residential over 1 unit, new commercial~~	~~$600.00~~	~~$2,000.00~~
~~Sign Variance~~	~~$600.00~~	
~~Special Use Exception~~		
~~- Residential - 1 unit, existing commercial~~	~~$600.00~~	~~$2,000.00~~
~~- Residential over 1 unit, new commercial~~	~~$600.00~~	~~$4,000.00~~
~~Conditional Use~~		
~~- Residential - 1 unit, existing commercial~~	~~$600.00~~	~~$2,000.00~~
~~- Residential over 1 unit, new commercial~~	~~$600.00~~	~~$4,000.00~~
~~Unusual and new uses~~	~~$600.00~~	~~$4,000.00~~
~~Plat~~	~~$1,000.00~~	~~$10,000.00~~
~~Waiver of Plat~~	~~$1,000.00~~	~~$4,000.00~~
~~Appeals of Administrative Decision~~	~~$600.00~~	~~$2,000.00~~

~~*The applicant is responsible for the actual cost of professional review services including but not limited to: engineering, planning, legal, technical, environmental, etc. These review costs shall be deducted from the cost recovery deposit. Depending on the level of expenses, the applicant shall be required to replenish the cost recovery deposit (section 155.110 C.3.) or if the cost recovery deposit is not entirely expended, the remaining balance will be refunded to the applicant (section 155.110 I.).~~

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~~*Note:* In addition to application fees and cost recovery deposits, advertising and mailing costs shall be paid by the applicant separately.~~

~~F. *Additional review fees.* The following fees are required as part of the review process in addition to required filing fees and cost recovery deposits:~~

~~(1) Advertising; and~~

~~(2) Mailing costs.~~

~~G. *Subsequent review and resubmission fees.*~~

~~(1) A resubmission fee shall be required to be submitted by the applicant as specified in this section.~~

~~(2) If an application is deemed incomplete, is withdrawn prior to the hearing by the board or commission, is deemed withdrawn for failure to respond to a request for information necessary for review, or suspended for nonpayment of required additional cost recovery fees within the required timeframe, any subsequent submission shall be accompanied by a resubmission fee of 50 percent of the original application filing fee.~~

~~(3) Should the project be substantially changed or modified so that, in the opinion of the Village Manager or his/her designee it represents a new project on the same property, the resubmission fee shall be equal to the original filing fee appropriate to the particular project.~~

~~(4) If the applicant is required to resubmit plans or supplement the application after the Village's initial review, in addition to any required additional cost recovery deposits, any resubmittal shall be accompanied by a minimum review fee of $100.00.~~

~~H. *Minimum review fee.* The minimum fee for application and plan review shall be no less than $100.00.~~

~~I. *Refund.*~~

~~(1) *Fees.* All fees shall be deemed nonrefundable unless the refund request has been received prior to administrative review or public advertisement.~~

~~(2) *Cost recovery escrow account.* Upon final approval or denial of an application, expiration of any applicable appeal period, and payment of all consultant charges, the Village shall refund to the applicant any funds remaining in the cost recovery escrow account.~~

~~(Ord. No. 2009-01, § 1, 1-13-09; Ord. No. 2012-02, § 2, 4-10-12)~~

~~§ 152.110.01 - Reserved.~~

~~**Editor's note**— Ord. No. 2012-02, § 2, adopted April 10, 2012, amended the Code by repealing former § 152.110.01. Former § 152.110.01 pertained to escrow account, and derived from Ord. No. 2009-01, adopted January 13, 2009.~~

~~SECTION 152.111 - ADULT ENTERTAINMENT~~

~~§ 152.111.01 - Purpose; findings and authority.~~

~~(a) *Purpose.* In the development and enforcement of this section, it is recognized that there are adult entertainment uses, which because of their very nature are recognized as having serious objectionable characteristics, particularly when several of them are concentrated in any given locations thereby having a deleterious effect upon the adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the Village from objectionable operational characteristics of these adult entertainment uses by to locating adult oriented activities away from residential areas and public facilities used frequently by minors such as schools, religious facilities, parks, libraries, playgrounds and day care centers. The Village finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.~~

~~In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this Section to:~~

~~(a) Inhibit freedom of speech or the press; or~~

~~(b) Impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials; or~~

~~(c) Restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or~~

~~(d) Deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.~~

~~This section balances the legitimate governmental purposes of the Village against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult entertainment establishments without limiting alternative avenues of communication. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this Section.~~

~~(b) *Findings.* Based on the evidence and testimony presented before the Village Commission and on the findings incorporated in (i) "Survey of Texas Appraisers - Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas); (ii) "Crime-Related Secondary Effects - Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas); (iii) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California); (iv) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, Ph.D. FAICP and Connie B. Cooper, FAICP (August 2002)(Toledo, Ohio); (v) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998); (vi) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997); (vii) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996); (viii) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996); (ix) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994); (x) The "Adams County Nude Entertainment Study" by the Adam's~~

~~County Sheriffs Department (1991)(Colorado); (xi) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); (xii) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005; the Village Commission finds as follows:~~

~~(1) Establishments exist or may exist within the Village where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.~~

~~(2) Establishments exist or may exist within the Village where:~~

~~(a) The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas:~~

~~(b) Dancers, entertainers, performers, or other individuals, who, for forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas: or~~

~~(c) Lap dancing occurs.~~

~~(3) The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the Village in the interest of the health, safety, and general welfare of Village residents.~~

~~(4) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.~~

~~(5) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.~~

~~(6) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.~~

~~(7) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.~~

~~(8) The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the Village.~~

~~(9) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the Village to prohibit nude and seminude acts, exhibitions, and entertainment establishments at which alcoholic beverages are, or are available to be. sold or consumed.~~

~~(10) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this chapter and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the Village.~~

(11) When the activities described in subsections (1) and (2) take place in establishments within the Village, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(12) When the activities described in subsections (1) and (2) are present in establishments within the Village, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

(13) The establishments used for the activities described in subsections (1) and (2) are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(14) To preserve and safeguard the health, safety, and general welfare of the people of the Village, it is necessary and advisable for the Village to obtain sufficient information regarding the owners of establishments where the activities described in subsections (1) and (2) occur in order to preclude the involvement of organized crime.

(c) *Authority.* This section is enacted pursuant to the Village's home rule power to enact regulations to protect the public health, safety, and general welfare of the residents of the Village; F.S. ch. 163 and ch. 166; and the Village's authority to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment of the Constitution of the United States.

(Ord. No. 2012-03, § 2, 7-25-12)

§ 152.111.02 - Definitions.

For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. These definitions shall be in addition to the terms relevant to this section provided in chapter 119 of this Code.

Adult entertainment establishment shall mean:

(1) Any adult arcade, adult theater, adult bookstore/adult video store, adult modeling establishment, adult motel, encounter studio, or adult dancing establishment as these uses are defined in chapter 119 of this Code; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to F.S. ch. 480, tanning salons, modeling studios, or lingerie studios.

(2) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

(3) An adult entertainment establishment shall include the entire site on which the adult entertainment establishment is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (1) and (2) above are being conducted for commercial gain.

(4) Excluded from this definition are any educational institutions, as defined in chapter 119, where the exposure of specified anatomical areas is associated with a curriculum or program.

(5) An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

~~*Adult material* shall mean any one or more of the following, regardless of whether it is new or used:~~

~~(1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or~~

~~(2) Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities.~~

~~*Massage establishment* shall mean:~~

~~(1) Any shop, parlor, establishment or place of business wherein all of any one or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), apply such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.~~

~~(2) Provided, however, that, for the purpose of this section, the terms "massage establishment" shall not include any massage establishment wherein at least one state licensed massage therapist is employed and on duty full time during the hours opened for business.~~

~~(3) Nothing in this section shall be construed as applying to state licensed massage therapist, barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants of employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, or employee acting in the course of such agency, service or employment under the supervision of the licensee.~~

~~(Ord. No. 2009-03, § 2, 7-14-09; Ord. No. 2012-03, § 2, 7-25-12)~~

~~§ 152.111.03 - Permitted use schedule.~~

~~Adult entertainment establishments are permitted in the General Commercial (CG) Zoning district, subject to distance requirements set forth below.~~

~~(Ord. No. 2009-03, § 2, 7-14-09; Ord. No. 2012-03, § 2, 7-25-12)~~

~~§ 152.111.04 - Regulations applicable to adult entertainment establishments.~~

~~(a) *Required approval.* An application for an adult entertainment establishment requires the approval of the Village Commission after a public hearing. No application for an adult entertainment establishment shall be presented to the Village Commission unless it satisfies the following requirements:~~

~~(1) The adult entertainment establishment must be located on a parcel of land located in the CG zoning district.~~

~~(2) The adult entertainment establishment must be located:~~

~~(i) At least 500 feet from any residentially zoned district as designated on the Village's official zoning district map, and at least 500 feet from any property on which over 25 percent of the floor area is devoted to residential use; and~~

~~(ii) At least 500 feet from any area of land upon which a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children is located; and~~

~~(iii) At least 500 feet from any hotel or motel; and~~

(iv) At least 1,000 feet of from any parcel of land upon which another adult entertainment establishment is located; and

(v) At least 350 feet from a building that contains a business that sells or dispenses alcohol.

(3) No variance shall be granted to the spacing requirements of subsection (2) above.

(4) The minimum distance separation shall be measured by following a straight line from any portion of the building used for such purpose, or any building located on the property, of the adult entertainment establishment to:

(i) The nearest point of the property designated as residential on the Village's official zoning district map; or

(ii) The nearest point of the residential area of any property on which over 25 percent of the floor area is devoted to residential use; or

(iii) The nearest point of any area used for a religious facility, public school, private school, public park, playground, library, daycare center or nursery for children, hotel or motel.

(5) In cases where a minimum distance is required between an adult entertainment establishment and another adult entertainment establishment, or an establishment licensed to sell or serve alcohol, the distance under this section shall be measured from the building line of the existing licensee to the building line of the proposed licensee and shall be the airline distance between the two buildings.

(6) The applicant must show a possessory interest in the property (ownership, leasehold, or contract to purchase/lease) by sufficient documentation.

(b) *Expiration of approval.* Approval of an adult entertainment establishment shall lapse after 24 months unless:

(1) A business tax receipt or building permit has been issued, or

(2) The next phase of development has been initiated, or

(3) The Village Commission has specified a longer approval period.

(c) *Application requirements.* An application for approval of an adult entertainment establishment shall, in addition to the requirements of section 2.7.2 of the land development regulations, include:

(1) A property survey by a registered surveyor;

(2) A letter of intent;

(3) Certified distance survey from a registered land surveyor in the state showing that such use meets the distance requirements as set forth in this section. Such sketch shall indicate the distance between the proposed adult entertainment establishment and:

(i) Any other adult entertainment establishment; and

(ii) Any establishment licensed to sell or serve alcohol; and

(iii) Any area used for a religious facility, public school, private school, public park, public library, playgrounds, day care center or nursery for children, hotel or motel; and

(iv) Any residential zoning district; and

(v) The residential area of any property on which over 25 percent of the floor area is devoted to residential use.

Each sketch shall indicate all such distances and routes. In case of a dispute, the measurement scaled by the Village shall govern.

(4) Where the use includes a vehicular use area or landscaped buffer, a proposed landscape plan and information regarding permanent maintenance arrangements;

(5) A neighborhood location map showing all surrounding zoning, land use designations and existing uses located within 500 feet of the proposed site;

(6) Documents establishing ownership of the property, valid leasehold, or a contractual interest in a future ownership or leasehold.

(7) The proposed activities and specific type of adult entertainment establishment proposed.

(8) For adult entertainment establishments to be established in new construction, a sketch and description showing all new and existing structures on the property, interior layouts and proposed parking areas.

(9) For adult entertainment establishments to be established in redeveloped sites, a sketch and description or building plan that details all proposed interior and exterior changes to any existing building or structure.

(d) *Review of applications.* Applications shall be reviewed and be approved or denied by the Village Commission within 60 days of the applicant filing a complete application with the Village, as follows:

(1) No application shall be accepted until it is deemed complete by the Village Planner.

(2) The Village Planner shall review all of the information submitted to determine conformity with this section.

(3) The submitted application will be reviewed for completeness within 20 business days, and any corrections, revisions or deficiencies provided to the applicant within that 20-day period.

(4) Upon each re-submittal of corrected plans, the Village Planner shall have ten business days to review the application and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed as is, without further revisions.

(5) If an applicant fails to provide additional information as requested by the Village Planner within two months of the request or respond to the Village Planner with a time when the information will be submitted, the application shall be deemed to be withdrawn by the applicant. The applicant shall be entitled to one 60-day extension upon request, providing the request for extension is granted prior to the expiration of the two-month period.

(6) The Village Commission shall approve or deny the permit within 60 days of the Village's receipt of the complete application, or the applicant's demand for review as submitted, based on whether it complies with the requirements of this section. A written notice of the Village Commission's decision shall be provided to the applicant, either in the form of an approved permit or written notice of denial. Such notice shall describe the applicant's appeal rights, and be provided to the applicant within ten business days of the decision.

(e) *Minimum space requirements.* An adult dancing establishment shall be subject to the minimum space requirements (for parking) as provided for "Restaurants, Lounges and Nightclubs," in subsection 152.044(b)(7) of this Code.

(f) *Regulation of obscenity subject to state law.* It is not the intent of the Village Commission to legislate with respect to matters of obscenity. These matters are regulated and preempted by general law.

(g) *Regulation of massage establishments subject to state law.* It is not the intent of the Village Commission to legislate, limit, or conflict with respect to matters pertaining to massage establishments that are regulated by state agency, the department of business and professional regulation, board of massage, and by general law, F.S. chapter 480.

(h) *Appeal.* The applicant may appeal the decision of the Village Commission by filing a timely notice of appeal with any court of competent jurisdiction in Miami-Dade County in accordance with applicable law and court rules.

(Ord. No. 2009-03, § 2, 7-14-09; Ord. No. 2012-03, § 2, 7-25-12)

~~VACATION RENTAL LICENSE PROGRAM~~

~~GENERAL PROVISIONS~~

~~§ 152.112.01 - Purpose.~~

~~The purpose of this subchapter, section 152.112, is to promote public health, safety, welfare and convenience through regulations and standards for short-term vacation rental properties by providing:~~

~~(A) For a vacation rental license;~~

~~(B) For safety and operational requirements;~~

~~(C) For parking standards;~~

~~(D) For solid waste handling and containment;~~

~~(E) For licensure requiring posting of vacation rental information;~~

~~(F) For administration, penalties and enforcement.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.02 - Definitions.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~*Habitable room.* A room or enclosed floor space used or intended to be used for living or sleeping purposes, excluding kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage space.~~

~~*Occupant.* Any person who occupies, either during the day or overnight, a vacation rental.~~

~~*Transient public lodging establishment.* Any unit, group of units, dwelling, building or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.~~

~~*Vacation rental.* Any individually or collectively owned single-family house or dwelling unit that is also a transient public lodging establishment, and is located in an area zoned RS-1 and RS-2.~~

~~*Vacation rental representative.* A vacation rental property owner, or his/her authorized designee, as identified in the application for a village vacation rental license.~~

~~*Village.* North Bay Village, Florida, as geographically described in its Charter.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~VACATION RENTAL LICENSE~~

~~§ 152.112.010 - License required.~~

~~After July 1, 2016, an active vacation rental license shall be required to operate a vacation rental within the Village. After July 1, 2016, only vacation rentals holding an active vacation rental license issued by North Bay Village may operate within the Village. A separate vacation rental license shall be required for each vacation rental, as defined in section 152.112.02.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.011 - Application for vacation rental license.~~

~~(A) A property owner seeking initial issuance of a vacation rental license, or the renewal, or modification of a vacation rental license, shall submit to the Village a completed vacation rental license application in a form promulgated by the Village, together with an application fee in an amount set by resolution of the Village Commission.~~

~~(B) A complete application for the initial issuance, or renewal, or modification, of a vacation rental license shall demonstrate compliance with the standards and requirements set forth in this subchapter through the following submittals:~~

~~(1) A completed vacation rental license application form, which must identify; the property owner, address of the vacation rental, vacation rental representative, and as well as the phone number of the vacation rental representative.~~

~~(2) Payment of applicable fees.~~

~~(3) A copy of the vacation rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation.~~

~~(4) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue.~~

~~(5) Evidence of the vacation rental's current and active account with the Miami-Dade County Tax Collector for the purposes of collecting and remitting tourist and convention development taxes and any other taxes required by law to be remitted to the Miami-Dade County Tax Collector.~~

~~(6) A copy of the current local business tax receipt.~~

~~(7) Interior building sketch by floor. A building sketch (may be hand drawn) by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this subchapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, swimming pools, fire extinguishers and exit signage/lighting.~~

~~(8) A sketch showing the number and the location of all on-site parking spaces for the vacation rental.~~

~~(9) Acknowledgement that each guest room shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of the NFPA.~~

~~(10) A section indicating whether the vacation rental will have ten or fewer occupants or more than ten occupants.~~

~~(11) A copy of the generic form vacation rental/lease agreement to be used when contracting with transient occupants and guests.~~

~~(C) Incomplete applications will not be accepted, but will be returned with any fees submitted to the property owner with a notation of what items are missing.~~

~~(D) Vacation rental license applications shall be sworn to under penalty of perjury and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.012 - Modification of vacation rental license.~~

~~An application for modification of a vacation rental license shall be required in the event that any of the following changes to the vacation rental are proposed:~~

~~(A) An increase in the gross square footage.~~

~~(B) An increase in the number of bedrooms.~~

~~(C) An increase in the maximum occupancy.~~

~~(D) An increase in the number of parking spaces, or a change in the location of parking spaces.~~

~~(E) An increase in the number of bathrooms.~~

~~(F) Any other material modifications that would increase the intensity of use.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.013 - Duration of vacation rental license.~~

~~The vacation rental license shall expire each September 30, and may be annually renewed thereafter if the property is in compliance with this subchapter. Vacation rental licenses acquired before September 30, 2016 will be valid until September 30, 2017.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.014 - Renewal of vacation rental license.~~

~~A property owner must apply annually for a renewal of the vacation rental license no later than 60 days prior to the expiration date of the previous vacation rental license.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.015 - Licenses non-transferable, non-assignable.~~

~~Vacation rental licenses are non-transferable and non-assignable. If the ownership of any vacation rental is sold or otherwise transferred, any outstanding vacation rental license as to that vacation rental shall be null and void upon the sale or transfer.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~VACATION RENTAL REPRESENTATIVE~~

~~§ 152.112.020 - Duties of vacation rental representative.~~

~~Every vacation rental representative shall:~~

(A) Be available by landline or mobile telephone answered by the vacation rental representative at the listed phone number 24-hours a day, seven days a week to handle any problems arising from the vacation rental; and

(B) Be willing and able to be physically present at the vacation rental within 60 minutes following notification from a vacation rental occupant, law enforcement officer, emergency personnel, or the Village for issues related to the vacation rental and shall actually be physically present at that location in that time frame when requested; and

(C) Conduct an on-site inspection of the vacation rental at the end of each rental period to assure continued compliance with the requirements of this subchapter.

(Ord. No. 2016-005, § 2, 4-12-16)

STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

§ 152.112.030 - General.

The standards and requirements set forth in this section shall apply to the rental, use, and occupancy of vacation rentals in the Village.

(Ord. No. 2016-005, § 2, 4-12-16)

§ 152.112.031 - Local phone service required.

At least one landline telephone with the ability to call 911 shall be available in the main level common area in the vacation rental.

(Ord. No. 2016-005, § 2, 4-12-16)

§ 152.112.032 - Parking standards.

Occupants and visitors to the vacation rental shall comply with all relevant parking codes as found in the Village Code of Ordinances.

(Ord. No. 2016-005, § 2, 4-12-16)

§ 152.112.033 - Solid waste handling and containment.

Requirements for garbage storage and collection shall be as follows:

(A) Notice of the location of the trash storage containers and rules for collection shall be posted inside the vacation rental.

(Ord. No. 2016-005, § 2, 4-12-16)

§ 152.112.034 - Maximum occupancy.

Requirements for space shall be as follows:

(A) Each vacation rental shall have a minimum gross floor area of not less than 150 square feet for the first occupant and not less than 100 square feet for each additional occupant.

(B) Every room in a vacation rental occupied for sleeping purposes shall:

(1) Have a gross floor area of not less than 70 square feet; and when occupied by more than one occupant, it shall have a gross floor area of not less than 50 square feet for each occupant. The maximum number of occupants for each room used for sleeping purposes shall be four.

(2) Have a minimum width of eight feet.

(C) Gross area shall be calculated on the basis of total habitable room area and those exclusions appearing in the definition of "habitable room" shall not be considered in calculation of such floor areas.

(D) Every habitable room in a vacation rental shall have a ceiling height of not less than seven feet for at least half the floor area of the room. Any portion of a habitable room having a ceiling height of five feet or less shall not be included in calculating the total floor area of such room.

(Ord. No. 2016-005, § 2, 4-12-16)

§ 152.112.035 - Posting of vacation rental information.

(A) In each vacation rental, located outside on the back or next to the main entrance door there shall be posted as a single page the following information:

(1) The name, address and phone number of the vacation rental representative:

(2) The maximum occupancy of the vacation rental;

(3) A statement advising the occupant that any sound which crosses a property line at a volume which is unreasonably loud is unlawful within the Village; as per the Village noise ordinance.

(4) A sketch of the location of the off-street parking spaces;

(5) The days and times of trash pickup;

(6) The location of the nearest hospital; and

(7) The local non-emergency police phone number.

(B) A copy of the building evacuation map — Minimum eight and a half by eleven inches (8-1/2" x 11") shall be provided to the renter upon the start of each vacation rental.

(Ord. No. 2016-005, § 2, 4-12-16)

ADMINISTRATION, PENALTIES, AND ENFORCEMENT

§ 152.112.055 - Administration of vacation rental license program.

The ultimate responsibility for the administration of this subchapter is vested in the Village Manager, or his/her authorized designee, who is responsible for granting, denying, revoking, renewing, suspending and canceling vacation rental licenses for proposed and existing vacation rentals as set forth in this subchapter.

(Ord. No. 2016-005, § 2, 4-12-16)

~~§ 152.112.056 - Appeals.~~

~~Any decision of the Village Manager, or his/her authorized designee, relating to the granting, denial, renewal, modification, or suspension of a vacation rental license under this subchapter shall be rendered in writing, and reviewed by the Village Commission if a notice by the applicant is filed with the Village Clerk within ten days after the action to be reviewed. The Village Clerk shall place the matter on the agenda of an upcoming meeting of the Village Commission, at which the matter will be reviewed. The decision of the Village Commission shall be final. Such final decision may be reviewed as permitted under Florida law.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.057 - Notice.~~

~~Any notice required under this subchapter shall be accomplished by sending a written notification by U.S. mail, postage paid, to the mailing address of the vacation rental representative set forth on documents filed with the Village under this subchapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the vacation rental representative.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~§ 152.112.058 - Penalties and enforcement.~~

~~(A) *Violation.* Any violation of this subchapter may be punished by citation, as specifically described in chapter 153 of this Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of $250.00, for the first offense, $500.00 for the second and subsequent offenses, plus a suspension of the vacation rental license as provided hereinafter, for the third offense. Each day a violation exists shall constitute a separate and distinct violation.~~

~~(B) *Other enforcement methods and penalties.* Notwithstanding anything otherwise provided herein, violations of this subchapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the Village as provided in the Village Code of Ordinances. Nothing contained herein shall prevent the Village from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.~~

~~(C) *Suspension of license.*~~

~~(1) In addition to any fines and any other remedies described herein or provided for by law, the Village Manager shall suspend a vacation rental license upon a third violation of this subchapter in any continuous 12-month period. Such suspension of a vacation rental license shall be for a period of one year, and shall begin following notice, commencing either at the end of the current vacation rental lease period, or after 30 calendar days, whichever is less.~~

~~(2) For violations of the Florida Building Code, or Florida Fire Prevention Code, a vacation rental license shall be subject to temporary suspension starting immediately three working days after citation for such violation if it is not corrected, re-inspected, and found in compliance.~~

~~(D) *Revocation of license.*~~

~~(1) The Village Manager may refuse to issue or renew a license or may revoke a vacation rental license issued under this subchapter if the property owner has willfully withheld or falsified any information required for a vacation rental license.~~

~~(2) The Village Manager shall revoke a vacation rental license issued under this subchapter upon the fifth adjudication of either a noise violation where such noise emanated from the vacation~~

~~rental or receipt of a parking violation where such parking violation occurred on the vacation rental property within any continuous 12 month period, or any combination thereof.~~

~~(3) The property owner shall not be entitled to any refund of the annual fee paid for a license for any portion of the unexpired term of a license, because of revocation or suspension of the vacation rental license.~~

~~(E) For all purposes under this subchapter, service of notice on the vacation rental representative shall be deemed service of notice on the property owner and occupant.~~

~~(F) No occupant shall occupy a vacation rental, and no advertisement for the vacation rental shall occur during any period of suspension of a vacation rental's vacation rental license.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~VESTING~~

~~§ 152.112.070 - Rental agreement vesting.~~

~~It is recognized that there are likely existing rental/lease agreements for vacation rentals as the time of passage of this section which may not be in compliance with the regulations herein. Rental agreements that were entered into prior to the date of adoption, shall be considered vested. No special vesting process or fee shall be required to obtain this vesting benefit.~~

~~(Ord. No. 2016-005, § 2, 4-12-16)~~

~~VIOLATIONS; ENFORCEMENT; PENALTY~~

~~§ 152.998 - Violations; 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.~~

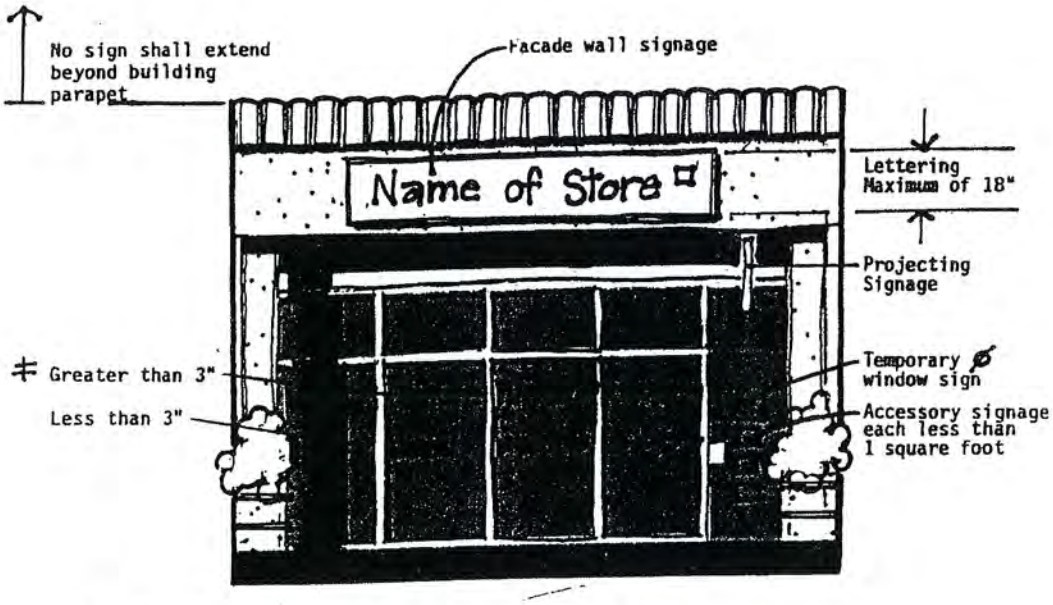
~~(Ord., passed 4-1-83)~~

~~§ 152.999 - Penalty.~~

~~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 section 10.99. Each day such violation shall be permitted to exist shall The constitute a separate offense. 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.~~

~~(Ord., passed 4-1-83)~~

~~APPENDIX B - SIGNAGE ILLUSTRATION~~



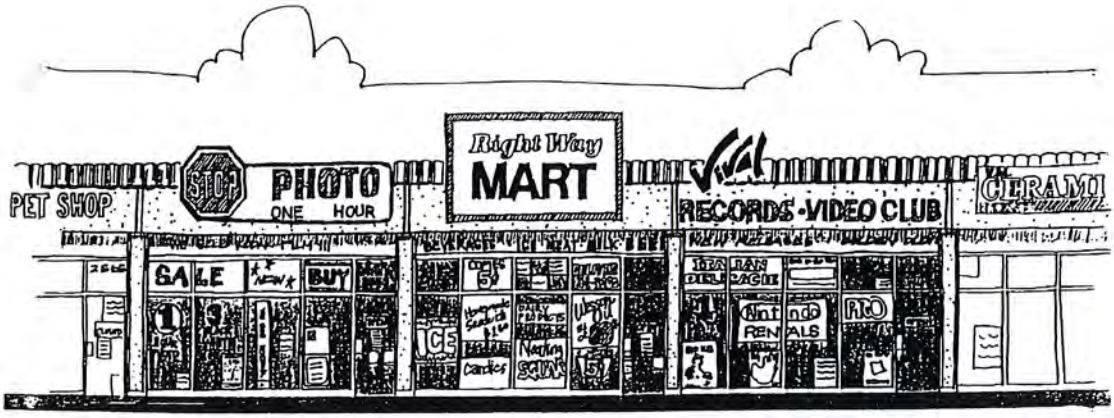
Counts towards number of sign informational items.

* Maximum of 25% of window/door area.

Ø Paper Sign - max. 10% of window/door area.

□ Maximum of 10% of ground floor facade area.

NOTE:
- o Facade wall signage and large window signage (greater than 3" in height) shall not exceed 10 sign information items.
- o No sign shall be placed on a structure so that it will disfigure or conceal architectural features or details of a structure.
- o Facade signage shall be proportionate to the facade on which it is located respecting the integrity of the architecture of the building.
- o Size and location of any sign shall be proportional to the scale of the existing structure and compatible with adjacent signage.
- o The use of lettering and signs design shall enhance the architecture and character of the facade on which the sign is located.



A. Before

B. After

~~§ 155.01 - Establishment of design guideline standards.~~

~~(A) Design guidelines are intended to implement and provide guidance on site and building design. The purpose of these guidelines is to provide direction to private property owners in preparing plans for review concerning property development or redevelopment. It is important to remember that all projects are also subject to the required reviews of North Bay Village. The primary intent of these guidelines is to establish and promote standards for development planning and urban design.~~

~~(B) The standards and guidelines provide direction as to how private development should relate to framework of public amenities in a way that will serve the long term vision as well as accommodate immediate opportunities. They have been created to allow flexibility within the parameters of a clearly defined and supported vision that will provide lasting benefit to the citizens of North Bay Village.~~

~~(C) The intent of the design standards are to utilize developed public spaces, such as streets, park and parkways, and bay-walks to organize and coordinate development, as well as to accommodate a broad mix of development types and alternate transportation, such as walking.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.02 - Building and site design—Compliance with guidelines.~~

~~A. The general requirements outlined in this chapter shall serve to supplement the minimum aesthetic and design standards for all site development, buildings, structures, alterations or additions. All site development or redevelopment shall, where reasonable and practicable, show proper design concepts consistent with the standards outlined in these guidelines. Buildings or structures, which are a part of an existing or future group of buildings, shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole site. Harmony can be achieved through the proper consideration of scale, proportions, site planning, landscaping, materials, and color.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.03 - Building and site design relationships shall conform to the following standards.~~

~~1. Buildings or structures located along strips of land or on single sites and not part of a unified multi-building complex shall strive to achieve visual harmony with the surroundings.~~

~~2. Retail or office establishments, which are located on corners, are recommended to place windows on each wall that faces a street, parking area or driveways.~~

~~3. In the case of buildings with multiple storefronts and shopping centers with out-parcel development, facade treatment shall be coordinated. Such facade treatments include: building colors, windows, storefronts, signage and awnings.~~

~~4. All vending machines, any facility dispensing merchandise, or a service on private property shall be confined to a space built into the building or buildings, or enclosed in a separate structure compatible with the main building.~~

~~5. When garage structures are provided, such shall be designed to incorporate a decorative grid treatment into the structure's facade at ground level.~~

~~6. Storefronts shall have easily identifiable entrances.~~

7. ~~Window displays shall be done in such a manner as to capture the pedestrians' customers attention, establishing a positive and professional image for the business, and informing the potential customers of the merchandise.~~

8. ~~"Take out" or "pick up" windows for retail or other establishments shall not be located on a building facade that faces a public right-of-way, unless they are designed in such a manner as to be an aesthetic asset to the building and neighborhood.~~

9. ~~Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grills and shall be painted in muted colors or match the building and shall not be visible from the street.~~

10. ~~All service bays, mechanical (HVAC) equipment and delivery areas shall be located away from and not visible from the streets, waterways, sidewalks and adjacent properties.~~

11. ~~Service bays, ground-mounted air conditioning units and other mechanical equipment shall be buffered and completely screened from public and on-site pedestrian view.~~

12. ~~Exterior service bays and delivery areas shall not be used for the storage of vehicles or materials.~~

13. ~~The sale, dismantling or servicing of any vehicles, equipment, materials, or supplies shall not take place within the service area or delivery area.~~

14. ~~Driveways and loading spaces associated with exterior service bays shall be so that vehicles using the space do not hinder the use of traffic lanes, streets, or adjacent properties.~~

15. ~~Pre-fabricated homes are prohibited in new construction.~~

16. ~~Fences shall be made of wrought iron or aluminum bars with intermittent posts. Masonry walls are also permitted, with 40 percent of the wall opaque. Chain link fences and privacy wood fences are prohibited along the Corridors. Sharp projections, barbed wire or other hazardous materials are not permitted as any part of a fence or wall. Wrought iron and aluminum bar fences shall be either black, white or match the color of the building. Masonry walls shall match the building color or reflect Florida coastal themes. Color shall be muted tones.~~

17. ~~Temporary construction shall be enclosed by black vinyl coated chain-link fences. Construction walls/fences are encouraged to contain art work and graphics. Commercial advertisements are prohibited.~~

18. ~~Reflective/mirrored glass shall be discouraged.~~

19. ~~Buildings shall not have unfinished surfaces visible to the public.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.04 - New construction.~~

~~A. Buildings should have a recognizable entrance facing the public street.~~

~~1. Design and location of balconies should reinforce the building form.~~

~~2. All projects should consider the overall form, and detail of the building. Box buildings are discouraged.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.05 - Site design relationships.~~

~~A. The coordination of facade components help establish an identity for an office building, industrial building or shopping plaza. Therefore, for all unified developments and shopping centers including principal buildings and out parcel development, all buildings and signage shall demonstrate~~

~~compatibility in materials and consistency in style throughout all exterior elevations. The following standards shall apply to all new and substantial development. Buildings and signage shall demonstrate the following:~~

1. ~~Compatibility with adjacent land uses in terms of scale and lot coverage.~~
2. ~~Utilize color schemes that blend with those of neighboring developments, as well as consistency in color schemes for the site. Accent colors and materials shall be chosen to enhance architectural detail.~~
3. ~~In the case of buildings with multiple storefronts and shopping centers with out-parcel development, facade treatment shall be coordinated and have like details. Such facade treatments include: building colors, building, floors, storefront, signage, awnings, roof materials, and roof pitch.~~
4. ~~Building signs shall be designed as integral architectural elements with proportions related to the surfaces to which they are attached.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.06 - Balcony enclosures.~~

~~A. This section refers to the prohibition of the enclosure of a balcony on a residential building as follows:~~

1. ~~The enclosure substantially alters the architectural pattern of the building.~~
2. ~~The enclosure does not match wall and window designs.~~
3. ~~The enclosure may result in serious structural and/or water damage.~~
4. ~~The enclosure does not front on a public street.~~

~~[5. Reserved.]~~

6. ~~The enclosure may not alter the Floor Area Ratio (FAR).~~

~~Applications for enclosures shall meet all Building and Village Code standards.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.07 - Shutters and security grilles.~~

~~A. Roll up or accordion shutters are permitted on ground floor fronting a public street when constructed of a see through, non-solid grate material. The casing for the grilles should be painted to match the building.~~

~~B. Roll up or accordion shutters are permitted on upper floors if all match in building.~~

~~C. Security bars are prohibited in accordance with Section 152.066 of the Village Code.~~

~~D. Shutters shall not be used to enclose balconies.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.08 - Bayview.~~

~~A. Buildings should provide view/light/breeze corridors to the bay.~~

~~B. Building pedestal should not form continuous sheer wall along the bay. Decorative surfaces, multi-level decks, berming and sufficient setbacks shall reduce the impact of the pedestal.~~

C. Buildings should be designed with distinctive form. Stepped form and distinctive roof lines create a more interesting skyline and increase building recognition.

D. Pool decks should include landscaping to provide shade and tropical image.

E. All projects shall provide bay walkways along the rear of the property, which can be connected to other properties.

(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.09 - Color palette and architectural theme.

A. The Village supports a building color criteria for all buildings and accessory structures. The design of these guidelines is to enhance the appearance of development within the Village, which will improve and/or maintain property values for all Village residents and property owners.

B. The Village will review building paint colors for all residential, commercial, industrial and other non-residential buildings. Owners, developers and/or contractors will be required to receive approval from the Village for the base, secondary, and trim colors before painting these areas. The minimum $60.00 permit fee outlined in Section 151.11(A) shall be assessed to applicants for the review of building paint colors, which shall apply to single-family homes, duplexes, multi-family units and non-residential and commercial structures. Prior to purchasing paint for your home or business, please submit paint samples to the Village for approval. Colors for buildings are expressed in three categories:

1. *Base building colors*— Primary building walls.

2. *Secondary building colors*— Larger "trim" areas such as a lower building base, building design details, or accent trim around windows and doors.

3. *Trim colors*— Small area of color such as decorative trim along rooflines, and areas around windows, doors, frames, and signage.

Requirements for Color Palette Submission:

1. Property Address

2. Location Map

3. Provide 6" × 6" Color Samples

4. Clearly Identify Base, Secondary and Trim colors

5. Photo or Elevation of the Structure

A color palette is available at the Village's building department.

(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.10 - Base building colors.

A. This color category relates to the main area of walls on the building. Recommended colors include whites through soft pastel colors such as grays, pinks, yellows, greens and blues. Other colors may include deeper but muted indigenous earthen or indigenous colors such as beiges, clays, light gold, and terracotta.

(Ord. No. 2006-14, § 1, 8-17-06)

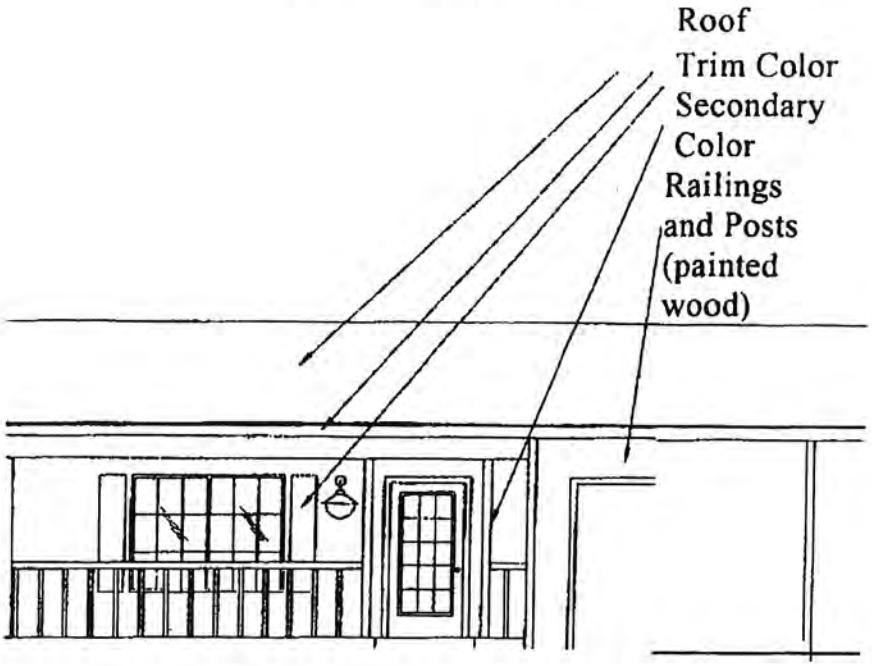
§ 155.11 - Secondary building colors.

A. These colors are used for larger trim areas of the building and are limited to mid-range intensity of the base building or complementary color. Secondary colors shall be limited to 25 percent of the major surface plane they are used upon.

(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.12 - Trim colors.

A. Trim colors are used for accent purposes and are the most intensive group of colors allowed. They shall be limited to not more than five percent of the building surface. These trim colors are usually darker and more intense than other colors. Dark blues, greens and even reds are appropriate. Light colors for trim, including whites and beiges are encouraged.



(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.13 - Commercial.

A. Color should be chosen to add to the retail environment of these buildings. More latitude will be given to retail color use than is given to other buildings within the Village (residential neighborhoods). The use of color to attract attention to a business (using the building or wall colors as a sign) from a distance is prohibited.

This color category relates to the main area of walls on the building. Recommended colors include whites through soft pastel colors such as grays, pinks, yellows, greens, and blues. Other colors may include deeper but muted indigenous earthen or indigenous colors such as beiges, clays, light gold, and terra cotta.

1. *Secondary building colors.*

a. These colors are used for larger trim areas of the building and are limited to mid-range intensity of the base building or complementary color. Secondary colors shall be limited to 50 percent of the major surface plane they are used upon. Colors that are associated with a

~~business identity also fall into this category provided they are not overly intensive. Base and secondary colors are interchangeable in proportion and hue.~~

~~2. *Trim colors.*~~

~~a. Trim colors are used for accent purposes and are the most intensive group of colors allowed. In addition to business identifying colors, it is encouraged that trim colors be chosen from the "natural palette" of South Florida. These colors include greens, blues, yellows and others that are found in the regions lush landscape, and natural features. These colors shall be limited to five percent of any single wall area.~~

~~3. *Landscaping and open space.*~~

~~a. Trees improve air quality, reduce storm water run off, provide cooling effects for the urban heat island, increase property values, and create urban wildlife habitat. They can greatly increase the quality of life in a city. For the purposes of developing a consistent landscape theme within the Village, designated street trees and recommended landscape technique are provided in this section.~~

~~(i) Trees shall be provided along streets.~~

~~(ii) Provide a minimum of five-foot by five-foot by three and one-half-foot deep tree wells in existing or new sidewalks, provided there is a minimum 36-inch clear area in front of the tree to permit passing in compliance with ADA requirements. Trees may also be located in islands created in the parking zone.~~

~~(iii) Consider the use of continuous street tree trenches to provide maximum soil area for roots to spread, and water and air to penetrate.~~

~~(iv) Allow sufficient room for tree canopies to grow and develop without conflict to other building elements and overhead utilities.~~

~~(v) Install irrigation systems to provide adequate water to establish and maintain trees.~~

~~(vi) In high pedestrian areas, install tree guards to protect the trunks from damage.~~

~~(vii) Select trees that are adapted to the harsh conditions of a dense urban environment.~~

~~(viii) Trees shall not be placed near overhead utility lines and shall conform to FPL requirements in terms of clearance and recommended tree species.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.14 - Landscaping.~~

~~(A) Landscaping should compliment the old Florida/Maritime theme, using native plant materials and street furnishings that carry the theme, and provide continuity throughout the district. In addition, public safety will be a priority using the principles of CPTED to create high visibility areas and natural access control. With regards to landscape design for both new construction and existing buildings, the following should apply:~~

~~(B) Ornamental trees or palms should be placed in front of buildings in such a manner as to provide visual transparency. Shade trees and palms shall be used adjacent to open spaces, parking lots, and residential streets. Planting areas shall be designed with multi-layers of plant material including shrubs and ground covers.~~

~~1. Landscaping should compliment and enhance the overall architectural and design theme of the property, but not overpower it.~~

~~2. Rhythm should be maintained along public streets through the uniform placement of trees.~~

3. ~~Blank walls greater than 25 feet in length and other unattractive areas of a site or building should be heavily screened with landscaping. Rooflines or storefronts of 25 feet or greater shall be broken by vertical landscaping materials. Shade and accent trees planted at 20-foot intervals shall be required to achieve this screening.~~

4. ~~Large parking areas and driveways shall be heavily landscaped along the perimeter and with interior and terminal islands.~~

5. ~~Landscape design should utilize the CPTED principles of natural surveillance, natural access control and territorial reinforcement.~~

6. ~~The use of native trees, shrubs and ground covers is encouraged to be incorporated into the landscaping around proposed developments. Local flora will be main tained as part of the built environment and the demand on our local water resources will be minimized.~~

7. ~~The placement and design of landscaping shall maximize visibility to provide natural surveillance.~~

8. ~~Landscape design shall incorporate with design of other physical features, such as sidewalk, pavements, lighting and fences; to emphasize public entrances, define and reinforce ownership of property.~~

9. ~~Tree and palm heights and spread shall allow sufficient visibility, not completely block views of/from doors, windows, and streets.~~

10. ~~Shrubs and ground cover shall be planted along public rights-of-way or around parking, and public open areas.~~

11. ~~Landscape design will utilize principles of xeriscape landscaping, while retaining the tropical beach resort atmosphere.~~

12. ~~Landscape plans must be drawn, signed and sealed by a Florida registered architect or landscape architect.~~

13. ~~In addition to the design standards, all landscaping shall meet the standards of the North Bay Village Landscape Code.~~

14. ~~Landscaping in 15-foot line of site triangle at intersections of rights-of-way and at driveways shall conform to height clearances of bushes and trees, and maximum tree calipers in accordance with the Village Code.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.15 - Plant categories.~~

~~A. Proposed landscape plans for development or redevelopment shall incorporate the following information into the plant list and summary:~~

~~**Salt Tolerance:**~~	
~~High~~	~~Plants are highly resistant to salt drift and can be used in exposed environments.~~
~~Moderate~~	~~Plants tolerate some salt spray, but grow best when protected by buildings, fences, or plantings of salt tolerant species.~~
~~Low~~	~~Plants have poor salt tolerance and always should be used well back of exposed areas and be protected by buildings, fences, or more salt tolerant species.~~

None	Plants have extremely low to no salt tolerance and should not be used near exposed areas even if protected.
Light Requirements:	
FS	Full Sun; these conditions are generally required for maximum growth and flowering and are met in southern locations in the landscape.
FS-PS	Full Sun - Partial Shade; plants within this category are adaptable to a range of light conditions. Full sun should be provided, but filtered sun through overhead canopy trees is adequate. Eastern, western and southern locations provide these conditions.
FS-DS	Full Sun - Dense Shade; plants that are quite adaptable to varied light conditions and will grow well in any location in the landscape.
PS-DS	Partial Shade - Dense Shade; plants that require shaded conditions for best growth. These conditions are provided under overhead canopy trees and in northern locations of the landscape.
Foliage:	
E	Evergreen
D	Deciduous
SEV	Semi-Evergreen

(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.16 - Tree relocation.

A. Before the Village issues a tree removal permit that allows the replacement of any tree, the applicant must demonstrate that relocation is not a viable alternative. Relocation shall occur either within the site or off-site with the concurrence of the Village where the site is public property. If any tree is to be relocated either on-site or off-site, a relocation plan shall be submitted in accordance with chapter 100 of the Village Code.

B. Methods for relocation. The following guidelines shall be utilized to ensure successful transplanting of trees:

1. Any tree being relocated shall not be unnecessarily damaged during removal, transport or replanting of that tree.

2. If the trees have a dormant period, they should be transplanted during that time. Trees should not be transplanted during periods of strong, dry winter winds or during droughts.

3. Provide adequate space for root and crown development.

4. Trees shall be root and canopy pruned according to sound arboricultural standards prior to transplanting.

5. During and following transplanting, the root ball and trunk shall be protected. The root ball must be kept moist at all times.

(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.17 - Off-street parking and loading.

A. Minimum off-street parking and loading requirements shall conform to the Village Code relating to parking and loading requirements. Except for one-way drives and access ramps on single lot sites in the PRD Overlay district, the following criteria shall also be considered:

1. Parking lots and other vehicular use areas are to be designed to be functional and aesthetically enhance neighborhood building, group of buildings, or facility they serve.

2. Off-street loading areas shall be located where they will not disturb adjacent uses and should not be the visual focal point of a driveway, parking area, adjacent properties, or the right-of-way. This may be accomplished by providing any or a combination of the following: Masonry wall extensions of the building line, opaque landscape screening, berming, and through selective placement or orientation of the loading area.

3. Developments which include out-parcels shall be designed to provide safe and efficient vehicular and pedestrian circulation within the out-parcel, between the out-parcel and the principle development and off-site. All pedestrian connections should be well marked and lighted.

4. Sites requiring large areas of surface parking should attempt to distribute parking into smaller areas broken up by intervening areas of landscaping, open space and buildings where ever possible rather than aggregating parking into continuous street facing strips.

5. Parking areas must provide adequate drainage.

6. With the exception of temporary parking lots, the landscaped areas of an at-grade parking lot should be defined with a six-inch curb.

7. Parking garages and structures shall contain commercial use on the ground floor and architectural detailing so not to appear as a garage on elevations facing the street.

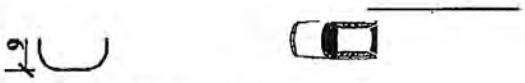
8. Multiple levels of parking structures should be parallel to grade on waterfront elevations.

9. Stairways and elevators should be glass enclosed or open clearly visible to the street or other populated areas to prevent vandalism.

10. Ramps, stairwells and any other portion of the garage should be buffered with the use of decorative grilles and screens.

Parallel Parking

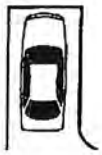
*1 iu ____ 23' 23'



Maneuvering Area
13' One-Way
23' Two-Way

90 Degree Parking

t *10' 19' 9' I



Maneuvering Area
23' One-Way
23' Two-Way

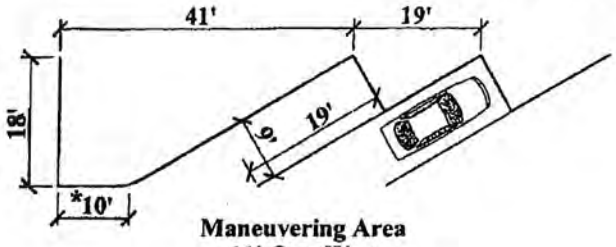
Accessway

1 23' 13'
Lot Entry
13' Min. One-Way
23' Min. Two-Way

~~*Parking Figure 1*~~

~~* Required Landscape Buffer Refer to Section 32-384 (e) of the Village's Land Development Code~~

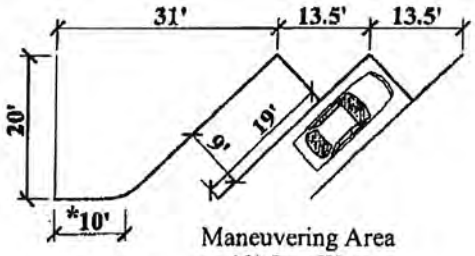
30 Degree Angle Parking



Maneuvering Area
11' One-Way
23' Two-Way

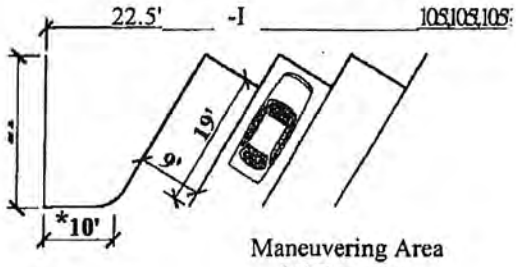
45 Degree Angle Parking

* Required Landscape Buffer Refer to Section 32-384 (e) of the city's Land Development Code



Maneuvering Area
13' One-Way
23' Two-Way

60 Degree Angle Parking



Maneuvering Area
18' One-Way
23' Two-Way

~~*Parking - Figure 2*~~

~~(Ord. No. 2006-14, § 1, 8-17-06; Ord. No. 2015-12, § 5, 9-8-15)~~

~~§ 155.18 - Dumpster enclosures, garbage/mechanical equipment rooms.~~

~~Mechanical equipment is necessary to the function of the buildings, which comprise a successful development. Unfortunately, space must be found for components that are sometimes large, noisy and unsightly. Mechanical equipment, particularly when added after the building is in use, can interrupt the~~

~~streetscape and public views, decreasing the comfort and livability throughout the area. Enclosures and mechanical rooms shall conform to the following criteria:~~

~~A. When associated with new construction or rehabilitation valued at more than 30 percent of the building value as determined by the building official:~~

~~1. Restaurant and/or drinking uses, trash and garbage facilities shall be within an enclosed, air-conditioned garbage room; and~~

~~2. Commercial, office or multifamily uses, trash and garbage facilities shall be within an enclosed, cross-ventilated garbage room.~~

~~B. When located outside of the building, the trash and garbage facilities shall be enclosed within a decorative CBS, wood, metal or recycled products material, opaque structure. The structure (including opaque gates) shall be painted or finished to match the building appearance. No such containers shall be kept, utilized, left, stored or maintained in front of any principal structure, except on collection day.~~

~~C. Dumpster enclosures shall be located in visually obscure areas of the site and shall be designed in a manner as to visually screen the dumpster from adjacent view, and shall include a dumpster locking device on containers that include food waste to prevent access to the dumpster by birds or rodents.~~

~~D. Dumpster enclosures shall be placed in such a manner as to allow sanitation trucks to pick up garbage in a manner they are designed for.~~

~~E. 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.~~

~~F. All service bays, mechanical (HVAC) equipment and delivery areas should be located away from and not visible from the streets, waterways, sidewalks, and adjacent properties.~~

~~G. Service bays, ground-mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.~~

~~H. Exterior service bays and delivery areas should not be used for the storage of vehicles or materials.~~

~~1. Mechanical equipment is necessary to the function of the buildings, which comprise a successful development. Unfortunately, space must be found for components that are sometimes large, noisy and unsightly. Mechanical equipment, particularly when added after the building is in use, can interrupt the streetscape and public views, decreasing the comfort and livability throughout the area. Enclosures and mechanical rooms shall conform to the following criteria:~~

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~~b. Commercial, office or multifamily uses, trash and garbage facilities shall be within an enclosed, cross-ventilated garbage room.~~

~~2. When located outside of the building, the trash and garbage facilities shall be enclosed within a decorative CBS, wood, metal or recycled products material, opaque structure. The structure (including opaque gates) shall be painted or finished to match the building appearance.~~

~~3. Dumpster enclosures shall be located in visually obscure areas of the site and shall be designed in a manner as to visually screen the dumpster from adjacent view, and shall include a dumpster locking device on containers that include food waste to prevent access to the dumpster by birds or rodents.~~

4. ~~Dumpster enclosures shall be placed in such a manner as to allow sanitation trucks to pick up garbage in a manner they are designed for.~~

5. ~~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.~~

6. ~~All service bays, mechanical (HVAC) equipment and delivery areas should be located away from and not visible from the streets, waterways, sidewalks, and adjacent properties.~~

7. ~~Service bays, ground-mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.~~

8. ~~Exterior service bays and delivery areas should not be used for the storage of vehicles or materials.~~

~~(Ord. No. 2006-14, § 1, 8-17-06; Ord. No. 2013-04, § 4, 5-14-13; Ord. No. 2015-15, § 2, 11-10-15)~~

~~§ 155.19 - Awnings and canopies.~~

A. ~~Pedestrian related concerns are a priority in the creation of a successful development. Overhead protection from rain and sun should be provided for pedestrians. Awnings have an impact on the appearance of the storefront and building and tend to bring pedestrians closer to shop windows and entrances. Consideration shall be given to the following where applicable:~~

1. ~~Buildings/storefronts should have awnings or other means to provide pedestrians with sun/rain protection unless physically unsuited.~~

2. ~~Continuous awnings over several stores are prohibited. Individual awnings should be distinct from its adjacent neighbor. When multiple awnings are attached to one building, awnings shall be of identical height and depth.~~

3. ~~Backlit awnings are prohibited. These awnings, because of their high visibility, become attention getting devices - such as a sign, rather than means to provide comfort and protection for the pedestrian. Such awnings overwhelm the appearance of the buildings they are attached to, detracting from architectural qualities. Awnings that incorporate subtle down-lighting in a manner which creates a discreet peripheral washing of the awning, may be appropriate in some instances. High gloss vinyl (plastic) awning, backlit and metal awnings are not permitted.~~

4. ~~Metal awnings should be contemporary in design and shall be subject to the same restrictions and guidelines as other awning materials.~~

5. ~~Awnings shall be maintained in good repair, free from tears, fading or peeling. Awnings may be supported by poles and connected to the building underneath. Awnings needing vertical support columns are prohibited in the setback area.~~

6. ~~The awnings on corner buildings shall continue around the corner for compatibility with building form and pedestrian patterns, wherever possible.~~

7. ~~Signs on awnings/canopies are prohibited.~~

8. ~~Awnings shall not to be used where there is an existing projecting concrete sunscreen, except that a vertical awning valance may be suspended below the sunscreen with a clear height of eight feet above the sidewalk.~~

9. ~~Awnings should utilize color schemes that blend with those of neighboring developments as well as consistency in color schemes for the site. Accent colors should be chosen to enhance architectural details. Solid color and broad striped fabric patterns are preferred.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.20 - Signage.~~

~~A. Signs shall be carefully integrated with the site, landscape and architectural design content within which they are located. Size, shape and proportions should be compatible with the size and scale of the surroundings and should not compete with or obscure other design features of the site, landscape or structures.~~

~~1. In residential areas and mixed-use developments that include residential uses, signage shall be located in such a way as to avoid adverse impacts such as light or glare into residential units, yards or streets.~~

~~2. Signage on buildings with multiple storefronts shall be of the same type and material, i.e.: Channel letters illuminated, box sign, or pin letters. However, uniform color of such signage is not required to allow for diversity. Painted wood wall signs are prohibited.~~

~~3. Within small centers where the maximum size of each sign is 15 square feet the maximum height of all letters shall not exceed six inches.~~

~~4. The use of the logo and name is allowed in accordance with the Code.~~

~~5. Traffic control, directional and informational signage within a development shall be a specific decorative design, selected from samples offered by the Village.~~

~~6. Primary materials of a monument sign and base should be of materials which provide an image of permanence such as stucco, cast stone, or metal. Plastic panels or other type of background devices are discouraged. The sign cabinet and base should be of a high aesthetic quality and be at least four inches wide.~~

~~7. Bright colors on signage shall be limited to the sign message, trims, and other accents of the sign.~~

~~8. Internally illuminated awnings shall not be permitted.~~

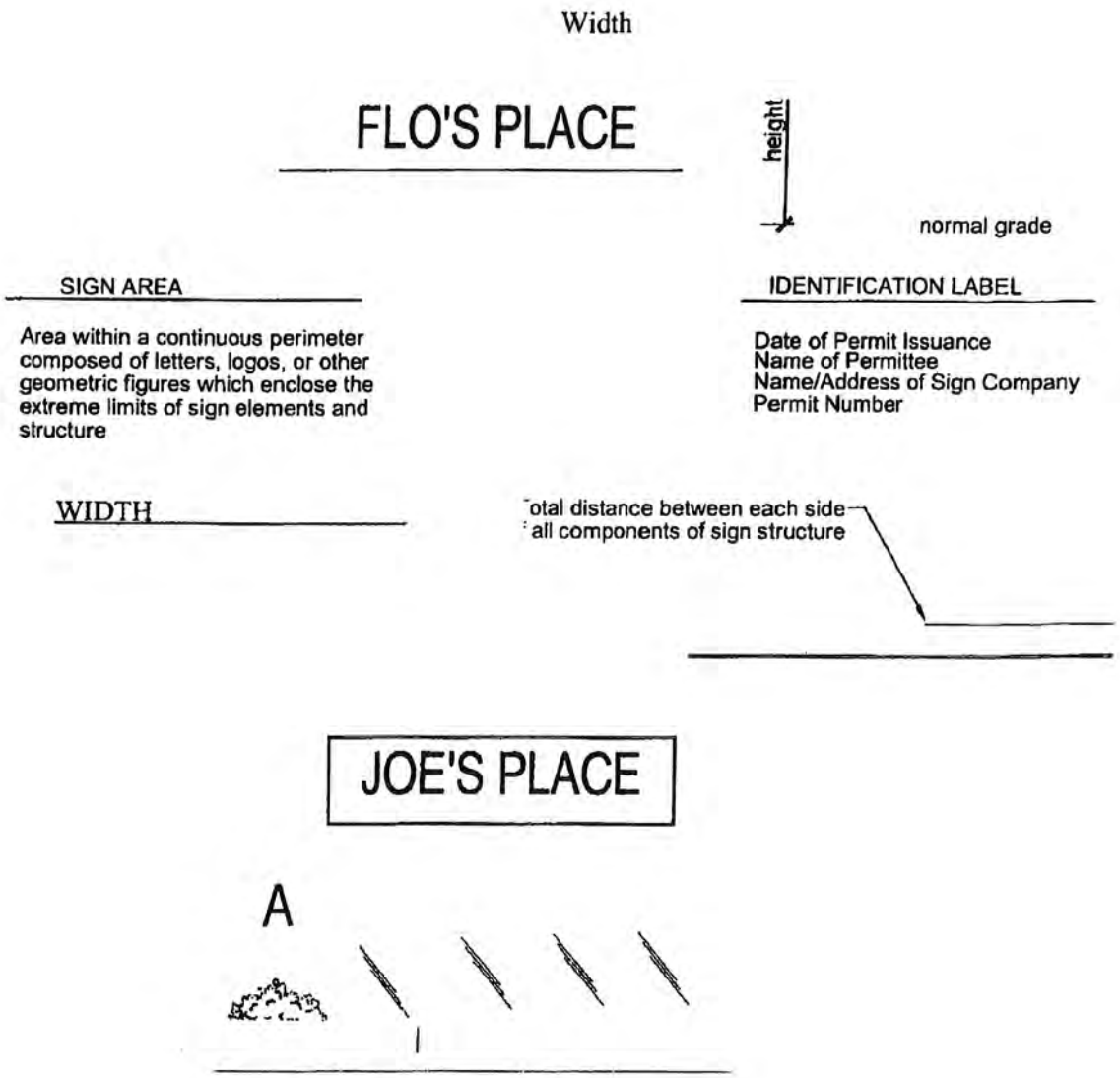
~~9. Roof-top signage is prohibited.~~

~~10. Paper signs attached to windows are discouraged.~~

~~11. Signs of professional office buildings containing more than one principal office are limited to one primary sign per street frontage.~~

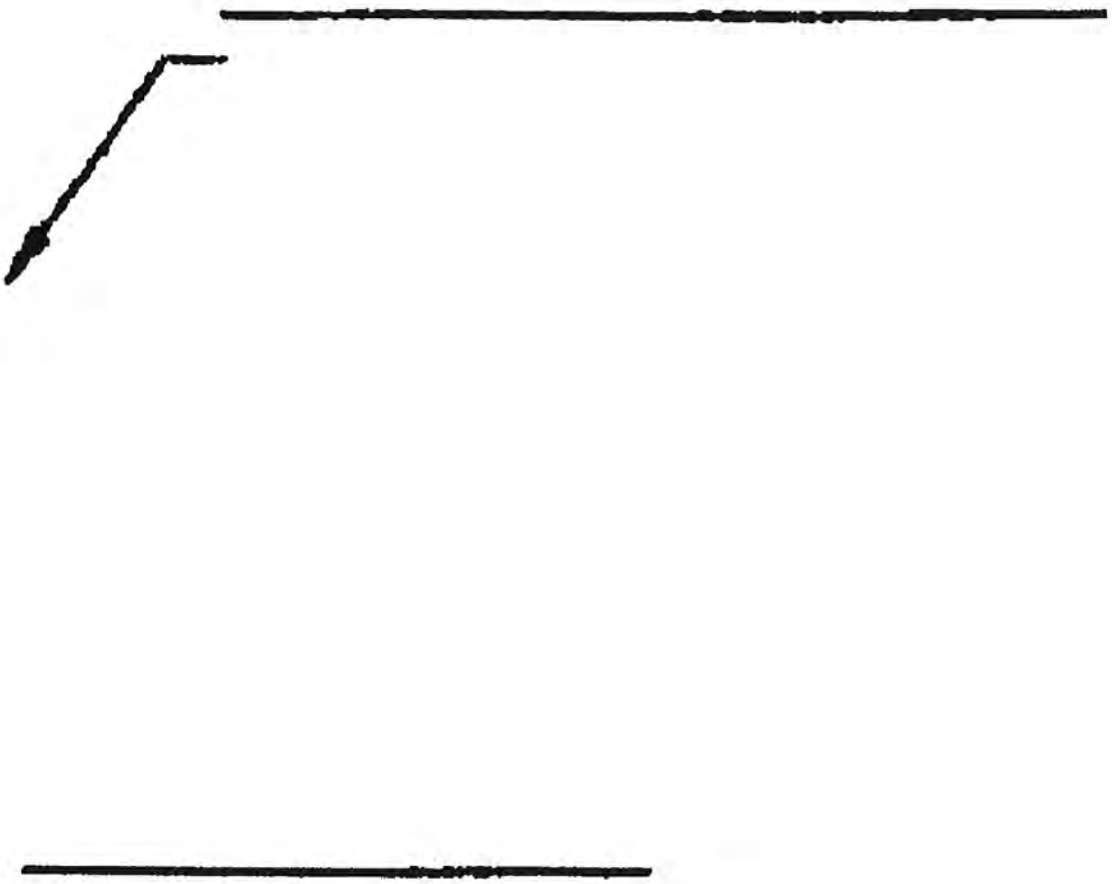
~~12. Signs are prohibited on upper floor windows and balconies.~~

~~13. All signs shall conform to requirements of the Village Code.~~



~~*Sign Figure 1*~~

~~Total distance from sign base at normal grade or crown of adjacent roadway to top of highest attached sign component normal grade.~~



~~*Sign - Figure 2*~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.21 - Streetscape environment.~~

~~A. Streetscape amenities such as benches, trash receptacles planters, pole lights, kiosks, telephones, news stands, drinking fountains and bike racks enliven and support the public domain. Café tables in the right-of-way can bring activity to the street.~~

~~B. Furnishings need to be attractive, pedestrian-friendly, and durable. Although street furnishings should be constructed of low maintenance materials, they should be implemented in conjunction with a maintenance strategy. The frequency and type of attention allocated to these elements should be a critical factor in their selection. Street furniture may be located within a development or in the right-of-way or public use easement, such as bus shelters and news racks.~~

~~The following criteria shall be considered:~~

~~a. Street furniture may include benches, trash receptacles, water fountains, potted plants, and art where appropriate. Street furniture may be fixed to the sidewalk if adequate clear passage for pedestrians, and emergency access is provided.~~

b. ~~Café tables and kiosks may occupy a portion of the public right-of-way if adequate clear passage for pedestrians, and emergency access is provided as specified in the American Disability Act (ADA).~~

c. ~~The design of street furnishings should unify areas with distinct character. Participation from private property owners is encouraged.~~

d. ~~Appropriate plantings may be provided as well.~~

e. ~~Bus shelters within the Village shall be uniform in material, style and color as established by the Village.~~

f. ~~Trash receptacles should be placed at points of use - next to benches, shelters, outside restaurants and adjacent to residential entrances in quantities that properly serve those uses. Numerous, smaller units are preferable to a few larger bins.~~

g. ~~Bicycle racks encourage bicycle traffic in an urban environment. Bicycling is an activity which brings families and groups of people to pedestrian friendly districts. They should differ in appearance based on their location and the need for bicycle parking in specific areas. Bicycle racks should be provided in a development whenever feasible.~~

h. ~~All streetscape furniture and placement shall meet CEPTED and ADA requirements.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.22 - Lighting.~~

A. ~~Lighting comes in two types: functional and ambient. Lighting in addition to Florida Power and Light Standards shall be designed from the standpoint of safety and reviewed as an integral part of the overall development. Lighting shall conform to the following criteria:~~

1. ~~Parking lot fixtures are to be selected not only for their functional value, but also for their aesthetic qualities. They are to be considered furniture of the parking lot visible both day and night. Light fixtures used in the district shall be decorative for new development or redevelopment within public view and are encouraged throughout the development. The decorative fixtures shall be of a style that compliments the development. Cobra heads are prohibited within a development. Shoe box units may be used but are discouraged at entrances and exits.~~

2. ~~Parking area lighting should compliment the lighting of adjacent streets and properties, and should use consistent fixtures, source colors and illumination levels.~~

3. ~~Light fixtures in parking lots must be a maximum height of 20 feet.~~

4. ~~Poles should be placed to provide a unified, organized appearance throughout the parking area or development and should provide even and uniform light distribution. The use of a greater number of low fixtures in a well-organized pattern is preferred over the use of a minimum number of tall fixtures.~~

5. ~~Outdoor storage areas including auto and truck parking and storage should be illuminated from poles similar to those used for parking lot lighting, but at lower illumination levels.~~

6. ~~Parking lot and security lighting shall be designed to direct light into the property.~~

7. ~~Security lighting should be limited to low-intensity specialty fixtures. The light source should not be visible from the street or adjoining properties. Other wall mounted security lighting is discouraged.~~

8. ~~Building lighting should be used to highlight specific architectural features. Lighting of architectural features should be designed with the intent of providing accent and interest or to help identify entry and not to exhibit or advertise buildings or their lots.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.23 - Neon.~~

~~A. Neon is discouraged to border windows or create a false sense of architecture.~~

~~B. The use of neon as an architectural accent is discouraged.~~

~~C. When pedestrian lighting is used in conjunction with street lighting, the pedestrian lighting should be clearly distinguishable from the ambient street lighting to clearly define the pedestrian path of travel.~~

~~D. When adjacent to pedestrian circulation and gathering areas, parking area lighting should not overpower the quality of pedestrian area lighting.~~

~~E. Lighting should be designed to provide even and uniform light distribution without hot spots dark spots or glare. Lighting should be designed to minimize dark areas that could pose a security concern near pedestrian areas. Pedestrian circulation systems should be highlighted by visible light sources that clearly indicate the path of travel ahead.~~

~~F. Placement of fixtures should provide a coordinated and organized appearance that facilitates uniform light levels and works with the placement of sidewalks, landscaping, signage, building entries and other features to contribute to the overall continuity of the streetscape and development.~~

~~G. Accent lighting of landscape areas should be low level and background in appearance.~~

~~H. The color of the light sources shall be consistent throughout the project. High pressure sodium lamps are not permitted.~~

~~I. Decorative accent lighting of landscape features, at entrances and exits is recommended.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.24 - Access, public rights-of-way and utilities.~~

~~A. Off-site improvements associated with new development or redevelopment shall be subject to the following:~~

~~1. Public use of existing and future rights-of-way should be enhanced through thoughtful vehicular and pedestrian improvements, and good maintenance. Existing public rights-of-way should be used directly to benefit the public.~~

~~2. Off-site improvements shall be consistent with the Village's established specifications for such improvements or be subject to Village Commission approval.~~

~~3. Drainage and disposition of natural and storm water shall be designed to be compatible with existing systems.~~

~~4. New, replacement, or upgraded on-site utilities and other services shall be provided underground. If at all possible, new, replacement or upgraded utilities and other services provided within public right-of-ways must also be placed underground. Where an approved master plan of improvements calls for underground utilities and other services in the right-of-way, the improvements should be consistent with and implement the master plan.~~

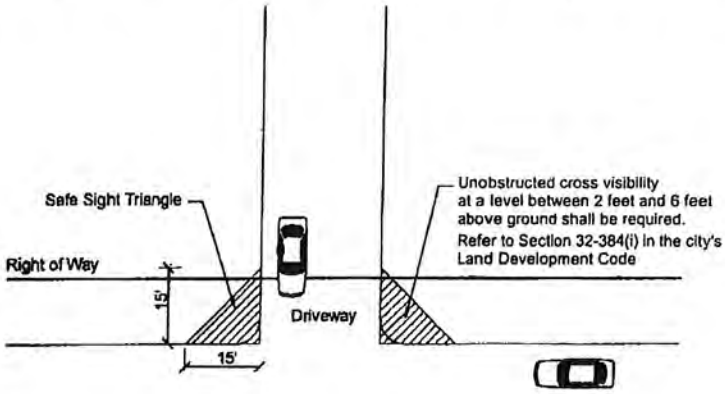
~~5. Off-site improvements associated with new development or redevelopment shall be subject to the following:~~

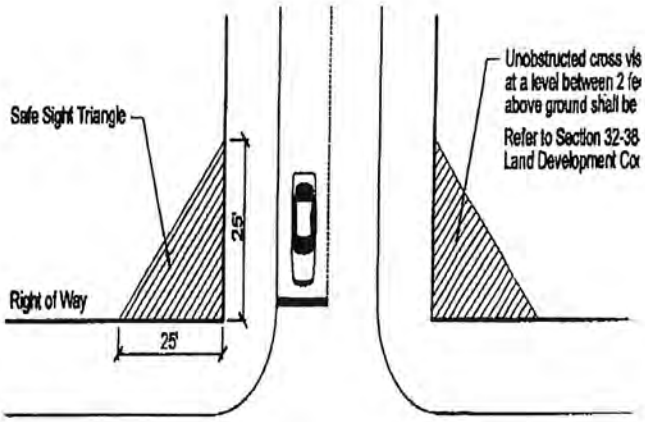
~~a. Public use of existing and future rights-of-way should be enhanced through thoughtful vehicular and pedestrian improvements, and good maintenance. Existing public rights-of-way should be used directly to benefit the public.~~

~~b. Off-site improvements shall be consistent with the Village's established specifications for such improvements or be subject to Village Commission approval.~~

~~c. Drainage and disposition of natural and storm water shall be designed to be compatible with existing systems.~~

~~d. New, replacement, or upgraded on-site utilities and other services shall be provided underground. If at all possible, new, replacement or upgraded utilities and other services provided within public right-of-ways must also be placed underground. Where an approved master plan of improvements calls for underground utilities and other services in the right-of-way, the improvements should be consistent with and implement the master plan.~~





Vision Clearance

Intersection Triangl

~~*Intersection Triangles*~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

~~§ 155.25 - Outdoor dining and sidewalk cafés.~~

A. Café tables in the right-of-way can bring activity to the street. They can provide a wonderful means of people-watching for diners and pedestrians. Consideration should be given to unification of these elements within a block from street to street.

B. Restaurants and bars are also encouraged to provide outdoor service in courtyards or arcades. Sidewalk cafés on the public right-of-way may be allowed upon approval by the Village Commission. Outdoor restaurants, bars or sidewalk cafés must be associated with an adjacent licensed restaurant and comply with all other zoning regulations and conform to the following criteria:

1. Placement of tables, chairs and related equipment shall be situated to ensure that a minimum of five feet straight pathway on the sidewalk is maintained at all times as an unobstructed pedestrian path.
2. Serving through windows is not permitted.
3. Food preparation shall only occur in the enclosed restaurant.
4. Because table form sufficient advertisement, no additional signs for the sidewalk café are permitted.
5. Outdoor furniture shall be substantial enough not to blow over with normal winds.
6. All outdoor furniture and fixtures shall be tastefully compatible and approved by the Building and Zoning Department.
7. All disposable table materials such as plates, glasses, and napkins shall be imprinted (stickers may be used) with the name of the café. This regulation is to control litter.
8. Sidewalk cafés shall receive a revocable permit subject to the procedures established by the Village.

(Ord. No. 2006-14, § 1, 8-17-06)

§ 155.26 - Crime Prevention Through Environmental Design (CPTED).

A. The U.S. Government "Crime Prevention Through Environmental Design Program" (CPTED) incorporates architectural solutions to reduce the opportunity of crime. Elimination of recessed entryways, provision of adequate lighting and proper design of spaces will reduce the possibility of criminal activity.

1. Building mounted lighting shall be installed on alley frontage and side yards. This is particularly recommended at service/delivery entrances.
2. Windows in the alleys or sides provide the appearance of natural surveillance and may discourage break-ins. Such windows shall not be blocked up.
3. See through fences and gates of metal pickets shall be located to discourage uncontrolled access to service/delivery areas.
4. Hiding places and blind corners shall be eliminated from site/building, where possible.
5. The concept of natural surveillance, visibility by the public (shoppers, pedestrians, motorists, and/or personnel) shall be incorporated into the design where possible.
6. Landscaping shall be designed to discourage crime. Tree heights/spread shall allow sufficient visibility, not completely block views of/from doors and windows. Shrubs shall not be planted where they may become hiding places.
7. Fences should be largely transparent fences/wall are preferred.

(Ord. No. 2006-14, § 1, 8-17-06)

~~§ 155.27 - Conflict.~~

~~In case of any conflict between this chapter and the contents of the Zoning Code and the Land Development Code, the provisions of the Zoning and Land Development Codes shall apply.~~

~~(Ord. No. 2006-14, § 1, 8-17-06)~~

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 ***JANUARY 17, 2017 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 HEAR THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK; TRANSFERRING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR. PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT; PROVIDING THAT SITE DENSITY ALLOWED SHALL NOT EXCEED 100 RESIDENTIAL DWELLING UNITS PER ACRE.**

   B. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, CHAPTER 152, CREATING THE PUBLIC SPACE AND PARKING ENHANCEMENT OVERLAY; PERMITTING ADDITIONAL HEIGHT; REDUCED SIDE SETBACKS; AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.**

   C. **AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.**

2. **AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

   A. **A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 12.5-FEET TO ALLOW A STRUCTURE TO BE 2.5-FEET FROM THE EAST REAR PROPERTY LINE**

3. **AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, REPEALING ALL CHAPTERS OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING CHAPTER 1 GENERAL PROVISIONS, CHAPTER 2 ADMINISTRATIVE AND LEGISLATIVE PROCEDURES, CHAPTER 3 LAND USE, CHAPTER 4 CONSISTENCY AND CONCURRENCY DETERMINATIONS, CHAPTER 5 DESIGN STANDARDS AND CHAPTER 6 FLOOD DAMAGE PREVENTION; REPEALING APPENDICES OF THE VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS INCLUDING APPENDIX A APPLICATIONS, APPENDIX B BUILDING PERMIT APPLICATION, APPENDIX C DEPARTMENT OF COMMUNITY AFFAIRS LETTER, APPENDIX D SHORELINE REVIEW CHECKLIST AND QUESTIONNAIRE, APPENDIX E CLASS I COASTAL CONSTRUCTION PERMIT APPLICATION, APPENDIX H FLOOD CONTROL; REPEALING LAND DEVELOPMENT CODE COMPARATIVE TABLE OF ORDINANCES, REPEALING CHAPTERS OF THE VILLAGE CODE OF ORDINANCES INCLUDING CHAPTER 152 ZONING AND CHAPTER 155 DESIGN GUIDELINE STANDARDS; REPEALING APPENDIX B OF THE VILLAGE CODE OF ORDINANCES ENTITLED SIGN ILLUSTRATION; ADOPTING A NEW UNIFIED LAND DEVELOPMENT CODE INCLUDING CHAPTER 1 GENERAL, CHAPTER 2 RELATIONSHIP TO THE COMPREHENSIVE PLAN, CHAPTER 3 DEFINITIONS, CHAPTER 4 ADMINISTRATION AND ENFORCEMENT, CHAPTER 5 PERMITS AND DEVELOPMENT APPROVALS, CHAPTER 6 NONCONFORMITIES, CHAPTER 7 VARIANCES, CHAPTER 8 ZONING, CHAPTER 9 GENERAL SITE DESIGN STANDARDS, CHAPTER 10 FLOOD DAMAGE PREVENTION, CHAPTER 11 SIGNS, CHAPTER 12 ADULT ENTERTAINMENT, CHAPTER 13 VACATION RENTAL LICENSE PROGRAM, CHAPTER 14 MARIJUANA DISPENSARIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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 VILLAGE 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. 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
(DECEMBER 15, 2016)

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

REGULAR PLANNING & ZONING BOARD MEETING

NORTH BAY VILLAGE
1666 KENNEDY CAUSEWAY, #300
NORTH BAY VILLAGE, FL 33141

SEPTEMBER 6, 2016
7:30 P.M.

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1. CALL TO ORDER.

The Chair Bud Farrey called the Regular Meeting of the North Bay Village Planning & Zoning Board to order at 7:35 P.M.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present were the following:

Chair Bud Farrery
Vice Chair Marvin Wilmoth
Dr. Joshua Furman
Doris O'Hare

Dr. Douglas Hornsby was absent.

Village Manager Frank K. Rollason
Village Planner Jim LaRue and Ben Smith
LaRue Planning & Management Services, Inc.
Village Attorney Robert L. Switkes
Village Clerk Yvonne P. Hamilton

4. **PUBLIC HEARING ITEMS *(ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN)***

A. **AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152, SECTION 152.112 OF THE ZONING CODE, TO INCLUDE THE RM-40 AND RM-70 ZONING DISTRICTS AS AREAS SUBJECT TO THE VILLAGE'S VACATION RENTAL REGULATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE.**

The Village Attorney read the ordinance by title.

The Village Planner Jim LaRue made a brief presentation on the ordinance to provide regulations in the RM-40 and RM-70 Zoning Districts to address short-term vacation rentals for apartments and condominiums, similar to existing regulations for Single-Family Residential Districts.

The Chair opened the Public Hearing. There being no speakers, he closed the Public Hearing.

Dr. Joshua Furman made a motion to find that the ordinance is consistent with the Village's Comprehensive plan and to recommend approval. Doris O'Hare seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Bud Farrey, Doris O'Hare, Marvin Wilmoth, and Dr. Joshua Furman all voting Yes.

B. **AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA AMENDING CHAPTER 152 OF THE ZONING CODE BY REVISING SECTIONS, 152.076 ENTITLED "SIGN DEFINITIONS; 152.078 ENTITLED "PHOHIBITED SIGNS"; 152.080 ENTITLED "EXEMPTED SIGNS"; 152.081 ENTITLED "TEMPORARY SIGNS"; 152.082 ENTITLED "REMOVAL OF SIGNS"; 152.083 ENTITLED "DISTRICT SIGN REGULATIONS"; 152.084 ENTITLED "VARIANCES, PLANNING"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE.**

The Village Attorney read the ordinance by title.

Mr. LaRue presented the Staff Report and discussed the revisions to the Sign Ordinance to provide consistency for all temporary signs in the Village.

The Chair opened the Public Hearing. There being no speakers, he closed the Public Hearing.

Dr. Joshua Furman made a motion to recommend approval of the Ordinance. Doris O'Hare seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Bud Farrey, Doris O'Hare, Marvin Wilmoth, and Dr. Joshua Furman all voting Yes.

C. AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152, OF THE ZONING CODE BY ADDING SECTION 152.033 ENTITLED "GOVERNMENT USE DISTRICT" TO CREATE STANDARDS FOR A GOVERNMENT USE ZONING DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE.

The Village Attorney read the ordinance by title.

Ben Smith, with LaRue Planning & Management Services, Inc., the Village Planner, presented the Staff Report and explained the amendment to add a new Government Use Zoning District to allow government owned and operated facilities; as well as matching the zoning to the Future Land Use Category.

The Chair opened the Public Hearing. There being no speakers, he closed the Public Hearing.

Doris O'Hare made a motion to approve the ordinance. Dr. Joshua Furman seconded the motion, which was adopted by 4-0 roll call vote. The vote was as follows: Dr. Joshua Furman, Bud Farrey, Marvin Wilmoth, and Doris O'Hare all voting Yes.

D. AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 151, SECTION 151.26 OF THE VILLAGE CODE ENTITLED "OFF-STREET PARKING RGULATIONS" TO PROHIBIT CHARGING FOR PARKING AT HOTELS, MOTELS, APARTMENTS AND CONDOMINIUM PROPERTIES IN THE VILLAGE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE.

The Village Attorney read the ordinance by title.

Mr. Smith presented the Staff Report and discussed the ordinance to provide that parking spaces that are required to be built according to the Site Plan have to be provided to guests at no charge.

The Chair opened the Public Hearing.

Jay Chaves, Property Manager of 7935 East Drive, addressed the Commission.

The Chair closed the Public Hearing.

There was discussion that the Village should not have the right to prohibit property owners from charging for parking, especially to another owner in the same building.

It was suggested that if a property owner could prove that there is under-utilization of spaces in the building, the extra spaces could be rented to only to residents in the same building.

The Chair closed the Public Hearing.

Dr. Joshua Furman made a motion recommending that the ordinance be approved to include a provision for renting parking spaces if there is under-utilization of parking spaces in a building. Marvin Wilmoth seconded the motion, which was adopted by a 3-1 roll call vote. The vote was as follows: Bud Farrey, Marvin Wilmoth, and Dr. Joshua Furman all voting Yes. Doris O'Hare voted No.

5. APPROVAL OF MINUTES

A. REGULAR PLANNING & ZONING BOARD MEETING – JULY 5, 2016

Marvin Wilmoth made a motion to approve the Minutes. Dr. Joshua Furman seconded the motion, and all voted in favor.

6. ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Prepared and submitted by: Yvonne P. Hamilton
Village Clerk

Approved by Planning & Zoning Board on January 17, 2017

_____

Bud Farrey
Chair/Planning & Zoning Board

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

REGULAR PLANNING & ZONING BOARD MEETING MINUTES

NORTH BAY VILLAGE
1666 KENNEDY CAUSEWAY, #300
NORTH BAY VILLAGE, FL 33141

OCTOBER 18, 2016
7:30 P.M.

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1. CALL TO ORDER.

The Chair Bud Farrey called the Regular Meeting of the North Bay Village Planning & Zoning Board to order at 7:32 P.M.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present were the following:

Bud Farrey, Chair
Marvin Wilmoth, Vice Chair
Dr. Douglas Hornsby

Absent:
Dr. Joshua Furman
Doris O'Hare

Village Manager Frank K. Rollason
Village Planner Ben Smith
LaRue Planning & Management Services, Inc.
Village Attorney Robert L. Switkes
Village Clerk Yvonne P. Hamilton

4. **PUBLIC HEARING ITEMS *(ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN)***

A. **AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.060(A) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 7.5-FOOT SIDE-YARD SETBACK BY 2.5-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE SOUTH SIDE PROPERTY LINE AND TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 10-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE EAST REAR PROPERTY LINE.**

The Village Clerk read the request into the record.

The Village Attorney swore in those individuals who indicated that they would provide testimony.

The Village Planner, Ben Smith of LaRue Planning & Management Services, Inc., presented the Staff Report. The Board, the applicant, and the Village Planner discussed an updated survey that was provided.

Marvin Wilmoth made a motion to defer the matter to the November 1, 2016 Planning & Zoning Board Meeting for the applicant to provide an adjustment survey and measurements for the pool location. Dr. Douglas Hornsby seconded the motion, which carried 3-0. The vote was as follows: Dr. Douglas Hornsby, Bud Farrey, and Marvin Wilmoth all voting Yes.

B. **AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA AMENDING CHAPTER 152, SECTION 152.003 ENTITLED "DEFINITIONS"; ADDING DEFINITIONS FOR GROW HOUSE, MARIJUANA, MARIJUANA BASED PRODUCT, MARIJUANA DISPENSARY, MOBILE MARIJUANA DISPENSARY; SECTIONS 152.026 THRU 152.029 AND 152.0296 PROHIBITING MARIJUANA DISPENSARIES (EXCEPT IN THE CG ZONING DISTRICT), GROW HOUSES, AND MOBILE MARIJUANA DISPENSARIES; SECTION 152.030 ENTITLED "CG GENERAL COMMERCIAL DISTRICT" TO ALLOW MARIJUANA DISPENSARIES AS ALLOWABLE USES; SECTION 152.044 ENTITLED "MINIMUM SPACE REQUIREMENTS" REVISE PARKING SPACE REQUIREMENTS, TO INCLUDE MARIJUANA DISPENSARIES; SECTION 152.112 ENTITLED "MARIJUANA DISPENSARIES" ADDING SECTION PROVIDING CONDITIONS FOR APPROVAL OF A MARIJUANA DISPENSARY AND OPERATING PROCEDURES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE.**

The Village Clerk read the Ordinance by title.

The Village Planner, Ben Smith, discussed the ordinance to create zoning regulations for the operation and location of marijuana dispensaries in the Village.

The Chair opened the Public Hearing. There being no speakers, he closed the Public Hearing.

Marvin Wilmoth made a motion to approve the ordinance as presented, and Dr. Douglas Hornsby seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Dr. Douglas Hornsby, Bud Farrey, and Marvin Wilmoth all voting Yes.

5. ADJOURNMENT

The meeting adjourned at 7:51 p.m.

Prepared and submitted by: Yvonne P. Hamilton
Village Clerk

Approved by Planning & Zoning Board on January 17, 2017

_____

Bud Farrey
Chair/Planning & Zoning Board