

**RESOLUTION NO. 2015-21**

**A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA APPROVING A REQUEST BY 7940 WEST DRIVE LLC FOR SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A 54 UNIT, 15 STORY MULTI-FAMILY CONDOMINIUM STRUCTURE AT 7938 AND 7940 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA; PROVIDING FOR FINDINGS; PROVIDING FOR GRANTING THE REQUEST; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATION OF CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 152.105(C)(9) of the North Bay Village Code of Ordinances (the "Village Code"), 7940 West Drive, LLC has applied to North Bay Village for approval of a Site Plan to construct a 54-unit, 15 story multi-family condominium structure in the RM-70 (High Density Multiple-Family) Zoning District utilizing the bonus height provision pursuant to Section 152.029(C)(8)(H); and

**WHEREAS**, Section 152.105(C) and Section 152.102 of the Village Code set forth the authority of the Village Commission to consider and act upon an application for Site Plan approval.

**WHEREAS**, in accordance with Section 152.096 of the Village Code, a public hearing by the Planning and Zoning Board was noticed for October 21, 2014 at 7:30 P.M. at Village Hall, 1666 Kennedy Causeway, #101, North Bay Village, Florida 33141 and the Planning and Zoning Board reviewed the application, conducted a public hearing and recommended approval of the request with conditions; and

WHEREAS, in accordance with Section 152.096 of the Village Code, public hearings by the Village Commission were noticed for December 9, 2014 at 7:30 p.m. and January 27, 2015 at 7:30 P.M. at Village Hall, 1666 Kennedy Causeway, #101, North Bay Village, Florida 33141 and all interested parties have had the opportunity to address their comments to the Village Commission; and

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

**Section 1. Recitals.**

The above recitals are true and correct and incorporated into this Resolution by this reference.

**Section 2. Finding.**

In accordance with Section 152.105(9) of the Village Code, the Village Commission finds that the proposed Site Plan for construction of a 54-unit, 15 story condominium structure:

- 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 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.

**Section 3. Grant.**

The Site Plan to construct a 54 unit, 15 story multiple-family condominium structure at 7938 and 7940 West Drive, North Bay Village, Florida, as attached and incorporated herein as Exhibit "A" entitled "7940 West Drive LLC" as submitted for hearing on October 30, 2014 and consisting of sheets A1.100 through A1.114 is hereby approved.

**Section 4. Conditions.**

The Site Plan is approved with the condition that the following items are met prior to issuance of a Building Permit:

- 1) Applicant shall revise plans to preserve as many right-of-way street parking spaces as possible.
- 2) Submittal of a vegetative survey, irrigation plan, and landscape plan which meets Miami-Dade Chapter 18A requirements.
- 3) Submittal of a Unity of Title, as per Section 152.0296(D)(3).
- 4) The public access easement and boardwalk must be dedicated and recorded. Applicant shall agree, in writing, that the boardwalk shall be open to the public daily, during hours to be determined by the Village; and boardwalk lighting shall remain on while boardwalk is open to the public.
- 5) Site plan approval from Miami-Dade Shoreline Review Committee.
- 6) Meeting Miami-Dade County School Concurrency requirements as determined by School Board Staff.
- 7) Payment of any applicable impact fees.
- 8) Payment of bonus density fees, as required under Section 152.029(C)8F.
- 9) Tie-in to Village's wastewater system at a connection point determined by the Village and payment of pro-rata costs involved in tying into appropriate connection point.
- 10) Applicant shall not lease or sell parking spaces.
- 11) Applicant shall not charge for guest parking.

12) Staging of construction materials shall occur off-site, and not on the public right-of-way.

13) Cost recovery charges must be paid pursuant to Section 152.110. Specifically, no new development application shall be accepted and no building permit or certificate of occupancy shall be issued for the property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications on the property), have been paid in full.

14) Building permits and related approvals must be obtained from the Building Official prior to commencement of construction.

15) Approval of this site plan does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Village for approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.

16) All applicable state and federal permits must be obtained before commencement of construction.

16) The applicant shall dedicate an easement, which allows the Village access to the stormwater outfall pipe on the property, whether it is relocated to or remain in the same location. The applicant shall further be responsible for all cost of repairs to the stormwater outfall pipe should any damage occur during construction.

17) Should the developer provide adequate parking as required by the Village Code and does not need to utilize compact parking spaces, then valet parking will not be required. However, if the property were developed with compact parking spaces, there shall be a permanent condition of approval in the Condominium Bylaws that valet parking shall continue in perpetuity.

### **Section 5. Appeal.**

In accordance with Section 152.104 of the Village Code, the Applicant, or any aggrieved property owner, may appeal the decision of the Village Commission by filing a Writ of Certiorari to the Circuit Court of Miami-Dade County, Florida, in accordance with the Florida Rules of Appellate Procedure.

**Section 6. Violation of Conditions.**

Failure to adhere to the terms and conditions contained in this Resolution in Section 4, if any, shall be considered a violation of this Resolution and persons found violating the conditions shall be subject to the penalties prescribed by the Village Code, including but not limited to, the revocation of any of the approval(s) granted in this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Village Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the Village at any time upon a determination that the Applicant is in non-compliance with the Village Code.

**Section 7. Effective Date.**

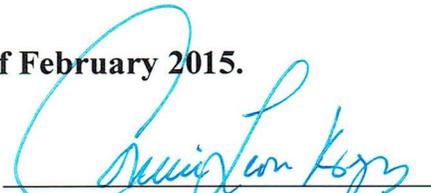
This Resolution shall become effective upon its adoption.

The foregoing Resolution was offered by Vice Mayor Jorge Gonzalez, who moved for its adoption. This motion was seconded by Commissioner Wendy Duvall, and upon being put to a vote, the vote was as follows:

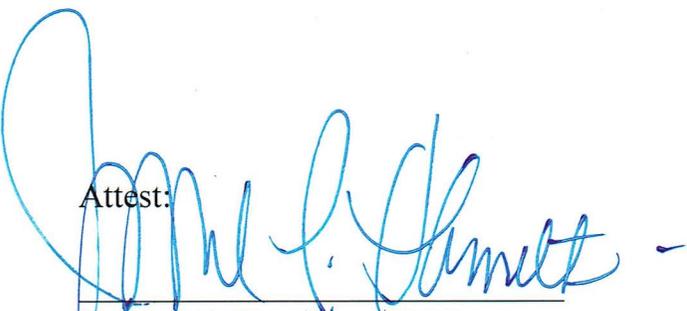
**FINAL VOTE AT ADOPTION:**

Mayor Connie Leon-Kreps	<u>Yes</u>
Vice Mayor Jorge Gonzalez	<u>Yes</u>
Commissioner Richard Chervony	<u>Yes</u>
Commissioner Wendy Duvall	<u>Yes</u>
Commissioner Eddie Lim	<u>Yes</u>

**PASSED AND ADOPTED this 24th day of February 2015.**

  
\_\_\_\_\_  
Mayor Connie Leon-Kreps

Attest:

  
\_\_\_\_\_  
Yvonne P. Hamilton, CMC  
Village Clerk

**APPROVED AS TO FORM:**

A handwritten signature in blue ink, consisting of several loops and a horizontal line, positioned above a horizontal line.

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

North Bay Village Resolution: 7938-7940 West Drive Site Plan Approval.