



NORTH MIAMI PLANNING COMMISSION AGENDA

Tuesday, October 6, 2015, 7:00 PM

Council Chambers

776 NE 125th Street, North Miami, FL 33161

I. ASSEMBLY AND ORGANIZATION:

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call of Board Members
- D. Amendments to the Agenda

II. APPROVAL OF MINUTES: August 4, 2015

III. COMMUNICATIONS: None

IV. CONTINUED PUBLIC HEARINGS:

PC 14-15: **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 6, ENTITLED "VARIANCES HEARD BY BOARD OF ADJUSTMENT," SPECIFICALLY AT SECTION 3-604 ENTITLED "ADMINISTRATIVE VARIANCES", AND AMENDING DIVISION 7, ENTITLED "APPEALS", SPECIFICALLY AT SECTION 3-702 ENTITLED "ADMINISTRATIVE APPEALS" TO EXTEND THE TIME REQUIRED FOR AN AGGRIEVED PARTY TO FILE A NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT FROM THE CURRENT TEN (10) DAYS TO THIRTY (30) DAYS, AND TO SHIFT THE COST OF SUCH AN APPEAL TO THE OWNER OF THE PROPERTY SEEKING THE BENEFITS DERIVED BY THE ISSUANCE OF AN ADMINISTRATIVE VARIANCE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.**

- 1. Staff Report
- 2. Commission Action

V. PUBLIC HEARINGS: None

VI. COMMITTEE REPORTS: None

VII. OLD BUSINESS: None

VIII. NEW BUSINESS: None

IX. ADJOURNMENT

Interested parties may appear at the meeting and be heard with respect to the matter. Any person wishing to appeal the recommendations of the Planning Commission will need a verbatim record of the meetings proceedings, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286.0105 F.S.) In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding should contact the Community Planning & Development Department no later than four (4) days prior to the proceeding. Telephone (305) 893-6511, Ext. 12159, for assistance. If hearing impaired, telephone our TDD line at (305) 893-7936 for assistance.



NOTICE OF PROPOSED ORDINANCE

CITY OF NORTH MIAMI, FLORIDA

NOTICE IS HEREBY GIVEN that the City of North Miami, Florida proposes to adopt the following ordinance:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 6, ENTITLED "VARIANCES HEARD BY BOARD OF ADJUSTMENT," SPECIFICALLY AT SECTION 3-604 ENTITLED "ADMINISTRATIVE VARIANCES", AND AMENDING DIVISION 7, ENTITLED "APPEALS", SPECIFICALLY AT SECTION 3-702 ENTITLED "ADMINISTRATIVE APPEALS" TO EXTEND THE TIME REQUIRED FOR AN AGGRIEVED PARTY TO FILE A NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT FROM THE CURRENT TEN (10) DAYS TO THIRTY (30) DAYS, AND TO SHIFT THE COST OF SUCH AN APPEAL TO THE OWNER OF THE PROPERTY SEEKING THE BENEFITS DERIVED BY THE ISSUANCE OF AN ADMINISTRATIVE VARIANCE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

A Public Hearing on this Ordinances will be held by the Planning Commission on **Tuesday, October 6th, 2015 at 7:00 p.m.** and the City Council on **Tuesday, October 13th, 2015 (1st Reading) and Tuesday, October 27th, 2015 (2nd Reading) at 7:00 p.m.** in the Council Chambers of North Miami City Hall, Second Floor, 776 NE 125 Street, North Miami, Florida 33161.

Members of the public are invited to attend the Public Hearings and provide oral or written comments on the matter. A copy of the application and report containing the Community Planning and Development Department's recommendation will be available for public review from Monday to Friday between the hours of 8:15 a.m. and 5:00 p.m. in the City Clerk's Office, City Hall. Written comments may be submitted to: City of North Miami, 776 N.E. 125th Street, North Miami, Florida 33161, Attn: Community Planning and Development Department. For questions, please call (305) 893-6511, Ext. 12182.

ANY PERSON WISHING TO APPEAL THE DECISION OF THE CITY COUNCIL WILL NEED A VERBATIM RECORD OF THE MEETING'S PROCEEDINGS, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED (SECTION 286.0105. F.S.).

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK NO LATER THAN FOUR (4) DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305) 893-6511, EXT. 2147, FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE OUR TDD LINE AT (305) 893-7936 FOR ASSISTANCE.

MINUTES
 NORTH MIAMI PLANNING COMMISSION
 7:00 P.M.
 Tuesday, August 4, 2015
 COUNCIL CHAMBERS

The meeting was called to order at 7:05p.m. After the pledge of allegiance, a roll call of the members was taken.

	Name	Present	Excused	Absent
1.	Chair Kevin Seifried	X		
2.	Vice Chair Charles Ernst	X		
3.	Kenny Each	X		
4.	Jason James	X		
5.	Emmanuel Jeanty	X		
6.	Pegy Boule	X		
7.	Bob Pechon	X		
<i>Alternative Members:</i>				
8.	Michael McDearmaid			
9.	Mary C. Estime-Irvin			

Staff was represented by:

Aleem Ghany, City Manager
 Arthur Sorey Jr., Deputy City Manager
 Tanya Wilson-Sejour, Planning Manager
 Nixon Lebrun, City Planner
 Roland Galdos, Interim City Attorney
 Katrina Lunan-Gordon, Board Secretary
 Ricardo Castillo, Information Technology
 Derrick Corker, Parks & Recreation Manager
 Natasha Colebrook-Williams, Chief of Staff
 Wisler Pierre-Louis, Public Works Director
 Hasan Rizvi, Senior Civil Engineer
 Gregory Netto, Public Works Assistant Director

I. Assembly and Organization: None

II. Approval of Minutes:

- a. The minutes of July 7, 2015 was motioned for approval by Commissioner Each and seconded by Commissioner Jeanty. Passed unanimously 6-0.

III. Communications: None

IV. Continued Public Hearings: None

V. Public Hearings:

PC 15-15: **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL BASED AMENDMENTS TO THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF RULE 73C-49, FLORIDA ADMINISTRATIVE CODE, AND SECTION 163.3191, FLORIDA STATUTES (2014); AMENDING THE FUTURE LAND USE, TRANSPORTATION, HOUSING, INFRASTRUCTURE, COASTAL MANAGEMENT, CONSERVATION, PARKS & RECREATION, INTERGOVERNMENTAL COORDINATION, ECONOMIC, PUBLIC SCHOOL FACILITIES, AND CAPITAL IMPROVEMENTS ELEMENTS OF THE NORTH MIAMI COMPREHENSIVE PLAN; ADDING A CLIMATE CHANGE ELEMENT TO THE NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR ANNUAL UPDATE TO THE CAPITAL IMPROVEMENT ELEMENT SPECIFIC TO CAPITAL IMPROVEMENTS SCHEDULE; PROVIDING FOR DATA AND ANALYSIS SUPPORTING ADOPTION OF GOALS, OBJECTIVES AND POLICIES OF THE ELEMENTS; PROVIDING FOR TRANSMITTAL AND SUBSEQUENT ADOPTION OF AMENDMENTS, ADDITIONS AND DELETIONS TO THE GOALS, OBJECTIVES AND POLICIES OF THE ELEMENTS; PROVIDING FOR TRANSMITTAL OF SUCH PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY FOR REVIEW IN ACCORDANCE WITH SECTION 163.3184(3), FLORIDA STATUTES (2014); PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

The item was introduced by the Chair Kevin Seifried. Staff report was given by Mr. Lebrun, City Planner and the Public Hearing was opened.

Public Hearing:

Consultants of the Mellgren Planning Group, Michelle Mellgren and Eric Swanson presented the overview of the updated Comprehensive Plan its review and potential transmittal.

Resident, Karen DeLeon voiced her concerns about schools not being addressed, along with sewage, parks, concerns regarding super majority and the Comprehensive Plan not being consistent.

Resident, Robert Husted voiced his concerns about the development on the major corridors, and the NRO's expansion impacting the residential area. He suggested that there be fairness or similarity to go beyond regarding the proposed overlay. He stated being in opposition to any major density along NE 125th Street.

Resident, Claude Sanchez voiced his concerns about the presentation of the Comprehensive Plan and the inaccuracy of the document.

Resident, Jason Davis voiced his concerns about height and density. He explained the lack of community participation being invoked by the Planning Commission and the Consultants throughout the Comprehensive Plan process. He declared that more time is needed for the residents to evaluate and work through their concerns.

Resident, Phillip voiced his unease regarding the major corridor, NE 123rd Street, in addition he addressed the height adjustments being implemented.

Resident, Michele Marquer born and raised in the City of North Miami stated her apprehension about the proposed industrial use impacting the City and how the many other changes that she is not content with.

Resident, Simpson Deeg brought to the Planning Commission's attention the misunderstandings of the changes in the Future Land Use Map. He requested clarification of what is occurring on Biscayne Boulevard and NE 123rd Street. As it pertains to the super majority vote, he would like to keep the four to one vote.

Resident, Michael McDearmaid worried about the impact of the Comprehensive Plan on the City in entirety. He mentioned that the plan, the workshops and joint forum and its implementations/recommendations are to develop and convey more opportunities for the City. As far as super majority, it has brought good and logical development and mentioned that other cities are doing so as well. He also suggested to the Planning Commission to exclude parking needs in potential new developments.

Resident, Carol Preger raised in the City of North Miami felt unease about the lack of prospects in the City currently. She recommended the Planning Commission to not haste to make an incorrect decision and to really ponder and determine what is best for everyone not just the few in the City.

Resident, Eileen Prevatel was disquiet about who is protecting the residents, in opposition she specified that the Planning Commission has done a wonderful job protecting the residents and opening potential prospects along with integrating the opinions of the professional. Thanks to the Planning Commission.

Resident, Silvia Maiolo voiced her concerns about culture within the City and how the City should think as a family and/or community.

Resident, Louise Poo was apprehensive about the growth of the City and the elongated permitting process.

Resident, Michael was apprehensive about sewage and has not seen the City execute anything regarding the “current sewage issue”. He inquired about the City of North Miami’s plants and lift stations and what is to come for the future if more water was to be increased

Resident, Elita Rosenberg was confident about the potential new growth and development to come for the City, however the height and setback placed at the foreground of the City is not a reasonable fit to welcome those incoming. She recommended placing the height in parts unknown but elsewhere besides the foreground.

Resident, Erica Peterson mentioned that 300 feet is too much along NE 125th Street based on a line of sight for those adjacent residential districts.

Resident, Jesus Remon compared the impact of the height being allotted in certain main corridors and the effect of osmosis motion and the impact of taxes on the residents. In relevance to potential development to fit the maximum height determined on the Future Land Use map of the main corridors, he asked if any prospect developers have explored the notion of building a 30 story structure in the City of North Miami.

Commission Discussion:

Chair Seifried stated that there are certain components of the City that must be done year in and year out to run smoothly and effectively, this entails a program done to realign and make applicable the changes and investments in water, sewer and pump lines. He furthermore had the consultants go in detail of all the changes specific to the Future Land Use Element. Chair Seifried was apprehensive about the “road blocks” with new developments concerning height restrictions. Consultant and staff member, Tanya Wilson-Sejour, Planning Manager clarified that the bonus units are there to be spread throughout all main corridors.

Commissioner Each voiced his approval for the newly integrated Climate Change Element within the Comprehensive Plan and how density is a good attribute. He inquired about the reserve on NE 125th Street and the bay which should be implemented in the Future Land Use map to make it iron clad for Florida International University to not allow action on the land. Based on the knowledge of staff member, Roland Galdos, Interim City Attorney, the element is designated “conservation”. Regarding the Infrastructure Element, he would like to strike Policy 4D.2.4. He also questioned the Housing Element specifically Policy 3A.6.1 in regards to Group Homes potentially impending the City. The staff and consultants clarified that Group Homes are protected by the Florida Law. He suggested that the density needs to be revised, and that a policy concerning parking garages needs to be enforced. Consultants stated that parking garages is more of a Zoning Code issue and will be handled in the revisions of the Land Development Regulation. Commissioner Each proposed height adjustment for NW 119th Street, Arch Creek and Biscayne Boulevard.

Vice Chair Ernst had a query concerning the Transit Center Overlay district that potentially includes the planned Railroad Station by the Florida Department of Transportation and thus the consultants explained that the new half mile Transit Center Overlay district does include a major transportation node. He stated the overcome of the Planning Commission and taking everything

into consideration as it goes forward and impact the City in entirety. In addition he brought up a concern regarding Objective 12.7 and how the City will go about climate change and sewage. Consultants of Mellgren Planning Group made it known that both are purposely objectified separately. In regards to the Capital Improvements and reverse osmosis plant, Vice Chair Ernst explained what has occurred in the past. He asked for clarification regarding the newly added Transit Center Overlay which will in turn impact the height based on the determined location of the Transit Station. The consultants made it clear that it will be more of an impact of the Zoning Codes and not the Future Land Use map (FLUM) and until regulations are in place the policies created aggrandizes what is suggested for the FLUM.

Commissioner James asked about the development agreement. However, the agreement is not mandatory and is furthermore in the Land Use Element the Consultants resolved. Regarding the Coastal Management Element the Flood Zone Data Maintenance (Policy 5.A2.5) which was already completed during the prior Comprehensive Plan alterations.

Commissioner Boule whom arrived just before the reading of the Public Hearing expressed her unease about the division between the west and east sides of the City of North Miami that the Planning Commission was displaying she illuminated the members and suggested that we come together and make the Comprehensive Plan come to fruition.

Commissioner Pechon requested clarification on the Planned Corridor Development Overlay district and the text corresponding to said district within the Comprehensive Plan. He mentioned the traffic impact on Biscayne Boulevard if there is a height adjustment which will in turn discourage development and impact the adjacent residents. Additionally, Commissioner Pechon specified his opposition to proposed Policy 1.2.3 which pertains to supermajority.

Hereafter the Planning Commissions' expressed enthusiasm for each element which was motioned separately for approval as follows:

1. Commissioner Each motioned to recommend approval of the Climate Change Element of the Comprehensive Plan which was seconded by Commissioner Jeanty. The element passed unanimously by a vote of 7-0.
2. Vice Chair Earnst motioned to recommend approval of the Capital Improvement Element of the Comprehensive Plan which was seconded by Commissioner Jeanty. The element passed unanimously by a vote of 7-0.
3. Commissioner Each motioned to recommend approval of the Economic Element of the Comprehensive Plan which was seconded by Commissioner Boule. The element passed unanimously by a vote of 7-0.
4. Commissioner Pechon motioned to recommend approval of the Intergovernmental Coordination Element of the Comprehensive Plan which was seconded by Commissioner Jeanty. The element passed unanimously by a vote of 7-0.
5. Vice Chair Ernst motioned to recommend approval of the Parks and Recreation Element of the Comprehensive Plan which was seconded by Commissioner Boule. The element passed unanimously by a vote of 7-0.

6. Commissioner Pechon motioned to recommend approval of the Conservation Element of the Comprehensive Plan which was seconded by Commissioner Each. The element passed unanimously by a vote of 7-0.
7. Commissioner Each motioned to recommend approval of the Coastal Management Element of the Comprehensive Plan which was seconded by Commissioner Jeanty. The element passed unanimously by a vote of 7-0.
8. Commissioner Boule motioned to recommend approval with conditions regarding Policy 4D.2.4 to be struck out of the Infrastructure Element of the Comprehensive Plan which was seconded by Commissioner Each. The element passed unanimously by a vote of 7-0.
9. Vice Chair Ernst motioned to recommend approval of the Housing Element of the Comprehensive Plan which was seconded by Commissioner Each. The element passed unanimously by a vote of 7-0.
10. Commissioner Boule motioned to recommend approval of the Transportation Element of the Comprehensive Plan which was seconded by Commissioner Each. The element passed unanimously by a vote of 7-0.
11. Commissioner Each motioned to recommend approval with conditions regarding the Future Land Use Element of the Comprehensive Plan. The recommended implementations made by the Planning Commission are as follows:
 - a. Commissioner Each expressed a new policy that excludes integrated parking structures in the calculation of maximum building height which was passed 5-2. The dissenting votes were casted by Commissioners Pechon and James;
 - b. To remove the proposed Planned Corridor Development Overlay district which would have allowed the height of 300 feet on NW 119th Street between NW 7th and NW 17th Avenues and keep the maximum height to 55 feet as per the underlined commercial/office land use designation, passed 7-0;
 - c. Commissioner Each recommended to increase the height between NE 123rd to NE 135th Streets of Biscayne Boulevard west side to be 110 feet in height, and then in proximity of the railroad to allow height of 300 feet within the Transit Center Overlay district, passed 6-1. The dissenting vote was casted by Commissioner Pechon;
 - d. Vice Chair Ernst recommended on NW 7th Avenue between NW 119th and NW 135th Streets to be 300 feet on the east side and 55 feet on the west side, passed 7-0;
 - e. Commissioner Boule recommended to remove the proposed extension of the Neighborhood Redevelopment Overlay boundary to NE 123rd Street between NE 8th and NE 10th Avenues, passed 7-0;
 - f. Commissioner Pechon recommended to keep the super majority which was not seconded by any member of the Planning Commission, as such Commissioner Each recommended to keep proposed Policy 1.2.3 requiring a majority approval for land use amendment and zoning changes to be approved by a majority vote of City Council instead of super majority, passed 6-1. The dissenting vote was casted by Commissioner Pechon.

Commissioner Each made a motion to recommend adoption of the ordinance with recommendations to the Comprehensive Plan pertaining to the specific elements to be forwarded to the City Council. Commissioner Jeanty seconded the motion with recommendations and as such the proposed ordinance to adopt the EAR-Based Amendments to the City of North Miami Comprehensive Plan was approved 6-1. The dissenting vote was casted by Commissioner Pechon.

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The next meeting was scheduled for October 6, 2015.

VI. COMMITTEE REPORTS:

VI. OLD BUSINESS: None

VII. NEW BUSINESS: None

The meeting was adjourned at 10:49 pm.

VIII. ADJOURNMENT

Respectfully submitted:

Attest:

Kevin Seifried, Chair
Planning Commission

Nixon Lebrun, AICP, CFM, City Planner
Community Planning & Development

Prepared by:

Katrina Lunan-Gordon, Board Secretary
Community Planning & Development

Date: October 6, 2015

To: Honorable Planning Commission Members

From: Nixon Lebrun, AICP, CFM, City Planner, Community Planning & Development

Re: Text Amendment to Article 3, Division 6, entitled "Variances Heard by the Board of Adjustment," specifically at Section 3-604, entitled "Administrative Variances", and to Article 3, Division 7, entitled "Appeals", specifically at Section 3-702 entitled "Administrative Appeals"

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 6, ENTITLED "VARIANCES HEARD BY BOARD OF ADJUSTMENT," SPECIFICALLY AT SECTION 3-604 ENTITLED "ADMINISTRATIVE VARIANCES", AND AMENDING DIVISION 7, ENTITLED "APPEALS", SPECIFICALLY AT SECTION 3-702 ENTITLED "ADMINISTRATIVE APPEALS" TO EXTEND THE TIME REQUIRED FOR AN AGGRIEVED PARTY TO FILE A NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT FROM THE CURRENT TEN (10) DAYS TO THIRTY (30) DAYS, AND TO SHIFT THE COST OF SUCH AN APPEAL TO THE OWNER OF THE PROPERTY SEEKING THE BENEFITS DERIVED BY THE ISSUANCE OF AN ADMINISTRATIVE VARIANCE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That the Planning Commission recommend adoption of the proposed ordinance to amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations" (LDRs) by amending the texts of Article, Division 6, entitled "Variances Heard by Board of Adjustment," specifically at Section 3-604 entitled "Administrative Variances", to repeal and reword Subparagraph (C) to provide for signed consent of neighboring property owners, as well as the texts of Article 3, Division 7, entitled "Appeals", specifically at Section 3-702 entitled "Administrative Appeals" to extend the time required for an aggrieved party to file a notice of appeal to the BOA from the current ten (10) days to thirty (30) days, and forward said ordinance to City Council for final consideration.

BACKGROUND

Sponsored by Councilman Scott Galvin, this item involves certain text amendments to the City's Land Development Regulations (LDRs) in order to assuage the displeasure of a group of residents with the administrative variance process set forth therein. This Commission initially reviewed this item at its July 7, 2015 public hearing, which was attended by Commissioners Seifried, Ernst, Each, James, Jeanty and Pechon. Following the presentation of staff's recommendation, the Commissioners discussed in length the proposed text amendments and, subsequently, opened the floor for public comments. While the Commissioners unanimously agreed that the proposed appeal period extension was evidently appropriate, they felt, however, that it would be eminently unfair and unreasonable to shift the cost of filing a notice of appeal to the Board of Adjustment to the applicant, in the event an aggrieved party so chooses.

Before tabling the item for a later meeting, the Commission directed staff to remove the problematic clause and reword the amendment in such a way that the fee or cost to file a notice of appeal does not represent a deterrent to an aggrieved party, which still must bear such cost. With this directive in mind, the following analysis focuses solely on the proposed appeal period extension and does not consider the issue surrounding the cost of filing the notice of appeal.

ANALYSIS

Article 3, Section 3-1004 of the City's LDRs requires that all text amendments to the LDRs must meet the following minimum criteria.

1. Promotes the public health, safety and welfare;

The proposed text amendment intends to amend the administrative variance process, specifically as it relates to the insufficient time allowed for an aggrieved person to file an appeal to the BOA. This amendment will not be deleterious to the public health, safety and welfare of the residents.

2. Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment;

The proposed text amendment seeks to extend the appeal period within which an aggrieved party may file a notice of appeal to the BOA following the granting of an administrative variance by City staff from the current ten (10) days to thirty (30) days to allow a reasonable and sufficient appeal period. Accordingly, the amendment will only revise the administrative variance process in the LDRs and will not allow any use, which is otherwise prohibited in the Comprehensive Land Use Plan.

- 3. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;**

The proposed text amendment neither changes the residential land use map designations of the affected property nor modifies the uses or intensities of the developments authorized in the affected FLUE designation.

- 4. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;**

The proposed text amendment only affects the criteria regulating the administrative variance process. As such, no decline in the level of service for public services in the affected districts will occur.

- 5. Does not directly conflict with any goal, objective or policy of the Comprehensive Land Use Plan; and**

The proposed text amendment to extend the appeal period of an administrative variance by City staff will not conflict with any of the goals, policies and objectives of the City's Comprehensive Plan.

- 6. The proposed amendment furthers the orderly development of the City of North Miami.**

The proposed text amendment seeks to allow a reasonable and sufficient time period in which an aggrieved party may appeal an administrative variance approval. In so doing, this amendment will further the orderly development of the City in that it will provide for substantially the same patterns of site development as the underlying regulations. Furthermore, it upholds the democratic values of the American system of governance and favors a participative and inclusionary approach to the City's land use decision-making process. More specifically, this amendment will ensure that necessary safeguards are set forth in the LDRs, which unequivocally promote due process so as to not negate the right of any adjacent property owner that may be aggrieved by an administrative variance approval to be adequately notified of said decision and, therefore, afford said aggrieved property owner a reasonable opportunity to be heard by the BOA.

The purpose and intent of Article 3, Division 6, Section 3-604 is to provide a procedure for property owners to obtain minor administrative variances pertaining to (1) setbacks requirements for structures and driveways in single-family, duplex, triplex or townhouse project, (2) docks, (3) carport structures within the required front and side setbacks, (3) parking regulations for the first restaurant in a shopping center, and (4) to the parking or storage of recreational vehicles. These standards not only provide for substantially the same patterns of site development as the underlying regulations, but also give staff the authority to, by administrative decision, approve, approve with conditions, or deny applications for the above-listed administrative variances.

Clearly, the proposed extension of the appeal period will ensure that a neighboring property owner has sufficient time to be adequately notified of an administrative variance approval, and, if aggrieved, to file a timely appeal. Nevertheless, staff believes that challenges to administrative decisions are likely to be avoided with advanced notices to ensure that neighboring property owners are fully apprised of the nature and potential impacts of any administrative application before staff renders its decision. As such, staff further recommends that Article 3, Division 6, Section 3-604(C), which now reads as follows, "The decision shall be transmitted by regular mail in writing to the adjacent property owners within five (5) working days of the decision being rendered," be stricken/deleted and replaced with the following provisions:

C. Applications, and signed consent of neighboring property owners, mailed notices.

1. The applicant must file a request to the Community Planning and Development Department in a form approved by staff containing all the information necessary for staff to make an administrative decision, which shall include, but is not limited to, identification of the specific provisions of this chapter from which a administrative variance is sought; the nature and extent of the variance; and the grounds relied upon to justify the approval of the variance, pursuant to subsection (B).
2. Such application shall be accompanied by the required submittal documents and fee as determined by staff, which may include, but shall not be limited to, one of the following:
 - a. *Signed consent of neighboring property owners.*
 - 1) The signed consent of all contiguous property owners, including those located across the street from the subject site, shall be submitted by the applicant on a form prescribed by the administrative official, and on the site plan submitted for consideration.

- 2) Said consent shall not be required when a separating public right-of-way measures 70 feet or greater, nor shall consent be required when a body of water completely separates the subject parcel from another parcel.
 - 3) If the applicant for an administrative variance is unable to obtain either the signed consent or objection of a neighboring property owner, the signature of that owner shall not be required if the applicant demonstrates a good faith effort to comply with the requirements stated herein.
- b. *Mailed notices.* The applicant shall provide written mailed notice of the request for administrative variance or waiver to the abutting property owners. Such notice shall be deemed sufficient if it accurately describes the adjustment requested, if it informs the abutting property owners of the consequences of a failure to respond within a specified time, and if such notice is sent first class mail, return receipt requested, to the property owners of record, as reflected on the county property appraiser's tax roll, as updated from time to time; and the applicant for the administrative variance shall present proof acceptable to staff that one of the following two events has occurred:
- 1) After 30 days from receipt of notice, as indicated on the return receipt, the neighboring property owner has failed to respond; or
 - 2) The United States Postal Service has returned the notice as undeliverable.

CONCLUSION

Based on the foregoing, staff believes that the proposed text amendment, as revised, has met the criteria set forth in Article 3, Section 3-1004 of the City's LDRs and conforms to the future land use goals, objectives and policies identified in the City's adopted Comprehensive Plan. Therefore staff **requests that the Planning Commission recommend adoption of the attached ordinance amending Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations" (LDRs) by amending the texts of Article, Division 6, entitled "Variances Heard by Board of Adjustment," specifically at Section 3-604 entitled "Administrative Variances", to repeal and reword Subparagraph (C) to provide for signed consent of neighboring property owners, as well as the texts of Article 3, Division 7, entitled "Appeals", specifically at Section 3-702 entitled "Administrative Appeals" to extend the time required for an aggrieved party to file a notice of appeal to the BOA from the current**

ten (10) days to thirty (30) days, and forward said ordinance to City Council for final consideration.

NL/tws

- Attachments: 1. Proposed Ordinance
2. Newspaper Advertisement

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 6, ENTITLED "VARIANCES HEARD BY BOARD OF ADJUSTMENT," SPECIFICALLY AT SECTION 3-604 ENTITLED "ADMINISTRATIVE VARIANCES", AND AMENDING DIVISION 7, ENTITLED "APPEALS", SPECIFICALLY AT SECTION 3-702 ENTITLED "ADMINISTRATIVE APPEALS" TO EXTEND THE TIME REQUIRED FOR AN AGGRIEVED PARTY TO FILE A NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT FROM THE CURRENT TEN (10) DAYS TO THIRTY (30) DAYS, AND TO SHIFT THE COST OF SUCH AN APPEAL TO THE OWNER OF THE PROPERTY SEEKING THE BENEFITS DERIVED BY THE ISSUANCE OF AN ADMINISTRATIVE VARIANCE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, on April 28, 2009, the Mayor and City Council adopted the City of North Miami ("City") Land Development Regulations under Chapter 29, City Code of Ordinances ("LDRs"); and

WHEREAS, applicable provisions of the LDRs are calculated to protect and regulate residential and commercial uses, as reflected in the various residential and commercial zoning districts within the City, and are consistently used to implement the intent of the City Comprehensive Plan ("Comprehensive Plan"); and

WHEREAS, the LDRs also emphasize dwellings to be the principal use of residential properties, in furtherance of promoting peace and good order, safe vehicular traffic patterns, improving the aesthetic beauty of the community and hence, preserving the value of the all residential properties within the City; and

WHEREAS, City administration may grant an administrative variance for reasonable deviations from the literal terms of the LDRs, due to practical difficulties or unnecessary and undue hardships, so that the spirit of City regulations are observed, public safety and welfare secured, and substantial justice is done; and

WHEREAS, a number of complaints have reached the City administration relating to the administrative variance process, specifically as it relates to the insufficient time allowed for an aggrieved person to file an appeal with the City Board of Adjustment and the cost charged by the City for such an appeal; and

WHEREAS, a just and equitable solution lies in extending the time allowed to file an appeal from the current ten (10) days to thirty (30) days, and shifting the cost of the appeal to the property owner who stands to benefit from the approval and issuance of the administrative variance; and

WHEREAS, City administration is desirous of amending Section 3-604 and Section 3-702, LDRs, to allow a reasonable time period in which to file an appeal, and to shift the burden of the appeal cost to the applicant property owner, as opposed to the owner of a neighboring property; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on July 7, 2015, recommended approval to the Mayor and City Council by finding that the proposed amendments: 1) promote the public health, safety and welfare, 2) do not permit uses the comprehensive land use plan prohibits in the area affected by the text amendment, 3) do not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property, 4) will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the comprehensive land use plan, 4) do not directly conflict with an goal, objective or policy of the comprehensive land use plan, and 5) the proposed amendments further the orderly development of the City; and

WHEREAS, the Mayor and City Council find the proposed amendments are consistent with the intent of the Comprehensive Plan, and offer greater protection to the public health, safety and welfare, and thereby, accept the Planning Commission’s recommendation of approval.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendments to Chapter 29 Code of Ordinances. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled “Land Development Regulations”, by amending Article 3, Division 6, entitled “Variances Heard by Board of Adjustment,” specifically at Section 3-604 entitled “Administrative Variances”, and amending Division 7, entitled “Appeals”, specifically at Section 3-702 entitled “Administrative Appeals” to extend the time required for an aggrieved party to file a notice of appeal to the Board of Adjustment from the current ten (10) days to thirty (30) days, and to shift the cost of such an appeal to the owner of the property seeking the benefits derived by the issuance of an Administrative Variance.

CITY OF NORTH MIAMI CODE OF ORDINANCES
CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 3. DEVELOPMENT REVIEW

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DIVISION 6. VARIANCES HEARD BY BOARD OF ADJUSTMENT

* * * * *

Sec. 3-604. Administrative variances.

A. Nonuse administrative variances may be granted by the building and zoning department for applications under the following circumstances:

1. For single-family, duplex, triplex or townhouse project a variance to setback requirements where the setback is not decreased by more than twenty (20) percent of what is required in the applicable zoning district.

2. A variance for setbacks for docks not to exceed ten (10) percent of the required setback.

3. A parking variance for the first restaurant in a shopping center which existed on the date of adoption of these LDRs. If a parking variance is required for the second restaurant in an existing center, the board of adjustment shall consider the variance in accordance with the provisions of **section 3-605**.

4. For single-family, duplex, triplex, or townhouse lot, a variance to allow a driveway to maintain a side yard setback between two and one-half (2.5) feet and five (5) feet, provided that the driveway is composed of **previous pervious or permeable** materials.

5. A variance for the parking or storage of recreational vehicles pursuant to **section 5-1405**.

6. A variance for any carport structure within the required front and side setbacks pursuant to **section 5-103**.

B. The granting of an administrative variance shall be based on the following:

1. The variance is in harmony with the character of the immediate neighborhood and is in keeping with community goals as they relate to quality of life; and

2. The variance will not adversely affect or be injurious to the adjacent uses, immediate neighborhood and the community as a whole.

C. The decision shall be transmitted by regular mail in writing to the adjacent property owners within five (5) working days of the decision being rendered.

D. **A property owner receiving approval of an administrative variance shall not commence any of the improvements allowed by the administrative variance until after the expiration of time allowed for an appeal, in accordance with the provision of section 3-702.**

D E. An administrative variance granted under these procedures shall be valid for six (6) months from the final date of approval, after which it shall become null and void unless a building permit is issued or a recreational vehicle (in the front yard) permit is granted or an extension is granted. The building and zoning department is authorized to grant one (1) six-month extension. Any further extension shall require the application to be resubmitted as an entirely new application.

E F. Appeals of decisions on an application for an administrative variance may be taken to the board of adjustment **by an aggrieved party** in accordance with the provisions of **section 3-702**.

* * * * *

DIVISION 7. - APPEALS

Sec. 3-701. - Purpose and applicability.

The purpose of this division is to set forth procedures for appealing the decisions of city staff and the board of adjustment where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs.

Sec. 3-702. - Administrative appeals.

A. An appeal from any decision by the ~~director of building and zoning~~ **Planning Manager** or the development review committee where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs, shall be taken by an aggrieved party to the board of adjustment. An aggrieved party may file a notice of appeal to the board of adjustment with the ~~building and zoning director~~ **community planning and development department** within ~~ten (10)~~ **thirty (30)** days of ~~the said~~ administrative decision ~~being appealed~~. The notice of appeal should be accompanied by any relevant documents related to the appeal ~~and applicable fees~~; ~~as such fees may be amended from time to time by Resolution of the city council.~~ **The applicant property owner seeking the issuance of an administrative variance shall bear the cost of the applicable fees.**

B. **Appeals to the board of adjustment shall require prior notice of the hearing in accordance with the provisions of article 3, division 3 of these LDRs.**

Sec. 3-703. - Appeals from decisions of the board of adjustment.

Any person aggrieved by any decision or action taken under these LDRs by the board of adjustment may file a petition for writ of certiorari with the circuit court in accordance with the Florida Rules of Appellate Procedure within thirty (30) days of rendering of the decision.

Challenges to development orders based on consistency or inconsistency of the development order with the city comprehensive plan shall be governed by the provisions of F.S. § 163.3215.

* * * * *

Section 2. Repeal. All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

Section 3. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

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

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on second reading this _____ day of _____, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: COUNCILMAN GALVIN

Moved by: _____

Seconded by: _____

Vote:

Mayor Dr. Smith Joseph, D.O., Pharm. D.
Vice Mayor Carol Keys, Esq.
Councilperson Scott Galvin
Councilperson Philippe Bien-Aime
Councilperson Marie Erlande Steril, MSW

_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.



**NORTH BAY VILLAGE
REQUEST FOR PROPOSALS**

**Architectural/Engineering Design Services for:
NEW VILLAGE MUNICIPAL CENTER
RFP NO. NBV 2015-002**

Public Notice is hereby given that North Bay Village, Florida is requesting proposals from experienced and qualified vendors to provide Architectural/Engineering Design Services for a NEW VILLAGE MUNICIPAL CENTER/VILLAGE HALL (RFP NO. NBV 2015-002)

Sealed Responses clearly labeled with the RFP title and number must be received by mail or hand delivered on or before November 10, 2015, no later than 4:00 PM, local time. The responses will be publicly opened at 4:10 P.M. Late submittals and facsimile submissions will not be considered. The respondent shall bear all costs associated with the preparation and submission of the submittal documents.

Respondents must submit one unbound original and nine (9) bound copies, [a total of ten (10) sets] of the SOQ and two electronic copies (CDs or USB Drives are acceptable forms of electronic copies) to the Office of the Village Clerk, North Bay Village, 1666 Kennedy Causeway, Suite 300, North Bay Village, Florida 33141.

Copies of this Proposals Document may be obtained at Demand Star at www.demandstar.com or at the Village Administrative Offices, 1666 Kennedy Causeway, Suite 300, North Bay Village, Florida 33141 from 9:00 A.M. to 4:00 P.M., Monday through Friday, or by emailing yvonne.hamilton@nbvillage.com.

The Village reserves the right at any time to modify, waive or otherwise vary the terms and conditions of the RFP including but not limited to deadlines for submission, submission requirements, informalities or irregularities in any submittal, and the Scope of Work. The Village further reserves the right to reject any or all submittals, to cancel or withdraw this RFP at any time or take any other such actions that may be deemed in the best interest of the Village, to award in whole or in part to one or more respondents, or take any other such actions that may be deemed in the best interest of the Village.

Pursuant to Section 38.18 of the Village Code, "Ethics Ordinance", a Code of Silence is hereby imposed whereby any communications between any potential bidder, service provider, lobbyist or consultant and the Village's staff and elected officials pertaining to this RFP are prohibited. All Communications, either verbal or written, shall be with the Village Clerk.

Yvonne P. Hamilton, CMC
Village Clerk



**NOTICE OF PROPOSED ORDINANCE
CITY OF NORTH MIAMI, FLORIDA**

NOTICE IS HEREBY GIVEN that the City of North Miami, Florida proposes to adopt the following ordinance:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 6, ENTITLED "VARIANCES HEARD BY BOARD OF ADJUSTMENT," SPECIFICALLY AT SECTION 3-604 ENTITLED "ADMINISTRATIVE VARIANCES", AND AMENDING DIVISION 7, ENTITLED "APPEALS", SPECIFICALLY AT SECTION 3-702 ENTITLED "ADMINISTRATIVE APPEALS" TO EXTEND THE TIME REQUIRED FOR AN AGGRIEVED PARTY TO FILE A NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT FROM THE CURRENT TEN (10) DAYS TO THIRTY (30) DAYS, AND TO SHIFT THE COST OF SUCH AN APPEAL TO THE OWNER OF THE PROPERTY SEEKING THE BENEFITS DERIVED BY THE ISSUANCE OF AN ADMINISTRATIVE VARIANCE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

A Public Hearing on this Ordinances will be held by the Planning Commission on **Tuesday, October 6th, 2015 at 7:00 p.m.** in the Council Chambers of North Miami City Hall, Second Floor, 776 NE 125 Street, North Miami, Florida 33161.

Members of the public are invited to attend the Public Hearings and provide oral or written comments on the matter. A copy of the application and report containing the Community Planning and Development Department's recommendation will be available for public review from Monday to Friday between the hours of 8:15 a.m. and 5:00 p.m. in the City Clerk's Office, City Hall. Written comments may be submitted to: City of North Miami, 776 N.E. 125th Street, North Miami, Florida 33161, Attn: Community Planning and Development Department. For questions, please call (305) 893-6511, Ext. 12182.

ANY PERSON WISHING TO APPEAL THE DECISION OF THE CITY COUNCIL WILL NEED A VERBATIM RECORD OF THE MEETING'S PROCEEDINGS, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED (SECTION 286.0105, F.S.).

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK NO LATER THAN FOUR (4) DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305) 893-6511, EXT. 2147, FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE OUR TDD LINE AT (305) 893-7936 FOR ASSISTANCE.