

ORDINANCE NO. 973

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING NORTH MIAMI CITY CODE SECTION 29-24 RELATING TO "PLANNING COMMISSION"; PROVIDING FOR AMENDMENTS TO PUBLIC NOTICE PROVISIONS, CONFORMITY WITH STATE LAW REQUIREMENTS AND FOR CITY COUNCIL APPROVAL OF ALL RECOMMENDATIONS; PROVIDING FOR A REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of North Miami has enacted ordinances providing for the Planning Board; and

WHEREAS, the Mayor and City Council wish to implement amendments to this ordinance.

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

Section 1. Section 29-24 is hereby amended as follows:

Section 29-24. Planning Commission.

(a) *Creation; composition; qualifications.*

(1) There is hereby created and established the North Miami Planning Commission consisting of seven (7) members, and two (2) alternates. ~~Who shall be appointed by the city council and shall hold office at the pleasure of the city council.~~

(2) Each member shall be a ~~qualified elector~~ resident of the city and shall not hold any other elected public office or City Employment ~~or position~~ within the city during the term of such appointment. Any member who ceases to reside within the city limits during the ~~his~~ term of office shall be deemed to have resigned as of the date of ~~his~~ moving from the city. The city council shall appoint a qualified person to serve out

the unexpired term of any member vacating an office by resignation or otherwise.

(b) *Organization.*

(1) The office for the planning commission shall be the offices of the community planning and development department.

(2)

All records, maps and other material in the community planning and development department shall be available at all times to the commission..

(3) ~~All personnel employed by the city in the community planning and development department, including the officer or officers in charge thereof, shall carry out all lawful and reasonable orders and requests as authorized by the city manager.~~

(c) *Appointment of members; terms of office; officers; removal.*

(1) The members of the planning commission shall be appointed by the majority of the city council.

(2) Each member of the planning commission shall hold office, unless sooner removed by the council, for a term ending on the second Tuesday in June of each odd numbered year.

(3) The planning commission shall elect from within the commission a chairperson, who shall be the presiding member; a vice-chairperson, who shall preside in the absence or disqualification of the chairperson; and shall appoint a secretary who may be an officer or employee of the city. Terms of all officers shall be for one (1) year, with eligibility for reelection.

(4) Three (3) affirmative ~~positive~~ votes shall be required by the city council in order to

remove a commission member, and no cause need be shown for removal.

(d) *Meetings and quorum.*

(1) The seven (7) members of the city planning commission shall transact the business of the commission with four (4) members constituting a quorum, and four (4) affirmative positive votes required for a recommendation of any proposed zoning change.

(2) No member shall participate in deliberations or upon any item before the planning commission that would constitute a conflict of interest to that member.

(3) The city planning commission shall meet on the first Wednesday of each month at ~~least once each month.~~ The meeting ~~dates~~ time may be set and amended as deemed necessary by the chairperson and the director of the community planning and development department. ~~The planning commission shall give at least five (5) days' notice of all meetings by posting such notice on the bulletin board of the city hall.~~

(e) *Public hearings; notice; procedure at hearings and meetings.*

(1) The city planning commission shall give at least ~~fifteen (15)~~ ten (10) days' notice of the time and place of all public hearings unless otherwise required by State law. Notice of any public hearing shall be published in any newspaper of general circulation in the city which qualifies under the provisions of the Florida Statutes and shall be posted in conspicuous places in the city, including the bulletin board in the city shall. In addition, as provided by law in the case of a certain zoning changes the planning commission shall require the director of the community planning and development department to furnish notice of such public hearing by mail to all the

owners of the property within five hundred (500) feet of the property involved in such petition. ~~fifteen (15) days prior to such public hearing.~~ The expense of mailing said notice shall be borne by the petitioner; ~~provided, however, that failure to mail or receive notice described herein, other than notice in the newspaper of general circulation, shall not affect any action or proceedings taken hereunder.~~

- (2) To provide additional notice to the public, a sign or signs shall be posted on the property involved in such petition in such manner as shall be provided by the rules of the planning commission. Such sign(s) shall include, but not be limited to, the zoning action desired and the time and place of the first public hearing. Failure to post such property shall not affect any action taken, provided the planning commission or the city council may in its discretion defer action on an application until the property has been properly posted.
- (3) Public hearing shall be conducted so as to afford all parties in interest and citizens an opportunity to be heard.
- (4) The planning commission may adopt rules of procedure not inconsistent with the city ordinances and laws of Florida.
- (5) All petitioners of a zoning change shall submit to the department of community planning and development, at petitioner's expense, a list and map certified by a registered surveyor or engineer, indicating the property within five hundred (500) feet of all the property involved in such petition, and of the names of the owners of the said property within said five hundred (500) feet.
- ~~(6) Notice of proposed change of zoning served upon the condominium association for~~

~~those condominium ownerships with the five hundred (500) feet requirement limitation set forth herein shall be deemed to be notice of all unit owners and to owners of common elements for the purposes of this ordinance.~~

- (f) *Duties.* The city planning commission shall perform the following duties:
- (1) Prepare a comprehensive master plan for the welfare, economic and physical development of all areas within the city. The master plan shall be based on existing and anticipated needs and shall include a coordinated, uniform plan for land use, traffic circulation and roads, public utilities, transportation and public facilities such as schools, parks, playgrounds, and other public areas. The master plan shall also include a long range financial program for public improvements. The purpose of the master plan shall be to guide and accomplish a coordinated and harmonious development of the entire city, which will in accordance with existing and future needs, best promote the public health, safety, convenience prosperity and general welfare of the city as well as efficiency and economy in the process of community development, all in accord with Chapter 163, Florida Statutes.
 - (2) Prepare and recommend to the city council land use control regulations necessary for implementation of the comprehensive master plan.
 - (3) Continually plan for the progress and growth of the city with respect to capital projects and local improvements, as these terms are defined in sections 58 and 111 of the City Charter; assist the city manager and the director of community planning and development in preparing the capital improvements portion of the annual budget, as contemplated in section 44 of the Charter; and from time to time, recommend to

the city council such legislation as may be deemed appropriate to carry out such plans as the commission may devise.

- (4) Continually plan for the progress and growth of the city with respect to properly regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures, and land and water for trade, industry, residence or other purposes; and from time to time recommend to the city council such legislation as may be deemed appropriate to carry out such plans.
- (5) Review and study potential and existing areas of distress and decay and recommend action with respect to urban renewal or rehabilitation; institute a program of education covering ways and means to avoid the decay of a neighborhood; and study and recommend zoning changes to effect the improvement of a neighborhood.
- (6) The city planning commission may conduct public hearings in connection with the study of future plans and include the results of such public hearings in its recommendations to the city council on proposed plans.
- (7) Whenever any amendment, supplement, change or repeal of existing zoning districts or classification of the zoning map is proposed, the city planning commission shall conduct a public hearing as ~~hereinafter~~ provided by law, and at the conclusion thereof, shall make recommendations to the city council. ~~The commission shall conduct a public hearing at the request of any person having a recorded interest in part or all of the land to be affected by any proposed amendment, supplement, change~~

~~or repeal of existing zoning districts or classifications, provided that the person requesting such hearing shall agree to pay all costs and expenses of the said public hearing, as established by the city council. The city council may order a public hearing on its own initiative or upon any matter where such public hearing is deemed necessary, notwithstanding any other provisions contained in this Code.~~

(g) *Changes in zoning; objections; adoptions or denial, subsequent applications.*

~~(1) In any case where a change in the zoning regulations, restrictions or boundaries is proposed before the city planning commission, and a protest against such change is signed by property owners, the commission shall report such protest to the city council together with its recommendation with reference to the change desired.~~

~~(1)(2) All recommendations of the Planning Commission shall be subject to final review by the City Council. At the time the commission reports to the city council on proposed zoning changes the city council reviews the recommendation on the proposed zoning change. If the City Council desires to approve a requested change of a zoning district boundary, a permitted, prohibited, accessory or special exception use, an affirmative vote of four (4) members shall be required for any action; all other amendments to the zoning code or Comprehensive Land Use Plan recommended by the Planning Commission shall require three (3) affirmative votes o the City Council. Deny vote of three fifths of the city council shall be required. Th city council may adopt the recommended of the commission with reference to any proposed zoning change by an affirmative vote of at least (3) members of the City council; however, a vote of four fifths of the city council shall be required to adopt a change of zoning~~

~~in case of a protest against such zoning change by the owners of two (2) percent or more of the property within a radius of five hundred (500) feet of the property where any zoning change is sought. The radius of five hundred (500) feet of the property where any zoning changes is sought. The radius of five hundred (500) feet of the property where any zoning change is sought. The radius of five hundred (500) for that portion of the property fronting a street shall be measured from the right-of-way boundary directly across the street from the property for which a zoning change is sought.~~

- ~~(3) Where a zoning change is sought, for the purpose of determining whether or not there are protests from twenty (20) percent or more of the owners of property within five hundred (500) feet required under subsection (b) hereof, so as to require a four-fifths vote of the city council to approve such a zoning change such protests must be written and signed and received prior to the votes of the planning commission recommending such change is zoning. For the purpose of calculating the percentage of protestors, one (1) protest shall be considered for each contiguous nonplatted parcel, and for each platted lot within the required radius notwithstanding single ownership of more than one (1) such lot. However, in the event that more than one (1) platted lot is improved with a residence or other structure, so that such platted lots could be sold and utilized separately, without violating existing zoning and setback requirements, then and in that event, the platted lots so improved shall be allowed but on a (1) protest. The requirements set forth in this subsection shall not prevent protestors from presenting their objections after the vote of the commission or form~~

~~doing so orally, but such protests shall not be considered in the calculations to determine the percentage of protestors under subsection (b) of this section.~~

~~(2)(h)~~ *Effect of denial of application for zoning change.* Where an application for a change in the zoning regulations, restrictions, classification or boundaries is filed with the planning commission and the same shall not be finally granted or approved by the city council, no subsequent application for a change in the zoning regulations, restrictions, classification or boundaries affecting the same parcel of property shall be permitted for the period of at least one (1) year after the date of denial by the city council of the prior application for change of zoning. The city council at the time of such denial may indicate that such denial is without prejudice, in which event reapplication may be made at any time after such denial. The city council may at the time of such denial indicate that the denial is with prejudice but for a specified period of less than one (1) year after the date of such denial.

Section 2. Repealer.

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

Section 3. Severability

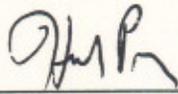
If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 4. Effective Date.

This Ordinance shall take effect on the 1st day of October, 1997.

PASSED and ADOPTED by a 5-0 vote of the City Council on first reading this 26th day of August, 1997.

PASSED and ADOPTED by a 5-0 vote of the City Council on second reading this 9th day of September, 1997.



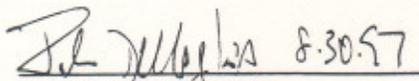
MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

8/28/97