

ORDINANCE NO. 02-21

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 33 "ZONING," ARTICLE XXXVI "ZONING PROCEDURE," INCLUDING AMENDING SECTION 33-302 "DEFINITIONS" AND AMENDING SECTION 33-303 "EXCLUSIVE PROCEDURE"; PROVIDING FOR REPEAL OF SECTION 33-303.1 "DEVELOPMENTAL IMPACT COMMITTEE"; AMENDING SECTION 33-304 "APPLICATIONS"; REPEALING SECTION 33-306 "COMMUNITY ZONING APPEALS BOARD ESTABLISHMENT," SECTION 33-307 "COMMUNITY ZONING APPEALS BOARDS-- TERM OF OFFICE" AND SECTION 33-307.1 " COMMUNITY ZONING APPEALS BOARD; PROHIBITION OF MEMBERS APPEARANCE"; REPEALING SECTION 33-308 "COMMUNITY ZONING APPEALS BOARD-ORGANIZATION"; AMENDING SECTION 33-309 "COMMUNITY ZONING APPEALS BOARD/BOARD OF COUNTY COMMISSION APPLICATIONS FOR PUBLIC HEARING"; REPEALING AND REPLACING SECTION 33-310 "NOTICE AND HEARING PREREQUISITE TO ACTION BY THE COMMUNITY ZONING APPEALS BOARD OR BOARD OF COUNTY COMMISSIONERS"; AMENDING SECTION 33-311 "COMMUNITY ZONING APPEALS BOARD--AUTHORITIES AND DUTIES; AMENDING SECTION 33-312 "COMMUNITY ZONING APPEALS BOARD--DECISIONS" ;REPEALING SECTION 33-313 "APPEALS TO BOARD OF COUNTY COMMISSIONERS," SECTION 33-314 "DIRECT APPLICATIONS AND APPEALS TO THE COUNTY COMMISSION"; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as part of the Town's incorporation, decisions on land development matters for real property lying within the Town's boundaries lies with Town of Miami Lakes Council;

WHEREAS, Chapter 33 "ZONING," Article XXXVI "Zoning Procedure," of the Code of Miami-Dade County, Florida ("Chapter 33"), currently serves as the Town's Land

Development Code (the "Town Code") pursuant to Article VIII, Section 8.3 of the Town Charter; and

WHEREAS, Chapter 33 of the Town Code provides procedures for the application for and review of zoning applications; and

WHEREAS, The Town Council wishes to clarify and amend the procedures for zoning applications; and

WHEREAS, the Town Council desires to establish a uniform procedure for the application for and hearing of zoning applications; and

WHEREAS, revisions to the current procedures for the application for, and hearing zoning applications will accomplish this goal.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated by reference.

Section 2. That Section 33-302 "Definitions" is hereby amended as follows:

Sec. 33-302. Definitions.

* * *

(a) *Comprehensive Development Master Plan.* The words "Comprehensive Development Master Plan" shall mean and refer to the Town's Comprehensive Development Master Plan which is the Miami-Dade County Comprehensive Development Master Plan as it existed on December 5, 2000. for Miami Dade County adopted by Ordinance No. 75-22 on March 31, 1975, or as amended.

* * *

(d) Compatible or Compatibility. A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics which may impact adjacent or surrounding uses. These include: type of use, density, intensity, height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances. Compatibility shall be measured based on the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:

(1) permitted uses, structures and activities allowed within the land use category;

(2) building location, dimensions, height, and floor area ratio;

(3) location and extent of parking, access drives and service areas;

(4) traffic generation, hours of operation, noise levels and outdoor lighting;

(5) alteration of light and air; and

(6) setbacks and buffers-fences, walls, landscaping and open space treatment.

~~(d) — *Developments of County impact.* The words "developments of County impact" shall mean and refer to any development which, because of its character, magnitude or location, would have a substantial effect upon the health, safety and welfare of the citizens of Miami Dade County, Florida. Development activity meeting one (1) of the criteria specified in Section 33-304(d) is declared to be a development of County impact.~~

~~(e) — *Developmental Impact Committee (Committee).* The words "Developmental Impact Committee (Committee)" shall mean and refer to the Miami Dade County Administrative Committee, created by Ord. No. 74-47, adopted on June 18, 1974.~~

(f) *Land.* The word "land" shall mean and refer to earth, water and air above, below or on the surface.

(g) *Director.* The word "Director" shall mean the Town Manager for the Town of Miami Lakes or his designee. ~~Director Department of Planning and Zoning.~~

(h) *Department.* The word "Department" shall mean the Town staff assigned by the Director to review zoning applications

and advise the Town Council on their appropriateness and compliance with the Town of Miami Lakes Code. the Department of Planning and Zoning.

(i) *District.* The word "District" shall mean and refer to the various zoning districts provided by Chapter 33 of the Town Code. ~~of Miami Dade County, Florida~~

(j) *District boundary maps.* The words "district boundary maps" shall mean those maps kept on file in the Department showing the boundaries of the various districts, and more particularly described in Section 33-3 of the Town Code. ~~of Miami Dade County, Florida.~~

(k) *Record.* The word "record" when pertaining to the record of any hearing before the Town Council shall mean and include any application, exhibits, appeal papers, written objections, waivers or consents, considered at the respective hearing ~~considered by such Council,~~ transcript or stenographic notes taken for the Department at a hearing held before the Town Council, if any of the Council's minutes and resolution or ordinance showing its decision or action. ~~and if the record of a lower Council is transmitted to a higher Council the record of the higher council shall include that of the lower board.~~ The word "record" shall also include any and all applicable portions of Chapter 33 of the Code, the report and recommendations of the Director ~~and the Developmental Impact Committee;~~ the Comprehensive Development Master Plan for Miami-Dade County, Florida; ~~and Ordinance No. 75-22, or as amended, or applicable neighborhood or area studies or plans approved by action of the Board of County Commissioners,~~ as well as applicable district boundary maps, aerial photographs and final zoning ~~resolutions-ordinances.~~ It shall also include the record made as a result of any previous zoning application on the same property. The Town Clerk of ~~the County Commission~~ shall identify all exhibits used or referred to at the zoning hearing. All exhibits so identified or introduced shall be a part of the record. The record shall not include documents prepared or relied upon by an expert not filed in accordance with the provisions of Section ~~33-311(D)~~ 33-310(d) of the Code, or any oral testimony or written reports or documents which were not filed in accordance with the provisions of Section 2-114.1 of the Code.

(l) *Town Code, Regulations or zoning regulations.* The word "regulations" or the words "zoning regulations" shall mean and refer to the contents of Chapter 33 of the Town Code ~~of Miami Dade County, Florida~~ as it existed on December 5, 2000, and as

may be amended by the Town Council from time to time by the Town Council.

(m) *Administrative official.* The words "administrative official" shall mean the Director and any staff member of the Department authorized by the Director to enforce or interpret the regulations or various zoning resolutions.

(n) *Public benefit.* The words "public benefit" shall mean and refer to a development which, after consideration of all of its aspects (including but not limited to environmental impact on facilities, economic and social) would be consistent with and not detrimental to the welfare of the community.

(o) *Unit.* The word "unit" shall mean and refer to houses, apartments, group of rooms, or a single room occupied or intended for permanent or transient occupancy as separate living quarters.

(p) *Citizen participation.* The words "citizen participation" shall refer to the suggestions and comments of responsible and recognized persons to the Town Council and ~~groups to the Developmental Impact Committee~~ during the deliberative processes and prior to final recommendations on appropriate developments. ~~Citizen participation shall not refer to public hearings or adversary proceedings of any nature before the Developmental Impact Committee. The Developmental Impact Committee shall prepare appropriate guidelines involving citizen participation in the process.~~

(q) *Zoning actions.* The words "zoning action" shall refer to any action pursuant to Chapter 33 of the Town Code ~~of Miami Dade County~~ taken after a public hearing.

(r) *Independent development parcel.* The words "independent development parcel" shall refer to a development parcel which is buildable in one (1) or more phases, which parcel has parking, an independent circulation system, and sufficient identity to be developed independently of surrounding property. A development parcel may consist of one (1) or more platted tracts, developed as a single independent development parcel.

Section 3. That Section 33-303 "Exclusive procedure" is hereby amended as follows:

Sec. 33-303. Exclusive procedure.

(a) The procedure provided herein shall be exclusive in the ~~Town-unincorporated area of the County~~; provided, however, that unless a governmental facility is authorized as a designated permitted use in a zoning district, ~~Miami-Dade County and its agencies and authorities~~ the Town Council shall not be bound by the procedures herein contained in constructing, erecting or operating any governmental facility listed below in the ~~unincorporated area of Miami-Dade County in the Town~~, and the Town Council may establish any governmental facility listed as follows where the Town Council may direct without regard to the zoning or use classification of any particular site or location: public parks, playgrounds and buildings, and structures supplementary and incidental to such uses; domestic violence centers; fire stations; police stations; public auto inspection stations; public water and sewer treatment and distribution facilities; public libraries; public buildings and centers; public hospitals, nursing homes and health facilities; public auditoriums, arenas, museums, art galleries and convention halls; maximum and minimum detention facilities; solid-waste collection and disposal facilities; public maintenance and equipment yards; public bus stations and Rapid-Transit stations and facilities; and uses determined by the Board of County Commissioners to be similar to those listed above.

(b) The Town Council may only authorize the erection, construction and operation of the governmental facilities enumerated in Subsection (a) above by resolution following public hearing. The said public hearing shall be held upon at least fifteen (15) days' notice of the time and place of such hearing published in a newspaper of general circulation in Miami-Dade County, which publication shall include the time and place of hearing before the Town Council. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the application may be mailed to the property owners of record, within a radius of three hundred (300) feet of the property described in the application, or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon. Failure to post such property shall not affect any action taken hereunder. At the public hearing the Town Council shall consider, among other factors, the type of function involved, the

public need therefor, the existing land use pattern in the area, alternative locations for the facility and the nature of the impact of the facility on the surrounding property. After considering these said factors, the Town Council shall take such action as is necessary to provide for and protect the public health, safety and welfare of the citizens and residents of the Town of Miami Lakes of Miami-Dade County.

(1) In the event the Town Council authorizes the construction, erection, use or operation of a governmental facility in accordance with the procedures delineated above, or in the event the Town Council otherwise determines that ~~County- Town~~ owned property should be utilized by the ~~County Town~~ for a particular public purpose, the property shall be posted by a sign or signs conspicuously located thereon indicating the governmental facility or use authorized for the property. Such sign or signs may be removed upon the commencement of construction. The ~~County-Town~~ Manager or designee shall periodically check the property to ensure that the signs provided for in this subsection remain in existence and accurately depict the proposed use of the subject property. This subsection shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of the Town Council's action authorizing the use of the property for the designated purposes.

* * *

~~e) A member of the Town Council may request a deferral of consideration of any item relating to the construction, erection, use or operation of a governmental facility for up to thirty (30) days the first time the item appears on a council agenda or the first time the item is raised at a council meeting if the proposed construction, erection, use or operation of the governmental facility affects that council member's district exclusively or primarily. Upon the council member's invoking this right, discussion upon that item shall cease and the council shall move to another item of business. The provisions of this Subsection (d) shall be deemed waived unless asserted by a council member before the board takes action on the resolution in question.~~

Section 4. That Section 33-303.1 "Developmental Impact Committee" is hereby repealed in its entirety.

Section 5. That Section 33-304 "Applications" is hereby amended as follows:

Sec. 33-304. Applications.

(a) All requests for a district boundary change, changes in the zoning regulations, appeals of administrative decisions, special exceptions or unusual uses, new uses, variances, approvals of or modifications to developments of regional impact ("DRI"), including substantial deviation determinations, and determinations that a DRI is essentially built out, shall be made by filing an application therefor with the Director on application forms prescribed by the Director ~~or by rule and regulation of the Developmental Impact Committee.~~ Forms shall include, but not be limited to, disclosure forms for corporations, trusts, and partnerships, and disclosure of information regarding contract purchasers and their percentage(s) of interest. Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or ii) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or iii) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, and where no one (1) person or entity holds more than a total of five (5) percent of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation, or trust. Such disclosure forms shall be included in the agendas distributed in connection with the public hearing on the application. Where applicable, requests shall specify whether, and the extent to which, the requested change in land use or proposed development conforms to the Comprehensive Development Master Plan. ~~for Miami Dade County, Florida.~~

Upon the approval of a zoning application in whole or in part, a period of six (6) months must run prior to the filing of any subsequent application on the same property; provided that the ~~approving the application~~ Town Council may provide for a different waiting period upon a showing of good cause. Applications approved for withdrawal without prejudice must wait a period of six (6) months prior to the filing of any subsequent

application on the same property; provided that the Town Council upon approving the withdrawal without prejudice may provide for a different waiting period upon a showing of good cause. Upon the final denial of a zoning application without prejudice, a period of one (1) year must run prior to the filing of a subsequent application on the same property; provided that the Town Council upon denying the application without prejudice may provide for a different waiting period upon a showing of good cause. Upon the withdrawal or final denial of a zoning application with prejudice in whole or in part, a period of eighteen (18) months must run prior to the filing of a subsequent application. In the event an application in whole or in part has been twice or more denied or withdrawn, a period of two (2) years must run prior to the filing of any subsequent application. Such periods of limitation shall not commence to run until the decision has been rendered by the Town Council ~~the last Board to consider the application~~. Further, such periods of limitation shall not apply to applications filed by the Director ~~or the Zoning Official~~.

Notwithstanding the provisions in the foregoing paragraph, it is expressly provided that, except for applications that have been twice or more denied or withdrawn, there shall be no period of limitation for either (1) a subsequent application that proposes a lesser total density or a less intense use than the preceding application, as determined by the Director at the time of filing; (2) a subsequent application that proposes five (5) or fewer residential units; or (3) a subsequent application that proposes development in the "urban infill area," as that area is defined in the Comprehensive Development Master Plan.

An application may be withdrawn without prejudice by the applicant as a matter of right, provided the request for withdrawal is in writing and executed in the same manner as provided by Section 33-309 for the executing of application, and filed with the ~~Department~~ Director prior to the mailing of final notices if required by state statute, ~~as provided by Section 33-310(e)(2)~~; otherwise all such requests for withdrawal shall be with prejudice save and except that the Town Council may permit withdrawals without prejudice at the time the matter is considered by the Town Council; provided, further, no application may be withdrawn after final action has been taken.

(b) All zoning applications delineated in this chapter, ~~may be filed on dates and times to be set by the Director. with the exception of administrative variances, may only be filed and accepted for filing during the first seven (7) days of each month. The first seven (7) days of each month shall include all legal~~

holidays, Saturdays and Sundays. Administrative variances may be filed at any time.

~~(c) At the end of each said time period set forth in subpart (b) Upon completion of the review process for any zoning application, the Town Clerk the Director shall promptly identify and group these applications for district boundary changes , use special exceptions, unusual and new uses and use variances which relate to or affect any particular or immediate neighborhood or area as determined by the Director, and, to the extent possible, shall notice public hearings thereon, in accordance with the notice requirements set forth in Section 166.041, Florida Statutes, as may be amended from time to time with Section 33-310 of the Code of Miami Dade County, so as to allow the appropriate board to consider and determine the effect of the said applications on the said neighborhood or area as a whole and their relation to and conformity with the Comprehensive Development Master Plan.~~

(d) All applications for development approval that require DRI review pursuant to Chapter 380, Florida Statutes, shall be reviewed by the Department and the Town Council pursuant to the requirements of Chapter 380.06, Florida Statutes. Notwithstanding any other provision of this Code, all hearings on DRI applications shall be noticed in accordance with the state's statutory requirements.

~~(d) — All applications for zoning action which would permit, if granted, development activity that meets one (1) of the following criteria are hereby declared "developments of county impact":~~

~~(1) — Residential apartment developments involving in excess of eight hundred (800) units;~~

~~(2) — All planned developments (provided by article XXXIIB) or cluster developments (provided by article XXXIIIA) involving in excess of eight hundred (800) units;~~

~~(3) — Business uses involving in excess of thirty (30) acres or one hundred fifty thousand (150,000) square feet of retail floor area, or one thousand five hundred (1,500) vehicle off-street parking space capacity;~~

~~(4) — Mobile home parks involving in excess of eight hundred (800) mobile home units;~~

~~(5) — Townhouse developments involving in excess of one hundred (100) acres or eight hundred (800) units;~~

~~(6) — Recreational, cultural, or entertainment facilities, exclusive of golf courses, involving in excess of one thousand five hundred (1,500) vehicle off street parking space capacity for single performances of fifty (50) acres;~~

~~(7) — Office buildings or office complexes involving two hundred fifty thousand (250,000) square feet of floor space, or one thousand five hundred (1,500) vehicle off street parking space capacity;~~

~~(8) — Industrial, processing or manufacturing activity involving in excess of one hundred (100) acres, or one thousand (1,000) vehicle off street parking space capacity;~~

~~(9) — Hotel and/or motel developments involving in excess of five hundred (500) units;~~

~~(10) — Detached single family development involving in excess of eight hundred (800) units.~~

~~If any applicant is in doubt as to whether his proposed development would be a development of County impact, he may request a determination from the Developmental Impact Committee. Within thirty (30) days of the receipt of such request, the Chairman, on behalf of the Developmental Impact Committee, shall issue a letter of interpretation with respect to the proposed development. Where an application seeks only a special exception for site or plot use plan approval, the Developmental Impact Committee may require completion of a site plan application on a form prescribed by rule and regulation.~~

~~(e)~~ (e) Amendments to an application shall be permitted; provided that, unless otherwise requested, suggested or concurred in by the Director Developmental Impact Committee, no substantial amendment shall be accepted by the Director within thirty (30) days prior to the first scheduled hearing on the application by the Town Council or ~~once the application has been heard and determined by the Town Council~~; provided further that an applicant may petition the Town Council to permit such amendment at the time of hearing on the application and such amendment shall be accepted if approved by majority vote of those present upon good cause shown and provided it falls within the scope of the legal advertisement. In determining good cause, the Town Council shall consider, among other factors, the timeliness

of the amendment and the degree of inconvenience or surprise to objectors to the application.

~~(f) All planned area development applications shall adhere to the following procedures which shall be deemed exclusive notwithstanding any other section herein: The Department shall submit the required exhibits for the total development plan to the Developmental Impact Committee for review in accordance with standards and review procedures of the Developmental Impact Committee. At a public hearing held by the Town Council, the developer shall present the proposal. The Town Council shall have the recommendations of the Developmental Impact Committee. The Town Council shall consider the information presented by the applicant, the recommendations of the Developmental Impact Committee and viewpoints of the public expressed at the hearing. The Town Council shall take formal action either approving the plan as presented, approving it subject to certain specified modifications, or disapproving it. Upon approval, plans, documents and recordable development agreements shall be filed with the Department and recorded in the official records and shall thereby constitute the planned area development district. If the planned area development is approved with specific modifications, as incorporated in the Town Council resolution, those modifications shall be made by the applicant prior to filing documents and plans with the Department. Such filing shall be completed within sixty (60) working days from the date the action of the Town Council becomes final including all appeals. Failure to do so shall nullify the Town Council's action unless waived by the Town Council or if appealed, by the Town Council. The Director shall review all modifications in accordance with the Town Council's resolution. The approved planned area development shall be indicated on the zoning map as would any other district boundary change. Review at the development tract level may then be initiated pursuant to the provisions of the planned area development districts.~~

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Section 6. That Section 33-306 "Community Zoning Appeals Boards Establishment" is hereby repealed in its entirety.

Section 7. That Section 33-307 "Community Zoning Appeals Boards -- Term of office" is hereby repealed in its entirety.

Section 8. That Section 33-307.1 “Community Zoning Appeals Board; prohibition of members appearance” is hereby repealed in its entirety.

Section 9. That Section 33-308 “Community Zoning Appeals Board-Organization” is hereby repealed.

Section 10. That Section 33-309 “Community Zoning Appeals Board/Board of County Commission Applications for public hearing” is hereby renamed and amended as follows:

Sec. 33-309. Community Zoning Appeals Board/Board of County Commissioners Applications for public hearing before the Town Council.

All hearings before the Town Council shall be initiated by the filing with the ~~Department~~ Director an application on forms prescribed by the Director, executed and sworn to by the owner or owners of at least seventy-five (75) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or by the Director, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same, or by anyone desiring an amendment or repeal to the zoning regulations. All properties described in one (1) application must be contiguous and immediately adjacent to one (1) another, and the Director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the cost of processing the same. Only applications which the Town Council is authorized to consider and act upon shall be accepted for filing.

~~Applications which are to be considered by the Town Council in accordance with this chapter shall be assigned by the Director to the Town Council which has jurisdiction based upon the location of the property which is encompassed by the application. In the event that the property which is encompassed by the application is located in more than one (1) Town Council's district the application shall be heard directly by the County Commission.~~

Whenever any hearing is initiated by the Director ~~the Zoning Official~~, pursuant to this section, the Director ~~County Manager~~

may order that no building permits shall be issued for any construction work on the property involved in the hearing, until the hearing has been finally concluded in accordance with the provisions of this Code. Should the ~~County Manager~~ Director issue such an order the administrative personnel shall schedule the application for the first public hearing date after appropriate legal notice.

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Section 11. That Section 33-310 “Notice and hearing prerequisite to actions of the Community Zoning Appeals Boards or Board of County Commissioners” is hereby repealed and replaced with the following text:

Sec. 33-310. Notice, hearing and application prerequisites to actions of the Town Council.

(a) Pre-application conference. Prior to the filling of any zoning application provided for in this Chapter, the Applicant shall have a mandatory pre-application conference with the Director. Failure of the Director to identify any requirements at a pre-application conference shall not constitute waiver of the requirement by the Town Council. The Director is authorized to set a reasonable fee for the conference.

(b) Filing of applications. All applications for a development permit filed with the Director shall be reviewed by the Director to determine whether the application is complete.

If an application is incomplete the Director shall notify the applicant in writing of the deficiencies. An application for development approval may not be scheduled for public hearing until all required information has been submitted and the required review agencies have completed their review.

(c) Public hearing and notices procedures. All public hearing and notice requirements shall be provided in accordance with Section 166.041, Florida Statutes for a doption of ordinances and resolutions, and the Town's quasi-judicial procedures as may be amended. At the Director's request, a courtesy notice containing substantially the same information set forth in the published notice may be mailed to the property owners of record located within a radius of 300 feet of the property described in the application or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect action or proceedings taken under this section. The property shall be posted no later than ten days prior to the hearing in a manner conspicuous to the public, by a sign or signs containing information concerning the application including but not limited to the applied for zoning action and the time and place of the public hearing. All costs of advertising, mailing and posting shall be borne by the applicant.

(d) No document prepared or relied upon by an expert shall be admitted into evidence at a public hearing unless such document shall have been filed with the Director at least ten (7) days prior to the public hearing. No expert opinion testimony shall be admitted into evidence at a public hearing unless a written summary of the testimony setting out the substance and basis of such testimony shall have been filed with the Director at least ten (10) days prior to the public hearing.

(e) Deferral, table or continuance. Public hearings for applications may be deferred or continued by the Town Council, at any time. An applicant may request an automatic deferral by notifying the Director in writing at least two business days prior to the scheduled hearing date. The Applicant may not request its item be automatically deferred more than one time, unless waived by the Town Council. The Town Council may on its own initiative or upon a timely filed request by the Applicant, defer its consideration of the application to a date certain. All costs incurred in re-noticing and processing an application after a deferral shall be borne by the applicant.

(f) Reliance on information presented by a applicant. The Town shall have the right to rely on the accuracy of statements, documents and all other information presented to it by the applicant or his or her agent, in review of an application for development approval.

(g) Fees. Except where otherwise indicated, the Town Council shall set fees for the processing and review of applications for development review by resolution. Until such time as the Town

Council establishes its own fees, the fee schedule currently in use by Miami-Dade County shall control.

Section 12. That Section 33-311 “Community Zoning Appeals Board” is hereby amended as follows:

* * *

(C) In granting any application for district boundary change, the Town Council shall consider the same only in conjunction with and subject to approval of a site plan. ~~Subject to a special exception for site plan approval, to be approved simultaneously at the public hearing. Said site plan to be approved upon a showing of compatibility with the community as defined and measured by the requirements set forth in Section 33-302 (d).~~ Such plan shall include among other things but shall not be limited to the location of buildings and structures, types, sizes and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping and sprinkler systems. ~~It is provided, however, that the requirements of this subsection shall not apply to applications in which: (1) the subject property is three (3) acres or less, and (2) the proposed rezoning is to a residential zoning district. It is further provided that the~~ The requirements of this subsection shall not apply to applications of the Director ~~or Zoning Official.~~

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Section 13. That Section 33-312 “Community Zoning Appeals Board--decisions” is hereby renamed and amended as follows:

Sec. 33-312. Community Zoning Appeals Board~~Community Zoning Appeals Board~~**Town Council--Decisions.**

~~All decisions of the Town Council shall be by resolution. All decisions of the Town Council that approve or deny a district boundary change shall be by ordinance. All decisions of the Town Council that approve or deny variances, special exceptions, or unusual uses shall be by resolution.~~ All decisions of the Town Council that approve or deny a district boundary change shall be by ordinance. All decisions of the Town Council that approve or deny variances, special exceptions, or unusual uses shall be by resolution. The decision, if for denial,

shall specify whether it is with or without prejudice. Any ~~Councilmember who has a special financial interest, direct or indirect, in any matter 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 re-hearing by the Town Council. the. Decisions of the Town Council are final and may be appealed to the circuit court, pursuant to Section 33-316, provided however within fourteen (14) days, but not thereafter, decisions of the Town Council as specified in Section 33-314, shall be appealed to the Town Council, as provided by Section 33-313. The fourteen-day appeal period provided herein shall commence to run the day after notification that the appropriate Town Council has taken action on the particular matter, such notification to be given by the Department by posting a short, concise statement of the action taken on a conspicuous bulletin board that may be seen by the public at reasonable times and hours in the office of the Department. Where the fourteenth (14th) day falls on a weekend or legal holiday the fourteen-day period shall be deemed to extend through the next business day. No appeal may be withdrawn after a period of ten (10) days from the date of the decision of a Town Council; except at the appeal hearing before the Town Council and with the permission of the Town Council. In no event shall an appellant be entitled to a refund of the appeal fee. It is hereby intended that the Town Council's decision concerning a requested regulation amendment shall be considered only as a recommendation, which shall be transmitted, together with the Town Council's record on each such application, to the Town Council for final action by way of approval, disapproval or modification pursuant to Section 33-314 hereof.~~

Section 14. That Section 33-313 “Appeals to Board of County Commissioners” is hereby repealed in its entirety;

Section 15. That Section 33-314 “Direct applications and appeals to the County Commission” is hereby repealed in its entirety;

Section 16. Repeal Of Conflicting Provisions. All other provisions of the Code of Miami-Dade County as made applicable to the Town by Article VIII, Section 8.3 of the Town Charter which are in conflict with this Ordinance are hereby repealed.

Section 17. 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 18. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Miami Lakes Code; 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 19. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on first reading. The motion was seconded by Vice Mayor Alonso, and upon being put to a vote, the vote was as follows 4-1-2

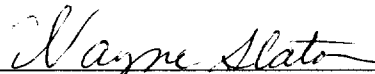
Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	No
Councilmember Michael Pizzi	Absent
Councilmember Nancy Simon	Absent
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on first reading this 9th day of July, 2002

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on second reading. The motion was seconded by Councilmember Simon,, and upon being put to a vote, the vote was as follows (6-0):

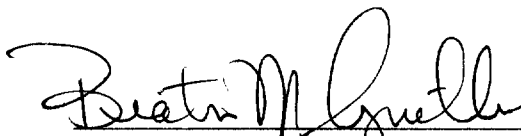
Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Absent

PASSED AND ADOPTED on second reading this 13th day of **August**, 2002.



 WAYNE SLATON, MAYOR

ATTEST:



 BEATRIS M. ARGUEDES, CMC
 TOWN CLERK

APPROVED AS TO FORM:



 WEISS, SEROTA, HELFMAN, PASTORIZA & GUEDES, P.A.
 TOWN ATTORNEY