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Public Hearing: May 27, 1981  
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ORDINANCE NO. 81-13

AN ORDINANCE OF THE CITY OF OPA-LOCKA, FLORIDA AMENDING CHAPTER 25 OF THE CODE OF ORDINANCES ESTABLISHING THE OPA-LOCKA HISTORICAL PRESERVATION BOARD PURSUANT TO SECTION 3, SUBSECTION (1) OF METROPOLITAN DADE COUNTY, FLORIDA ORDINANCE 81-13, FOR THE PURPOSE OF PROTECTING AND PERPETUATING PROPERTIES WORTHY OF HISTORIC PRESERVATION: PROVIDING FOR RULES OF PROCEDURE; PROVIDING FOR DESIGNATION OF PROPERTIES AS INDIVIDUAL SITES, DISTRICTS OR ARCHEOLOGICAL ZONES AND FOR REGULATION OF SAME THROUGH ISSUANCE OF CERTIFICATES OF APPROPRIATENESS AND CERTIFICATES TO DIG; PROVIDING FOR QUALIFICATION OF ELIGIBILITY FOR FINANCIAL ASSISTANCE PURSUANT TO SECTION 16 OF SAID DADE COUNTY ORDINANCE 81-13; PROVIDING FOR PENALTIES AND APPEALS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Metropolitan Dade County, Florida adopted on February 17, 1981, effective February 27, 1981, Ordinance 81-13 for the purpose of protecting and perpetuating properties worthy of historic preservation; and

WHEREAS, said County Ordinance 81-13, Section 3, provides that municipalities within Dade County shall have up to and including July 1, 1982 to adopt local ordinances with respect to historical districts, individual sites and archeological zones, with the provision that should any municipality fail to adopt an ordinance regulating historic preservation prior to July 1, 1982 said County Ordinance shall govern within such municipality; and

WHEREAS, the City of Opa-locka has a rich history in its urban design concept, buildings, structures and archeological sites, notably the manifestation of the urban design concept envisioned by its founder, Glen H. Curtiss and implemented by noted town planner Clinton McKenzie and noted Architect Bernhardt E. Muller; and

WHEREAS, remnants of the ancient Indian hammock from which the City of Opa-locka derives its name are still to be seen east of LeJeune Road on the South Side of Opa-locka Airport. The first extensive archeological project launched in Dade County included, in 1934, excavations in this hammock, and fragments of the Tequesta Indian pottery design called Opa-locka incised were first found

there and thus so named; and

WHEREAS, many significant and varied aspects of the history of the City of Opa-locka, founded in 1926, are concentrated in the second quarter of the twentieth century; and

WHEREAS, this variety has been manifested in a unique architectural and urban design response to Founder Glen Curtis preference for arabian archietectural design and the professional talents of designers Mr. McKenzie and Mr. Muller; and

WHEREAS, the possibility exists that archeological sites exist within Opa-locka that have yet to be discovered which could yield a great amount of information on the history and prehistory of the Opa-locka area; and

WHEREAS, the preservation of historic buildings, historic structures, historic districts and sites and archeological districts and sites are in the best interest and public welfare of the citizens of and visitors to Opa-locka, Dade County and the South Florida Metropolitan Region; and

WHEREAS, the preservation of these resources will expand the educational and cultural opportunities of the citizens of, and vistors to, the City of Opa-locka, Dade County and the South Florida Region.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF OPA-LOCKA, FLORIDA

Section 1. Short Title

This Ordinance shall be known and may be cited as the "City of Opa-locka Historic Preservation Ordinance."

Section 2. Declaration of Legislative Intent

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural, archeological, aesthetic and architectural merit are in the interests of the health, prosperity and welfare of the people of Opa-locka. Therefore, this Ordinance is intended to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of buildings, structures, improvements landscape features and archeological resources of sites and districts which represent distinctive elements of the City's, County's and Region's cultural, social, economic, political, scientific, religious, prehistoric and architectural history;
- (2) Safeguard the area's historical, cultural archeological and architectural heritage, as embodied and reflected in such individual sites, districts and archeological zones;
- (3) Foster civic pride in the accomplishments of the past;
- (4) Protect and enhance the area's attraction to visitors and the support and stimulus to the economy thereby provided; and
- (5) Promote the use of individual sites and districts for the education, pleasure and welfare of the people of the Opa-locka area, Dade County and the South Florida Metropolitan Region.

Section 3. Scope of Regulations

This Ordinance is intended to and shall govern and be applicable to all property located in the City of Opa-locka, Florida. Nothing contained herein shall be deemed to supercede or conflict with applicable building and zoning codes. Provisions contained herein shall be cumulative and read in conjunction with other laws, rules and regulations. It is the legislative intent of the Opa-locka City Commission that this ordinance shall meet the requirements of Section 3, Subsections (1), (2) and (3) of Dade County Ordinance 81-13 as a qualified municipal Historic Preservation Ordinance, and that this Ordinance shall be filed with the Clerk of Dade County Board of County Commissioners and with the National Register of Historical places for certification to be eligible under the 1976 Tax Act.

Section 4. Definitions

(1) Archeological zone - An area designated by this ordinance which likely to yield information on the history and pre-history of Opa-locka based on prehistoric settlement patterns in Opa-locka as determined by the results of the Dade County Historic Survey and local research. These Zones will tend to conform to natural physiographic features which were the focal points for prehistoric and historic activities.

(2) Certificates of Appropriateness - A certificate issued by the Board permitting certain alterations or improvements to a designated property.

(A) Regular Certificate of Appropriateness - A Regular Certificate of Appropriateness shall be issued by the staff of the Preservation Board, based on the guidelines for preservation approved by the Board.

(B) Special Certificate of Appropriateness - For all applications for a Special Certificate of Appropriateness involving the demolition, removal, reconstruction or new construction at an individual site or in a district a Special Certificate of Appropriateness is required that is issued directly by the Board.

(3) Certificate to Dig - A certificate that gives the Board's permission for certain digging projects that may involve the discovery of as yet unknown or known archeological sites in an archeological zone. This certificate is issued by staff of the Board based on the guidelines for preservation approved by the Board.

(4) Certificate of Recognition - A certificate issued by the Board recognizing properties designated pursuant to this ordinance.

(5) Demolition - The complete constructive removal of a building on any site.

(6) Districts - A collection of archeological sites, buildings, structures, landscape features or other improvements that are concentrated in the same area and have been designated as a district pursuant to this ordinance.

(7) Exterior - All outside surfaces of a building or structure.

(8) Guidelines for Preservation - Criteria established by the Preservation Board to be used by staff in determining the validity of applications for a Regular Certificate of Appropriateness and any Certificate to Dig and to establish a set of guidelines for the preservation of buildings in Opa-locka.

(9) Historical Preservation Board - A board of citizens created by this ordinance as described in Sections 5 through 9.

(10) Historic Survey - A comprehensive survey compiled by the Historic Preservation Division of the Dade County Office of Community and Economic Development involving the identification, research and documentation of buildings, sites and structures of any historical, cultural, archeological or architectural, importance in Dade County, Florida.

(11) Individual Site - An archeological site, building, structure, place or other improvement that has been designated as an individual site pursuant to this ordinance. Under the provisions of this ordinance interior spaces may be regulated only where a building or structure is designated individual site.

(12) National Register of Historic Places - A federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended.

(13) Ordinary Repairs or Maintenance - Work done to prevent deterioration of a building or structure or decay of or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

(14) Owner of a Designated Property - As reflected on the current Metropolitan Dade County tax rolls or current title holder.

(15) Undue Economic Hardship - Failure to issue a certificate would place an onerous and excessive financial burden upon the owner that would amount to the taking of the owner's property without just compensation.

(16) Landscape Feature - Any improvement or vegetation including, but not limited to outbuildings, walls, courtyards, fences, shrubbery, trees sidewalks, planters, plantings, gates, street furniture and exterior lighting.

Section 5.      Historic Preservation Board:      Created and Established

There is hereby created an Historical Preservation Board, ("the Board"), as a governmental agency of the City government in and for the City of Opa-locka, Florida. The Board is hereby vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archeological and architectural

resources in Opa-locka, Florida, as prescribed by this Ordinance under the direct jurisdiction and legislative control of the Opa-locka City Commission.

Section 6. Members

The Board shall consist of five (5) members appointed by the City Commission. Each member of the Board shall be, and shall hold office only so long as he or she is a resident and registered voter of the City of Opa-locka, Florida. The term of office of membership shall be five years, except that, of the five members first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter successors shall be appointed for a term of five years each. Any vacany during the unexpired term of an appointive member shall be filled by the City Commission for the remainder of the term. Members shall be eligible for reappointment, and shall hold office until their successors have been duly appointed and qualified. Members of the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their official duties, as shall be determined and approved by the City Commission. Before entering upon the duties of office, each member shall file written acceptance of appointment and take and subscribe to the oath of office prescribed by law, which shall be filed in the office of City Clerk. A member of the Board may be removed from office only by a four-fifths (4/5) vote of the entire membership of the City Commission; however, whenever a member of the Board shall fail to attend three (3) consecutive meetings, the chairman shall certify the same to the City Commission. Upon such certification the member shall be deemed to have been removed and the City Commission shall fill the vacancy by appointment.

Section 7. Organization

The members of the Board shall select a chairman who shall serve at the pleasure of the Board and such other officers as may be deemed necessary or desirable. The City Manager shall

provide adequate personnel for the Board including but not limited to representative from the Departments of Community Development, Public Works, Public Affairs and City Attorney which shall be deemed the staff of the board. Minutes of each board meeting shall be kept and prepared under the supervision and direction of the Board, and copies of such minutes shall be filed with the City Clerk.

Section 8. Rules and Regulations

The Board shall make and prescribe such rules and regulations as are reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this Ordinance. Such rules and regulations shall conform to the provisions of this Ordinance and shall not conflict with the Constitution and general laws of the State of Florida, and shall govern and control procedures, hearings and actions of the board. No such rules and regulations shall become effective until a public hearing has been held upon the proposed rules and regulations, and any amendments or modifications thereto, and the same have been approved by the City Commission and filed with the City Clerk. Upon approval by the Commission, such rules and regulations shall have the force and effect of law within the City of Opa-locka, Florida. The Board shall prescribe forms for use by applicants in compliance with the provisions of this chapter. The Board may authorize any one of its members to administer oaths and certify to official acts.

Section 9. Powers and Duties

The Historical Preservation Board shall have the following enumerated powers and duties:

- 1) Adopt or amend rules of procedure
- 2) Designate individual sites, districts and archeological zones.
- 3) Issue or deny Certificates of Appropriateness and Certificates to Dig.

- 4) Approve historical markers and issue certificates of recognition for individual sites and designated properties in a district.
- 5) Recommend zoning and building code amendments to the proper authorities.
- 6) Establish guidelines for preservation and criteria for issuance by staff of regular certificates of appropriateness.
- 7) Promote the awareness of historic preservation and its community benefits.
- 8) No actions of this Board will supersede or be construed as superseding the authority of the City Commission.
- 9) Review and update the Historic Survey as it applies to the City of Opa-locka for its quality and professional merit, and validate the findings of the survey as bonafide and sincere, and conduct such local research as is considered appropriate.
- 10) Implement the authority of this Ordinance and fulfill the tasks set forth for this Board by the City Commissioners in this and other ordinances.
- 11) Record and maintain records of the Board's actions and decisions.
- 12) Follow and abide by the laws of the United States of America, the State of Florida, Dade County, and the City of Opa-locka.
- 13) Provide an annual report to the City Commission.

#### Section 10. Designation Process and Procedure

I. The Board shall have the authority to designate areas, places, buildings, structures, landscape features, archeological sites and other improvements or physical features, as individual sites, districts, or archeological zones that are significant in Opa-locka's history, architecture, archeology, or culture and possesses an integrity of location, design, setting, materials, workmanship or association, or:

- (A) Are associated with distinctive elements of the cultural, social political, economic, scientific, religious, prehistoric and architectural history that have contributed to the pattern of history in the community, Dade County, South Florida, the state or the nation; or

- (B) Are associated with the lives of persons significant in our past; or
- (C) Embody the distinctive characteristics of a type, period, style or method of construction or work of a master; or that possess high artistic value, or that represent a distinguishable entity whose components may lack individual distinction; or
- (D) Have yielded, or are likely to yield information in history or prehistory; or
- (E) Are listed in the National Register of Historic places.

II. Certain properties which include cemeteries, birth-places, properties owned by religious institutions, or used for religious purposes, structures that have been moved from their original locations, properties commemorative in nature and properties that have achieved significance within the last twenty-five years, will not normally be considered for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria, or if they fall within the following categories:

- (A) A religious property deriving primary significance from architectural or artistic distinction of historical importance.
- (B) A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with an historic event or person.
- (C) A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.
- (D) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events.
- (E) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance.
- (F) A property or district achieving significance within the past twenty-five years if it is of exceptional importance.

III. Prior to the designation of an individual site, a district, or an archeological zone, an investigation and designation report must be filed with Board. The format of these reports may vary according to the type of designation, however all reports must address the following: The historical, cultural, architectural, and archeological significance of the property of properties being recommended for designation; a recommendation of boundaries for districts and archeological zones and identification of boundaries of individual sites being designated; a recommendation of standards to be adopted by the Board in carrying out its regulatory function under this ordinance with respect to Certificates of Appropriateness and Certificates to Dig. Where a report is filed recommending designation of a district, the report must identify those properties, if any, within the district which are not historically or architecturally compatible with structures in the district. The standards for regulating such non-conforming properties shall provide that a Certificate of Appropriateness may be required only for new construction on such properties. All reports shall take into consideration projected, proposed or existing public improvements and developmental or renewal plans.

IV. Procedure

- (A) Petition of the Owner - The owner(s) of any property in the City of Opa-locka may petition this Board for designation of their property as an individual site, district or archeological zone provided that they appear before the Board with sufficient information to warrant the investigation of the property for future designation and the Board finds that the property may be worthy of designation. The Board shall, based on its findings, either direct the staff to begin the designation process or deny the petition. Nothing in this subsection shall be deemed to restrict the power of the Board to initiate the designation process pursuant to this section.
- (B) Directive of the Board - The Board shall, upon recommendations from staff and the acceptance of petitions pursuant to Part IV, Section A of this section, direct staff to begin the designation process by preparing a designation report, pursuant to Part III of this section and any other standards the Board may deem necessary, and submitting this report according to the procedures described herein.
- (C) Notification of owner - For each proposed designation of an individual site, district, or archeological zone the Board is encouraged to obtain the permission of the property owner(s) within the designated area, and is responsible for mailing a copy of the designation report to the owner(s) as notification of the intent of the Board to consider designation of the property at least 15 days prior to filing of a designation report with the Board.
- (D) Notification of Government Agencies - Upon filing of a designation report, the Community Development Director shall immediately notify the Clerk of the Board of County Commissioners, the City Clerk, the City Building Official, the City Attorney and any other County or Municipal agency, including agencies with demolition powers, that may be affected by said filing.
- (E) Notification of a Public Hearing - For each individual site, district or archeological zone proposed for designation a public hearing must be held. Owners of record or other parties having an interest in the proposed designated properties, if known, shall be notified of the public hearing, however, failure to re-

ceive such notice shall not invalidate the same as such notice shall also be perfected by publishing a copy thereof in a newspaper of general circulation at least ten (10) days prior to the hearing. Owners shall be given an opportunity at the public hearing to object to the proposed designation.

(F) Requirement of Notification - The Board shall reduce to writing its decision to approve, deny, or amend the proposed designation and direct the Community Development Director to notify the following of its actions with a copy of the official minutes of the meeting, and a resolution of the Board providing a summary statement of the effects of this action:

- 1) The City of Opa-locka Building Official,
- 2) The County Clerk,
- 3) The Opa-locka City Clerk,
- 4) Owner(s) of the affected property and other parties having an interest in the property, if known,
- 5) The Opa-locka Public Affairs Department,
- 6) The Opa-locka Public Works Department, and
- 7) Any other County or Municipal Agency, including agencies with demolition powers, that may be affected by this action.

(G) The Board may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.

(H) Moratorium. Upon the filing of a designation report by the staff, the owner(s) of the real property which is the subject matter of the designation report shall not:

- 1) Erect any structure on the subject property.
- 2) Alter, restore, renovate, move or demolish any structure on the subject property, until such time as final administrative action, as provided by this chapter, is completed.

Section 11. Application for Certificate of Appropriateness

I. No building, structure, improvement, landscape feature or archeological site within the City of Opa-locka which is designated pursuant to Section 10 of this Chapter shall be erected, altered, restored, renovated, excavated, moved or demolished until an application for a Certificate of Appropriateness regarding any architectural features, landscape features or site improvements has been submitted to the Board for approval pursuant to the procedures in this section. Architectural features shall include, but not be limited to, the architectural style, scale, massing, siting, general design, ingress and egress, and general arrangement of the exterior of the building or structure, including the type, style and color of roofs, windows, doors and appurtenances. Architectural features shall include, when applicable, interior spaces where interior designation has been given pursuant to Section 10 of this Ordinance. Landscape features and site improvements shall include, but are not limited to, site regrading, subsurface alterations, fill deposition, paving, landscaping, walls, fences, courtyards, vehicular movement systems, signs and exterior lighting. No Certificate of Appropriateness shall be approved unless the architectural plans for said construction, alteration, excavation, restoration, renovation, relocation, or demolition is approved by the Board.

II. The Board shall develop procedures for making application for both a Regular and Special Certificate of Appropriateness.

III. The Board shall adopt and may from time to time amend the standards by which applications for any Certificate of Appropriateness are to be measured and evaluated. In adopting these guidelines, it is the intent of the Board to promote maintenance, restoration and adaptive reuses appropriate to the property, and compatible contemporary designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites and streetscapes. These guidelines shall

also serve as criteria for the Community Development staff to make decisions regarding applications for Regular Certificates of Appropriateness.

IV. Regular Certificates of Appropriateness - Based on the guidelines for preservation, the designation report, a complete application for Regular Certificate of Appropriateness, any additional plans, drawings or photographs to fully describe the proposed alteration and any other guidelines the Board may deem necessary, the staff of the Board shall approve or deny the application for a Regular Certificate of Appropriateness by the owner(s) of a designated individual site, or property within a designated district. The findings of the staff shall be mailed to the applicant, accompanied by a statement in full regarding the staff's decision. The applicant shall have an opportunity to challenge the staff decision by applying for a Special Certificate of Appropriateness.

V. Special Certificates of Appropriateness -

A. An applicant for a Special Certificate of Appropriateness shall submit his application to the Board pursuant to Section 10 of this Chapter and accompany such application to the Board with full plans and specifications, site plan, and samples of materials as deemed appropriate by the Board to fully describe the proposed appearance, color, texture or materials, and architectural design of the building and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage and exterior lighting. The applicant shall provide adequate information to enable the Board to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes. If such application involves a designated archeological site the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archeological site.

B. The Board shall hold a public hearing upon an application for a Special Certificate of Appropriateness affecting property under its control. In such instances, notice and procedure of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation.

C. The Board shall approve, deny, or approve in modified form an application, subject to the acceptance of the modification by the applicant, or suspend action on the application in order to seek technical advice from outside its members or to meet further with the applicant to revise or modify the application.

D. The decision of the Board shall be issued in writing. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the Board or the Board's designated staff representative to the applicant, and whatever its decision, notice in writing shall be given to the applicant and the Opa-locka Building Official. The Board shall keep a record of its actions under this ordinance.

#### VI. Demolition

A. Demolition of a designated building, structure, improvement or site may occur pursuant to an order of a government agency or a court of competent jurisdiction or pursuant to an application by the owner for a Special Certificate of Appropriateness.

B. Government agencies having the authority to demolish unsafe structures shall receive notice of designation of individual sites, districts or archeological zones pursuant to Section 10 of this Chapter. The Board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by said government agency regarding demolition of any designated property. The Board may make recommendations and suggestions to the government agency and the owner(s) relative to the feasibility of and the public interest in preserving the designated property.

C. No permit for voluntary demolition of a designated building, structure, improvement or site shall be issued to the owner(s) thereof until an application for a Special Certificate of Appropriateness has been submitted and approved pursuant to the procedures in this Section. Refusal by the Board to grant a Special Certificate of Appropriateness shall be evidenced by written order detailing the public interest which is sought to be preserved. The Board shall be guided by the criteria contained in subsection VI, D herein. The Board may grant a Special Certificate of Appropriateness which may provide for a delayed effective date of up to two (2) years. The effective date shall be determined by the Board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition delay period, the Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this ordinance. Such steps may include, but shall not be limited to, consultation with civic groups public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features.

D. In addition to all other provisions of this ordinance, the Board shall consider the following criteria in evaluating applications for a Special Certificate of Appropriateness for demolition of designated properties:

- (a) Is the structure of such interest or quality that it would reasonably meet national, state, or local criteria for designation as an historic or architectural landmark?
- (b) Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?
- (c) Is the structure one of the last remaining examples of its kind in the neighborhood, the County, or the region?
- (d) Does the structure contribute significantly to the historic character of designated district?

- (e) Would retention of the structure promote the general welfare of the County by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage?
- (f) Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?

VII. Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this ordinance would result in serious undue economic hardship to the applicant, the matter shall be officially referred to the Opa-locka Zoning Board of Appeals which shall have the power to vary or modify adherence to this ordinance; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect the City of Opa-locka, Dade County, nor the South Florida metropolitan region.

VIII. No Building Permit shall be issued by the Opa-locka Building Official which affects any designated property in Dade County without a Certificate of Appropriateness.

IX. All work performed pursuant to the issuance of any Certificate of Appropriateness shall conform to the requirements of the Certificate. The City Manager shall designate an appropriate official to assist the Board by making necessary inspections in connection with enforcement of this ordinance and shall be empowered to issue a stop work order if performance is not in accordance with the issued certificate. No work shall proceed as long as a stop work order continues in effect. Copies of inspection reports shall be furnished to the Board and copies of any stop work orders both to the Board and the applicant. The Building Official or appropriate official and staff for the Board shall be responsible for ensuring that any work not in accordance with an issued Certificate of Appropriateness shall be corrected to comply with the Certificate of Appropriateness prior to withdrawing the stop work order.

X. For the purpose of remedying emergency conditions determined to be dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction or other repairs to a building or site in the City of Opa-locka, pursuant to an order of a government agency or a court of competent jurisdiction. The owner of a building damaged by fire or natural calamity shall be permitted to stabilize the building immediately without Board approval, and to rehabilitate it later under the normal review procedures of this ordinance.

XI. The Board shall have the authority to review applications for Certificate of Appropriateness for all property in Opa-locka, however owned, by either private or public parties. The purposes of this ordinance shall apply equally to plans, projects or work executed or assisted by any private party, governmental body or agency, department, authority or board of the City, County or State.

Section 12. Maintenance of Designated Properties

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any elements of any building or structure which does not involve a change of design, appearance or material, and which does not require a building permit.

Section 13. Certificates to Dig

I. Within an archeological zone, new construction, filling, digging, the removal of trees, or any other activity that may alter or reveal an interred archeological site shall be prohibited without a Certificate to Dig. All applications to all appropriate municipal or county agencies involving new construction, large scale digging, the removal of trees or any other activity that may reveal or disturb an interred archeological site, in an archeological zone shall require a Certificate to Dig before approval. Based on the designation report for the archeological zone, a complete application for a Certificate to Dig and any additional quide-

lines the Board may deem necessary, the staff of the Board shall approve or deny the application for a Certificate to Dig by the owners of a property in a designated archeological zone. The Certificate to Dig may be made subject to specified conditions, including but not limited to, conditions regarding site excavation. In order to comply with the site excavation requirements of the Certificate to Dig, the applicant may agree to permit a City or County sanctioned Archeologist to conduct excavation from the time of the approval of the Certificate to Dig until the effective date thereof. The findings of the staff shall be mailed to the applicant promptly. Applicant shall have the opportunity to challenge the staff decision or any conditions attached to the Certificate to Dig by requesting a meeting of the Board. The Board shall convene within a reasonable time and shall make every effort to review and reconsider the original staff decision to arrive at an equitable decision. The decision of the Board shall be reduced to writing.

II. Approved Certificates to Dig - Approved Certificates to Dig shall contain an effective date at which time the proposed activity may begin, unless the Board decides to designate the site in question as an individual site or district pursuant to Section 10 of this ordinance in which case all the rules and regulations pertaining to the designation process shall apply from the date the designation report has been filed.

III. All work performed pursuant to the issuance of a Certificate to Dig shall conform to the requirements of such certificate. It shall be the duty of the City of Opa-locka, in particular its Public Works Department, to inspect from time to time any work pursuant to such certificate to assure compliance. In the event work is performed not in accordance with such certificate, the official designated by the City Manager pursuant to Section 11 (IX) shall be empowered to issue a stop work order and all work shall cease. No person, firm or corporation shall undertake any work on such projects as long as such stop work order shall continue in effect.

Section 14. Appeals

Upon written decision of the Board, an aggrieved party may appeal the decision by filing a written notice of appeal with the City Clerk. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Subsequently, the City Commission shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the Board. Nothing contained herein shall preclude the City Commission from seeking additional information prior to rendering a final decision. The decision of the City Commission shall be reflected in the Minutes and a copy of the Minutes shall be forwarded to the board and the appealing party.

Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the City Commission may appeal an adverse decision to the Circuit Court in and for Dade County, Florida. The party taking the appeal shall be required to pay to the City of Opa-locka the sum of One Hundred Dollars (\$100.00) to defray the costs of preparing the record on appeal.

Section 15. Penalties

Failure by an owner of record to comply with any provision of this ordinance shall constitute a violation hereof and shall be punishable by the Board by civil or criminal penalties including a fine of not more than \$500.00 per day for each day the violation continues. In addition, the Board may require that any work performed contrary to this ordinance must be removed and the property returned to its condition prior to commencement of said action.

Section 16. Incentives

All properties designated as individual sites or as designated properties within a district shall be eligible, upon application by the owner(s), for any available financial assistance set aside for historic preservation by Metropolitan Dade County contingent on the availability of funds and the scope of the project as described in the application.

Section 17.

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

Section 18.

It is the intention of the Opa-locka City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Opa-locka, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 19.

This ordinance shall become effective as provided by law.

PASSED AND ADOPTED:

MAY 27, 1981

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CITY ATTORNEY

APPROVED AS TO FORM:

ATTEST:

  
\_\_\_\_\_  
City Clerk

COMMISSION VOTE: 5-0

Commissioner Robbins:	Yes
Commissioner McKenna:	Yes
Commissioner Miller:	Yes
Vice Mayor Knapp:	Yes
Mayor Logan:	Yes