

**ORDINANCE NO. 1489**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED “LAND DEVELOPMENT REGULATIONS”, AT ARTICLE 1, ENTITLED “GENERAL PROVISIONS”, SPECIFICALLY AT SECTION 1-106 ENTITLED “OFFICIAL ZONING MAP”, REVISING THE ZONING DESIGNATION FROM R-4, RESIDENTIAL TO BZ DISTRICT FOR THE APPROXIMATELY 1.1 ACRE PROPERTY LOCATED AT 2305 NE 123<sup>RD</sup> STREET, SPECIFICALLY IDENTIFIED WITH MIAMI-DADE FOLIO NUMBER 06-2228-022-0010, AND BOUNDED BY NE 123RD STREET TO THE SOUTH, N. BAYSHORE DRIVE TO THE WEST AND BISCAYNE BAY TO THE NORTH AND EAST; IN ACCORDANCE WITH SECTION 166.041(3)(C), FLORIDA STATUTES (2022) AND SECTIONS 3-1002, 3-1003, 3-1005 THROUGH 3-1007 AND SECTION 3-302 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, CHAPTER 29, ENTITLED “LAND DEVELOPMENT REGULATIONS”; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE CITY COMPREHENSIVE PLAN; FURTHER AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THE ZONING MAP AMENDMENT; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION, AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 166.041(3), Florida Statutes (2022) outlines the procedure for the adoption of ordinances that change the actual zoning map designation of parcels of land involving less than fifty (50) contiguous acres; and

**WHEREAS**, Article 3, Division 10, Sections 3-1002, 3-1003, 3-1005 through 3-1007 of the City of North Miami (“City”) Land Development Regulations (“LDRs”), outlines the procedures for zoning map and LDR text changes within the jurisdictional boundary of the City; and

**WHEREAS**, Article 3, Division 3, Section 3-302 of the LDRs establishes uniform notice procedures to ensure procedural due process and maintain citizen access to the local government decision-making process relating to the approval of zoning map changes within the jurisdictional boundary of the City; and

**WHEREAS**, the Subject Property is located at 2305 NE 123<sup>rd</sup> Street; approximately 1.1 acre (46,424 s.f.) in size; currently designated R-4, Residential on the City’s Official Zoning Map; and, identified with Miami-Dade folio number 06-2228-022-0010; and

**WHEREAS**, pursuant to Section 4-203 of the LDRs, the maximum allowable height in the R-4, Residential zoning designation is thirty-five (35) feet, and the maximum density is twelve (12) dwelling units per acre, which would allow up to thirteen (13) dwelling units on the Subject Property; and

**WHEREAS**, pursuant to Section 4-203 of the LDRs, the maximum height in the BZ District is one-hundred fifteen (115) feet, and the maximum density is one hundred (100) dwelling units per acre, which would allow up to one hundred ten (110) dwelling units on the Subject Property; and

**WHEREAS**, the Property Owner, Biscayne Harbour Property Owner, LLC, through their agent Pedro Gassant with Holland and Knight, LLP, is requesting a Zoning Map amendment changing the zoning designation of the Subject Property to BZ; and

**WHEREAS**, a Small-Scale Land Use Plan Amendment to the City's 2036 Future Land Use Map ("FLUM") is also scheduled on the same agenda changing the land use designation of the Subject Property to Bayshore Zone; and

**WHEREAS**, pursuant to section 163.3184(12), Florida Statutes (2021), adoption of the proposed Zoning Map amendment is contingent upon the Small-Scale Land Use Plan becoming effective; and

**WHEREAS**, the proposed Zoning Map Amendment shall be considered in accordance with Article 3, Division 10, Sections 3-1002, 3-1003 and 3-1005 through 3-1007, as well as Article 3, Division 3, Section 3-302 of the City LDRs; and

**WHEREAS**, the Planning Commission ("PC"), after a duly noticed quasi-judicial public hearing held on June 7, 2022, reviewed and discussed the reports, documents and application packet, and heard testimony from attending members of the public; and

**WHEREAS**, the PC found the requested Zoning Map Amendment to be consistent with the applicable standards of the City LDRs and recommended that the Mayor and City Council adopt same; and

**WHEREAS**, pursuant to Article 3, Division 10, Section 3-1007(b) of the LDRs, adoption of the requested Zoning Map Amendment shall require concurrence of a supermajority of the City Council, attained at a quasi-judicial proceeding; and

**WHEREAS**, the Mayor and City Council find the proposed Zoning Map Amendment is

consistent with the applicable standards of the City LDRs, and the newly enacted Small-Scale Land Use Amendment for the Subject property, and find it in the best interest of the City to adopt the proposed Zoning Map Amendment.

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

**Section 1. Official Zoning Map Amendment.** The Mayor and City Council of the City of North Miami, Florida, hereby approve and adopt the proposed Amendment to the City of North Miami Official Zoning Map attached hereto.

**Section 2. Repeal.** All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 3. Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

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

**Section 5. Codification.** It is the intention of the City Council of the City of North Miami 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 North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

**Section 6. Effective Date.** This Ordinance shall not become effective until ten (10) days after adoption by the Mayor and City Council.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 1st day of September, 2022.

**PASSED AND ADOPTED** by a 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 27th day of September, 2022.



Philippe Bien-Aime  
PHILIPPE BIEN-AIME  
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Desulme

Seconded by: Estimé-Irvin

**Vote:**

|                                     |   |
|-------------------------------------|---|
| Mayor Philippe Bien-Aime            | <input checked="" type="checkbox"/> (Yes) <input type="checkbox"/> (No) |
| Vice Mayor Alix Desulme, Ed.D.      | <input checked="" type="checkbox"/> (Yes) <input type="checkbox"/> (No) |
| Councilman Scott Galvin             | <input type="checkbox"/> (Yes) <input checked="" type="checkbox"/> (No) |
| Councilwoman Kassandra Timothe, MPA | <input checked="" type="checkbox"/> (Yes) <input type="checkbox"/> (No) |
| Councilwoman Mary Estimé-Irvin      | <input checked="" type="checkbox"/> (Yes) <input type="checkbox"/> (No) |

THIS ORDINANCE WAS TRANSMITTED TO THE CLERK OF THE CITY OF NORTH MIAMI  
CITY COUNCIL ON THIS 25<sup>th</sup> DAY OF October, 2022.