

RESOLUTION NO. R-2018-41

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, RECOGNIZING THAT THE CITY OF NORTH MIAMI IS AMENDING ITS LAND DEVELOPMENT REGULATIONS (LDRS) PURSUANT TO SECTION 163.3202, FLORIDA STATUTES, AND HEREBY INVOKING THE ZONING IN PROGRESS OR PENDING ORDINANCE DOCTRINE WITH RESPECT TO THE CITY'S LDRS; PROVIDING THAT FROM MARCH 27, 2018 AND DURING THE PENDENCY OF THE CITY'S CONSIDERATION OF THE NEW LDR AMENDMENTS, EXCEPT AS OTHERWISE SPECIFIED IN THIS RESOLUTION, THE CITY WILL DEFER THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS AMENDMENTS, SITE PLAN APPROVALS, AND CONDITIONAL USE PERMITS FOR BONUS DENSITY REQUESTS; PROVIDING FOR EFFECTIVE DATES AND FOR ALL OTHER PURPOSES.

WHEREAS, on July 11, 2017, the Mayor and City Council of the City of North Miami ("City") unanimously passed Ordinance No. 1417, adopting the updated Land Development Regulations ("LDRs") in accordance with the requirements of Section 163.3202, Florida Statutes; and

WHEREAS, City staff is proposing amendments to the recently updated LDR's to provide for the correction of scrivener's errors and any omissions in the most recent update of the land development regulations; and

WHEREAS, the City is concerned that the acceptance, processing and approval of applications for comprehensive plan text and Future Land Use Map amendments, LDR text and Zoning Map amendments, site plan approval, and for Conditional Use Permits for Bonus Density requests, would be premature and detrimental to the public health, safety and welfare, due to the incompleteness of the studies necessary to implement the changes to the LDRs contemplated by the update of the Comprehensive Plan, including but not limited to the study during the update process of impacts that might result from such changes to the LDRs and their relationship to the above identified applications, and other concerns of the City; and

WHEREAS, pending the adoption of the amended LDRs, the Mayor and City Council hereby invoke the zoning in progress or pending ordinance doctrine as referenced in Smith v. City of Clearwater, 383 So.2d 681 (Fla. 2nd DCA 1980), with respect to the City’s LDRs, thereby deferring the acceptance, processing and approval of all applications identified above; and

WHEREAS, the deferral described above shall last for 180 days, or until the City Commission adopts on second reading, the amendments under review and such amendments become effective, whichever occurs earlier, except as provided below; and

WHEREAS, applicants claiming infringement with vested or constitutional rights, or other justification, may request relief from this resolution through written request to and decision by the Planning Director, where the Planning Director may grant relief only upon findings based on competent substantial evidence that such infringement will in fact occur, or has in fact occurred, or other justification suggesting relief therefrom, and the public health, safety and welfare are not adversely impacted by allowing such applications to be accepted and processed. Such request shall be an administrative remedy and condition precedent to all judicial relief sought arising from this resolution. Appeals from decisions of the Planning Director shall be processed pursuant to Chapter 29, Article 3, Division 7, of the City Code. Relief for actions taken pursuant to this resolution shall be limited to petitions for writs of certiorari pursuant to the Florida Rules of Appellate Procedure. The City shall retain complete administrative, quasi-judicial or legislative discretion in whether to approve or deny any application so filed.

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

Section 1. **Recitals.** The ‘WHEREAS’ clauses set forth above are incorporated herein by reference.

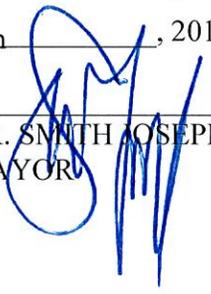
Section 2. **Approval.** The Mayor and City Council of the City of North Miami, Florida, hereby adopt this Resolution and invoke the zoning in progress or pending ordinance doctrine with respect to the City’s LDRs, thereby deferring the acceptance, processing and approval of all applications not filed as of the effective date of this resolution for comprehensive plan text and Future Land Use Map amendments, LDR text and Zoning Map amendments, site plan approval and for Conditional Use Permits for Bonus Density requests; and

This deferral shall last for 180 days, or until the City Commission adopts on second reading the amendments under review and such amendments become effective, whichever occurs earlier, except as provided below; and

Applicants claiming infringement with vested or constitutional rights, or other justification, may request relief from this resolution through written request to and decision by the Planning Director, where the Planning Director may grant relief only upon findings based on competent substantial evidence that such infringement will in fact occur, or has in fact occurred, or other justification suggesting relief therefrom, and the public health, safety and welfare are not adversely impacted by allowing such applications to be accepted and processed. Such request shall be an administrative remedy and condition precedent to all judicial relief sought arising from this resolution. Appeals from decisions of the Planning Director shall be processed pursuant to Chapter 29, Article 3, Division 7, of the City Code. Relief for actions taken pursuant to this resolution shall be limited to petitions for writs of certiorari pursuant to the Florida Rules of Appellate Procedure. The City shall retain complete administrative, quasi-judicial or legislative discretion in whether to approve or deny any application so filed.

Section 3. Effective Date. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 27th day of March, 2018.



DR. SMITH JOSEPH
MAYOR

ATTEST:



MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Desulme

Vote:

Mayor Smith Joseph, D.O., Pharm. D.	<u> x </u>	(Yes)	<u> </u>	(No)
Vice Mayor Carol Keys, Esq.	<u> x </u>	(Yes)	<u> </u>	(No)
Councilman Scott Galvin	<u> x </u>	(Yes)	<u> </u>	(No)
Councilman Philippe Bien-Aime	<u> x </u>	(Yes)	<u> </u>	(No)
Councilman Alix Desulme	<u> x </u>	(Yes)	<u> </u>	(No)