

ORDINANCE NO. 1427

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING THE FUTURE LAND USE MAP TO CORRECT A SCRIVENER'S ERROR, SPECIFICALLY CHANGING THE FUTURE LAND USE DESIGNATION FROM MIXED-USE LOW TO MIXED USE HIGH FOR THE APPROXIMATELY 23 ACRE PROPERTY KNOWN AS PORTOFINO APARTMENTS LOCATED AT 1820 NE 142ND STREET, NORTH, MIAMI, FLORIDA, WITH FOLIO IDENTIFICATION NUMBER 06-2221-023-0010; PROVIDING FOR AN ADOPTION HEARING AND SUBSEQUENT TRANSMITTAL OF THE PROPOSED MAP AMENDMENT TO THE STATE LAND PLANNING AGENCY FOR A DETERMINATION OF COMPLETENESS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, the 1985 Florida State Legislature established the Local Government Comprehensive Planning and Land Development Regulation Act ("1985 Act"), which required every local government in the State, including the City of North Miami ("City"), to adopt a detailed comprehensive plan by 1992; and

WHEREAS, in conformity with the 1985 Act, the City adopted its first Comprehensive Plan in 1989, consisting of principles, guidelines, standards, and strategies, arranged in goals, objectives and policies intended to foster the orderly and balanced future economic, social, physical, environmental, and fiscal development of the City; and

WHEREAS, the 2011 Florida State Legislature repealed and replaced the 1985 Local Government Comprehensive Planning and Land Development Regulation Act with the Community Planning Act ("2011 Act") as Part II of Chapter 163, Florida Statutes (F.S.); and

WHEREAS, the 2011 Act, through s. 163.3191, Florida Statutes, stipulates that every seven (7) years, every local government shall amend its comprehensive plan pursuant to the provisions set out in Section 163.3164, F.S.; and

WHEREAS, on April 26, 2016, the Mayor and City Council of the City unanimously passed Ordinance No. 1399, adopting the 2015 Evaluation and Appraisal Review (EAR) based Amendments to Volume I; Goals, Objectives and Policies (GOPs) of the City Comprehensive Plan "(Comprehensive Plan)", in accordance with requirements of Rule 73C-49, Florida Administrative Code, and s.163.3191, F.S.; and

WHEREAS, the State of Florida Department of Economic Opportunity (DEO), the State Land Planning Agency, reviewed the EAR-based Amendments to the City Comprehensive Plan (North Miami Amendment 15-2ER) under the state coordinated review process and, on June 23, 2016, issued a Notice of Intent finding said EAR-based Amendments to the City Comprehensive Plan adopted by Ordinance 1399 on April 26, 2016, to be in compliance, pursuant to s. 163.3184(4), F.S.; and

WHEREAS, s. 163.3184(3), F.S., provides that local governments may review and adopt comprehensive plan amendments under the expedited state review process, provided they do not involve plan amendments that: (1) qualify as small-scale development amendments, which may follow therefore the small-scale review process in s. 163.3187, F.S.; (2) are in an area of critical state concern designated pursuant to s. 380.05, F.S.; (3) propose a rural land stewardship area pursuant to s. 163.3248, F.S.; (4) propose a sector plan pursuant to s. 163.3245, F.S. or an amendment to an adopted sector plan; (5) update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191, F.S.; (6) propose a development that is subject to the state coordinated review process pursuant to s. 380.06; or (7) are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167, F.S., which must follow therefore the state coordinated review process in s. 163.3184(4), F.S.; and

WHEREAS, ss. 163.3764, 163.3167, 163.3171 and 163.3202, F.S., give power and authority, and mandate that, in order to plan and guide its future development and growth, every local government in the State, implements adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof within one (1) year after submission of its comprehensive plan or revised comprehensive plan; and

WHEREAS, on July 11, 2017, the Mayor and City Council of the City adopted updates to the Land Development Regulations (“LDRs”) and the Official Zoning Map under Chapter 29 of the City Code of Ordinances, in order to implement the 2015 Ear-based Amendments to the City Comprehensive Plan, consistent with the requirements of ss. 163-3184, 163.3202, 166.041(3)(c), F.S.; and

WHEREAS, Article 3, Division 11, Sections 3-1102(A) and 3-1105 through Section 3-1111 of the City LDRs set forth procedures for text amendments and future land use map changes to the Comprehensive Plan initiated by either the City or one (1) or more owners of

record for parcel(s) located within the jurisdictional boundary of the City within the jurisdictional boundary of the City; and

WHEREAS, Article 3, Division 3, Section 3-302 of the City LDRs establishes a uniform notice and procedure in order to ensure procedural due process and maintain citizen access to the local government decision-making process relating to the approval of amendments to the texts and maps of the Comprehensive Plan within the jurisdictional boundary of the City; and

WHEREAS, the City is desirous of amending its adopted 2036 Future Land Use Map (FLUM) to eliminate scrivener's errors which City staff has identified over the course of the last two (2) years implementing the Comprehensive Plan; and

WHEREAS, over the course of the last two (2) years, City staff has identified a scrivener's error on the Future Land Use Map requiring correction affecting the Portofino Apartment parcel; and

WHEREAS, the property is governed by Conditional Use Permit (CUP) in accordance with Resolution 1637, which allowed 36.6 (DU/AC) and a height of 100'; and

WHEREAS, the property was previously designated as a Planned Unit Development on the FLUM and, through a scrivener's error, the land use designation was inadvertently changed to Mixed Use Low (55', 25 DU/AC); and

WHEREAS, City staff is recommending that in order to comport with the CUP and the current built environment, the land use designation for this parcel be changed to Mixed Use High (110 ft., 45 DU/AC); and

WHEREAS, City staff is requesting that, pursuant to the requirements of Article 3, Division 11, Section 3-1106 of the City LDRs, the Planning Commission reviews the proposed Amendment to the FLUM, the recommendation of City staff, testimony provided at the public hearing (if any), and issues a recommendation to the Mayor and the City Council to take the appropriate action and adopt the proposed Amendment to the FLUM by passage of the attached ordinance; and

WHEREAS, pursuant to Article 2, Division 2, Section 2-203 of the City LDRs, at least four (4) affirmative votes of the Planning Commission shall be required for a positive recommendation of any proposed amendment to the texts and FLUM of the City Comprehensive

Plan; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on March 6, 2018, reviewed and discussed the proposed Amendment to the FLUM, City staff's report, and heard testimony from the attending members of the public; and

WHEREAS, the Planning Commission found the proposed Amendment to the FLUM to be in compliance with state law and with applicable standards of the City LDRs, and therefore recommended that the Mayor and City Council take the appropriate action and adopt the proposed Amendment to the FLUM by passage of the attached ordinance; and

WHEREAS, s. 163.3184(11), F.S., requires that the Amendment to the FLUM shall be adopted by a super-majority of the Mayor and City Council by Ordinance; and

WHEREAS, the Mayor and City Council, after a duly noticed initial hearing held on June 26, 2018, reviewed and discussed the proposed Amendment to the FLUM, and authorized its transmittal to DEO and other reviewing agencies, pursuant to state law; and

WHEREAS, in accordance with the requirements of s.163.3184 (3)(c), F. S., the City has one hundred eighty (180) days from the receipt of agency comments to hold the second public hearing on whether to adopt the proposed Amendment to the FLUM by Ordinance; and

WHEREAS, pursuant to Article 3, Division 11, Section 3-1109(B) of the City LDRs, adoption of the proposed Amendment to the FLUM shall require concurrence of a supermajority of the City Council; and

WHEREAS, the Mayor and City Council, find the adoption of the proposed Amendment to the FLUM reflects the developmental vision and aspirations of the City, and further authorized their transmittal to DEO for a determination of completeness, in accordance with state law.

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

Section 1. Adoption. The Mayor and City Council of the City of North Miami, Florida, hereby approve and adopt the proposed Amendments to the City of North Miami Comprehensive Plan identified in Section 2.

Section 2. Repeal. All ordinances or parts of ordinances in conflict or inconsistent are

repealed.

Section 3. Conflict. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

Section 4. Severability. If any word, clause, phrase, sentence, paragraph or section of this Ordinance is held to be invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other word, clause, phrase, sentence, paragraph or section of this ordinance.

Section 5. Scrivener's Errors. The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

Section 6. Codification. The provisions of this Ordinance may 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, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 7. Effective Date. This Ordinance shall not become effective until thirty-one (31) days after the State Land Planning Agency notifies the City that the plan amendment packet transmitted is complete.

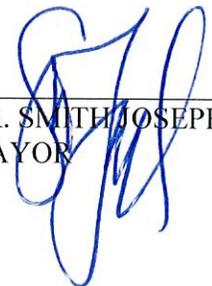
PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 10th day of July, 2018.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 9th day of October, 2018.

ATTEST:



MICHAEL A. ETIENNE, ESQ.
CITY CLERK



DR. SMITH JOSEPH
MAYOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Sponsored by: Desulme

Vote:

Mayor Smith Joseph, D.O., Pharm. D.
Vice Mayor Carol Keys, Esq.
Councilman Scott Galvin
Councilman Philippe Bien-Aime
Councilman Alix Desulme

<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)