

**ORDINANCE NO. 2019-032**

ORDINANCE REZONING PROPERTY FROM M-2 (INDUSTRIAL DISTRICT) TO M-3 (INDUSTRIAL DISTRICT) AND GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW AN INDOOR ELECTRONIC RECYCLING FACILITY; AND GRANTING A VARIANCE PERMIT TO ALLOW 5 PARKING SPACES, WHERE 13 PARKING SPACES ARE REQUIRED; ALLOW A NORTH SIDE SETBACK OF 1.4 FEET, WHERE 5.1 FEET IS REQUIRED; ALLOW A PERVIOUS AREA OF 3.98%, WHERE 10% IS REQUIRED; ALLOW A WAIVER OF THE MINIMUM LANDSCAPE REQUIREMENTS TO PERMIT 6 TREES, WHERE 15 TREES ARE REQUIRED; ALLOW 0 STREET TREES, WHERE 9 TREES ARE REQUIRED; ALLOW 917 SQUARE FEET OF LANDSCAPING AREA, WHERE 2,420 SQUARE FEET ARE REQUIRED; ALLOW NO SHRUBS, WHERE 80 SHRUBS ARE REQUIRED; AND ALLOW NO PERIMETER LANDSCAPE BUFFER, WHERE A 7 FOOT LANDSCAPE BUFFER IS REQUIRED; PROVIDED THAT THE LANDSCAPING REQUIREMENTS ARE MITIGATED PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-2233; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2189 (7) AND (15) AND 98-1453 AND THE LATEST EDITION OF THE HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015 TABLE A, PARAGRAPHS (D)(7), (8) AND (G). **PROPERTY LOCATED AT 5501 NW 36 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the Planning and Zoning Board at its meeting of February 27, 2019 recommended approval of this ordinance.

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

**Section 1:** The below described property is hereby rezoned from M-2 (Industrial District) to M-3 (Industrial District), and is hereby granted a special use permit (SUP) pursuant to Hialeah code of ordinances § 98-161, et. al., to allow an indoor electronic recycling facility. Property Located at 5501 NW 36 Avenue, and legally described as:

Lot 11, Block 3, of PAN AMERICAN TERMINALS, according to the Plat thereof, as recorded in Plat Book 50, Page 71, of the Public Records of Miami-Dade County, Florida.

**Section 2:** The below described property is hereby granted a variance permit to allow 5 parking spaces, where 13 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189 (7) and (15) that respectively provide: “*Commercial uses, not found elsewhere in this section.* One parking space for each 200 square feet of gross floor area of the floor with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area.”; “*Manufacturing and industrial use.* One parking space for each 1,000 square feet, or fractional part thereof, of gross floor area.”; allow a north side setback of 1.4 feet, where 5.1 feet is required, contra to Hialeah Code of Ordinances § 98-1453 that provides: “Yards. In the M-3 industrial district, there shall be no minimum area or front yard requirements. There shall be a minimum side yard and rear yard requirement of from two feet seven inches to five feet one inch as set forth elsewhere in this chapter. [§ 98-1706. - Minimum side and rear yard setbacks.]”; allow a pervious area of 3.98%, where 10% is required, contra to contra to the latest edition of the Hialeah Landscape Manual dated July 9, 2015 Table A that provides: “Land Use or Zoning District...Minimum Pervious Area M-3 Percent of Net Lot Area 1-12%.”; allow a waiver of the minimum landscape requirements to permit 6 trees, where 15 trees are required, contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraph (D)(8) that provides in relevant part: “In order to maximize the distribution of shade, trees shall be planted throughout the interior of the parking lot at a minimum density of one (1) tree eighty (80) square feet of landscaped area, exclusive of parking lot buffers.; allow 0 street trees, where 9 trees are required, contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraph (G) Landscape Legend Information Required to be Permanently Affixed to Plan

that provides in relevant part: “ TREES A. No trees required per lot acre (Table A), less existing number of trees meeting minimum requirements = REQUIRED 24 PROVIDED 6.”; allow 917 square feet of landscaping area, where 2,420 square feet are required, contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraph (G) Landscape Legend Information Required to be Permanently Affixed to Plan that as relevant provides “Landscape Legend Information Zoning District M-3 Net Lot Area 0.528 Acres 23,000 s.f.; allow no shrubs, where 80 shrubs are required, contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraph (G) Landscape Legend Information Required to be Permanently Affixed to Plan that as relevant provides “Landscape Legend Information Zoning that provides in relevant part: SHRUBS A. No. trees required x 10 = No. of native shrubs required REQUIRED 3 PROVIDED 3. B. No shrubs allowed x 30% = No. of native shrubs required REQUIRED 24 PROVIDED 0; and allow no perimeter landscape buffer, where a 7 foot landscape buffer is required, contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraph (D)(7) that provides in relevant part: “Shrubs, vines, ground covers, mulch, buffers, ... Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3)-foot high wall within a seven (7)-foot landscape strip incorporating said planting and/or wall on private property.”; provided that the landscaping requirements are mitigated pursuant to Hialeah Code of Ordinances § 98-2233.

**Section 3. Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

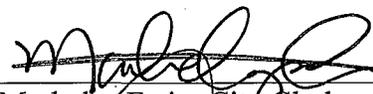
PASSED and ADOPTED this 26 day of March, 2019.

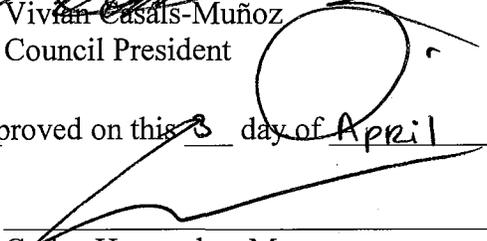
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
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Vivian Casals-Muñoz  
Council President

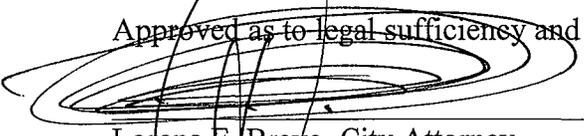
Attest:

Approved on this 8 day of April, 2019.

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

  
\_\_\_\_\_  
Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

  
\_\_\_\_\_  
Lorena E. Bravo, City Attorney

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Ordinance was adopted by a 7-0 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Hernandez, Garcia-Martinez and Cue-Fuente voting "Yes".