

**ORDINANCE NO. 2019-070**

ORDINANCE REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 2018-25 (MARCH 19 2018), AS THE PROPERTY WAS SOLD AND THE APPROVALS PURSUANT TO THE ORDINANCE SHOULD BE RESCINDED; AND GRANTING A VARIANCE PERMIT TO ALLOW FOR NO RESIDENTIAL USES (A WELLNESS CENTER), WHERE RESIDENTIAL USES ARE REQUIRED; ALLOW PARKING IN THE FRONT SETBACK, WHERE PARKING IN THE FRONT SETBACK IS NOT ALLOWED; ALLOW A 10 FOOT PARKING SETBACK, WHERE 65 FEET IS THE MINIMUM REQUIRED; ALLOW A 10 FOOT SETBACK WALL TO SCREEN FRONT SURFACE PARKING LOT, WHERE 5 FEET IS REQUIRED; AND ALLOW 28% BUILDING FRONTAGE, WHERE 50% IS REQUIRED ALONG THE FRONT; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-877, 98-881(1)a.2., 98-881(1)(a) AND 98-881(1)a.3. PROPERTY ZONED CR, (COMMERCIAL RESIDENTIAL DISTRICT). **PROPERTY LOCATED AT 800 PALM 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 August 14, 2019 recommended approval of an ordinance to site the referenced facility; and

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

**Section 1:** Hialeah, Fla. Ordinance 2018-25 (March 19 2018) is hereby repealed and rescinded in its entirety.

**Section 2:** A variance permit is granted on the below described property to allow for no residential uses, where residential uses are required, contra to Hialeah Code of Ordinances §

8/21/2019 10:23 AM

98-877 that provides in relevant part: "Uses permitted and regulations. No building or land shall be used and no building shall be hereinafter erected, constructed, reconstructed or structurally altered that is designated, arranged or intended to be used or occupied for any purpose, unless it provides residential uses"; allow parking in the front setback, where parking in the front setback is not allowed, contra to Hialeah Code of Ordinances § 98-881(1)a.2. that provides as relevant: "No parking in front setbacks is allowed."; allow a 10 foot parking setback, where 65 feet is the minimum required, contra to Hialeah Code of Ordinances § 98-881(1)a.2. that provides as relevant: "The minimum parking setback shall be 65 feet."; allow a 10 foot setback wall to screen the front surface parking lot, where 5 feet is required, contra to Hialeah Code of Ordinances § 98-881(1)(a) that provides as relevant: "Front and street side setbacks: Required front and street side setbacks are five feet." ; and allow 28% building frontage, where 50% is required along the front, contra to Hialeah Code of Ordinances § 98-881(1)a.3. that provides: "Building frontage: A maximum building frontage of 50 percent is required along the lot front." Property located at 800 Palm Avenue, Hialeah Florida, and legally described as follows:

Lots 13 and 14, Block 37, TOWN OF HIALEAH, according to the Plat thereof recorded in Plat Book 5, Page 77 of the Public Records of Miami-Dade County, Florida.

**Section 4: Repeal of Ordinances in Conflict.**

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

**Section 5: 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 6: 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 7: 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.

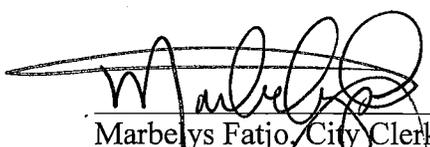
PASSED and ADOPTED this 10 day of September, 2019.

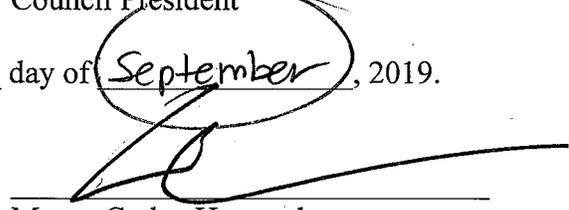
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Vivian Casals-Muñoz  
Council President

Attest:

Approved on this 3 day of September, 2019.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

~~Approved as to form and legal sufficiency:~~

  
Lorena L. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Cue-  
Fuente, Caragol, Hernandez Zogby, Casals-Muñoz and Garcia-  
Martinez voting "Yes" and with Councilmember Lozano absent.