

ORDINANCE NO. 2020-035

ORDINANCE REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 2019-087 (OCTOBER 3, 2019), THAT GRANTED A VARIANCE PERMIT TO ALLOW A COMMERCIAL DEVELOPMENT ON THE WEST SIDE OF THE PROPERTY WITH NO RESIDENTIAL USES, WHERE RESIDENTIAL USES ARE REQUIRED AND REPEALING AND RESCINDING IN ITS ENTIRETY AND RELEASING THE DECLARATION OF USE AND UNITY OF TITLE RECORDED IN OR BOOK 31711 AT PAGES 3730-3734 IN THE PUBLIC RECORDS OF MIAMI DADE COUNTY, FLORIDA. **PROPERTY LOCATED ON THE WEST SIDE OF TWO ADJACENT PARCELS LOCATED ON THE SOUTH SIDE OF EAST 21 STREET, BETWEEN EAST 1 AVENUE AND EAST 2 AVENUE HIALEAH, FLORIDA.** PROPERTY ZONED R-1 (ONE FAMILY DISTRICT). 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 rezoning the property described herein from R-1 to CBD in order to allow a tenant of the owner of the property to utilize a portion of the property for a restaurant and parking; and

WHEREAS, in conjunction with Hialeah, Florida Ord. 2019-087, the owner of the property signed a Declaration of Use and Unity of Title recorded in OR Book 31711 at Pages 3730-3734 of the Public Records of Miami-Dade County, Florida (the "Declaration of Use and Unity of Title"); and

WHEREAS, due to the impact of COVID-19, neither the owner of the property nor the said tenant intends to construct the planned restaurant or parking as contemplated by the Hialeah,

Florida Ord. 2019-087 and Declaration of Use and Unity of Title, and the owner wishes to terminate the said Declaration of Use and Unity of Title; and

WHEREAS, Owner has requested that the Mayor and the City Council of the City of Hialeah, Florida (a) repeal and rescind Hialeah, Florida Ord. 2019-087 and (b) authorize the release of the said Declaration of Use and Unity of Title.

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

Section 1: Hialeah, Fla. Ordinance 2019-087 (October 3, 2019), attached hereto as Exhibit "A," is hereby repealed and rescinded in its entirety.

Section 2: The Declaration of Restrictions and Unity of Title recorded in OR Book 31711 at Pages 3730-3734 of the Public Records of Miami-Dade County, Florida, attached hereto as Exhibit "B," is hereby repealed and rescinded in its entirety, and released and/or terminated of record.

Section 3: Property located on the west side of two adjacent parcels located on the south side of East 21 Street, between East 1 Avenue and East 2 Avenue, Hialeah Florida (Folio Nos. 04-3107-018-2630 and 04-3107-018-2660), and legally described as follows:

Lots 21, 22 and 23, Block 129, Hialeah 3rd Addition according to the Plat thereof as recorded in Plat Book 7, Page 86, of Public Records of Miami-Dade County, Florida.

Lots 11 through 20, inclusive, in Block 129, Hialeah Third Addition, as recorded in Plat Book 7, Page 86, 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.

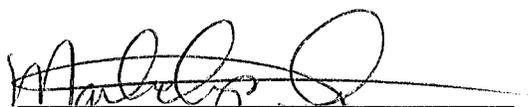
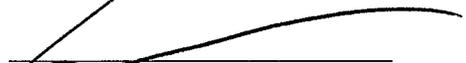
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 11 day of August, 2020.



Oscar De la Rosa
Council Vice-President

Attest: Approved on this 25 day of August, 2020.


Marbelys Fatjo, City Clerk
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, Cue-Fuente, De la Rosa, Garcia-Roves, Perez, Tundidor, and Zogby, voting "Yes" and with Council President Hernandez absent.