ORDINANCE NO. 2019-011

ORDINANCE REZONING PROPERTY FROM C-1 (RESTRICTED RETAIL COMMERCIAL DISTRICT) AND R-1 (ONE-FAMILY DISTRICT) TO TOD (TRANSIT ORIENTED DEVELOPMENT DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW 10 STORIES, WHERE 8 STORIES IS THE MAXIMUM ALLOWED CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1544(c)(2) AND 98-1544(d). **PROPERTY LOCATED AT 955 EAST 25 STREET, 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 January 9, 2019 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a Declaration of Restrictive Covenants, to which the City accepts.

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 C-1 (Restricted Retail Commercial District) to TOD (Transit Oriented Development District); and is granted a variance permit to allow 10 stories, where 8 stories is the maximum allowed, contra to Hialeah Code of Ordinances §§ 98-1544(c)(2) and 98-1544(d) that as relevant respectively provide: "*Building height.* Building height shall be measured in stories. The minimum and maximum height of a building is determined through the masterplan designation of the site as high-rise, medium rise or

low rise. High rise minimum height is two stories and high rise maximum height is six stories..."; "*Bonus height program.* Bonus height rights of up to two stories for medium rise and high rise buildings may be obtained in exchange for the developer's contributions for specified purposes as identified in the masterplan and that provide benefits to the public within the Hialeah Transfer Station Subdistrict." Property Located at 955 East 25 Street, and legally described as:

> The West one-half (1/2) of Lot 18, and all of Lots 19-30 inclusive, Block 95B, "AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH", according to the Plat thereof, as recorded in Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida, LESS the South 15 feet of said West one-half (1/2) of Lot 18, and all of Lots 19-30 inclusive.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: 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 4: 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 5: 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 12 day of February, 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 Casáls-Muñoz
Council President

Attest:

Approved on this 19 day of February, 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 6-0-1 vote with Councilmembers, Zogby, Lozano, Casáls-Munoz, Garcia-Martinez, Caragol and Hernandez, voting "Yes" and with Councilmember Cue-Fuente absent.