

ORDINANCE NO. 2019-007

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH APPROVING AN AMENDMENT, A COPY OF WHICH IN SUBSTANTIAL FORM IS ATTACHED HERETO AS EXHIBIT "1", TO THE DEVELOPMENT AGREEMENT, BY AND BETWEEN ALBERTO MICHA, AS TRUSTEE OF HIALEAH GARDENS IRREVOCABLE TRUST DATED DECEMBER 6, 2010, AND THE CITY OF HIALEAH, FLORIDA, ENTERED INTO ON SEPTEMBER 6, 2016, AND RECORDED AT OFFICIAL RECORDS BOOK 30303 AT PAGES 574-595 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; **PROPERTY COMPRISING APPROXIMATELY 77.25 ACRES WITHIN AN AREA BOUNDED ON THE WEST BY NW 102 AVENUE, ON THE NORTH BY THEORETICAL NW 142 STREET, ON THE EAST BY NW 97 AVENUE, AND ON THE SOUTH BY NW 138 STREET/STATE ROAD 924; ALL LOCATED IN HIALEAH, FLORIDA. PROPERTY HAVING A LAND USE CLASSIFICATION OF MIXED-USE COMMERCIAL AND TO BE DEVELOPED WITHIN THE PARAMETERS OF THE HIALEAH HEIGHTS - COMMERCIAL ZONING 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 December 12, 2018 recommended approval of this ordinance; and

WHEREAS, on September 6, 2016, the City of Hialeah and Alberto Micha, as Trustee of Hialeah Gardens Irrevocable Trust dated December 6, 2010, entered into a development agreement pursuant to the Florida Local Development Agreement Act, sections 163-3220 et seq., Florida Statutes (the "Development Agreement"); and

WHEREAS, the Development Agreement was recorded on November 9, 2016, in the Public Records of Miami-Dade County in Official Records Book 30303 at Pages 574-595; and

WHEREAS, the Development Agreement provided for the dedication of certain portions for principal roadways to the City, development of internal roads within the approximately 77.25 acre development, and a mechanism of site plan approval according to a project program for a development containing commercial/retail uses, to serve the community located in the Hialeah Heights Annexation Area; legally described in Exhibit "A"; and

WHEREAS, pursuant to Provision No. 7(k) of the Development Agreement, Atlas Fam II, LLC (the "Successor Developer") and the City of Hialeah seek to modify the Development Agreement to allow for a project program for a development containing commercial/retail and residential uses, to serve the community located in the Hialeah Heights Annexation Area; and

WHEREAS, the modification will allow for the efficient use of land resources, and will serve to provide for a more balanced and sustainable mix of uses on the Property, and within the Hialeah Heights Annexation Area.

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

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby approves the modification to the Development Agreement, entered into on September 6, 2016, and recorded at Official Records Book 30303 at pages 574-595 of the Public Records of Miami-Dade County, Florida, a copy of which in substantial form is attached hereto and made a part hereof as Exhibit "1"; and in furtherance thereof, the City of Hialeah authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into the Modification of Development Agreement, and execute any document relating thereto. The modification to the Development Agreement covers property comprising approximately 77.25 acres within an area bounded on the west by NW 102 Avenue, on the north by theoretical NW 142 Street, on the east by NW 97 Avenue, and on the south by NW 138 Street/State Road 924; all located in Hialeah, Florida. Property having a land use classification of Mixed-Use Commercial and to be developed within the parameters of the Hialeah Heights - Commercial Zoning District.

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.

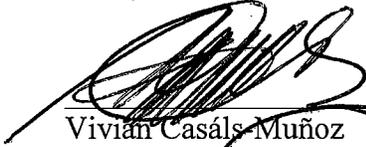
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

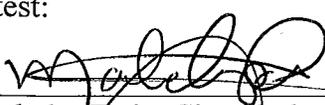
PASSED and ADOPTED this 12 day of February, 2019.

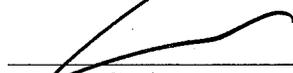
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Munoz
Council President

Attest:

Approved on this 19 day of February, 2019.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena Bravo, City Attorney

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