**ORDINANCE NO. _ 13-12 ___**

ORDINANCE REZONING 73.25 ACRES OF LAND FROM GU (INTERIM DISTRICT) TO RESIDENTIAL DEVELOPMENT DISTRICT, HAVING A MINIMUM OF 25% DEVELOPED AS RH-1 (ONE FAMILY DISTRICT), A MINIMUM OF 20% AND A MAXIMUM OF 30% DEVELOPED AS R-4 (TOWNHOUSE), MAXIMUM OF 20% DEVELOPED AS RH-3-M (MULTIPLE FAMILY DISTRICT, 8 TO 14 UNITS PER NET ACRE) AND A MAXIMUM OF 10% DEVELOPED AS R-3-MM (MULTIPLE FAMILY DISTRICT, 15 TO 24 UNITS PER NET ACRE); SUBSTITUTING THE REQUIREMENTS OF THE RESIDENTIAL DEVELOPMENT DISTRICT BY APPROVING THE SITE PLAN DATED DECEMBER 19, 2012 AND PATTERN BOOK PREPARED BY PASCUAL PEREZ KILIDDJIAN & ASSOCIATES, ARCHITECTS AND PLANNERS, AND BY APPROVING THE LANDSCAPE PLAN DATED SEPTEMBER 21, 2012 PREPARED BY WITKIN HULTS DESIGN GROUP; REAFFIRMING DECLARATION OF RESTRICTIONS DATED AUGUST 14, 2007 AND THE OBLIGATION TO PAY THE CITY THE SUM OF $500,000 TO BE USED FOR ROADWAY IMPROVEMENTS; RELEASING THE DECLARATION OF RESTRICTIONS DATED JUNE 8, 2006, AS RECORDED IN OFFICIAL RECORDS BOOK 24645, PAGES 2648-2655. OF THE MIAMI-DADE COUNTY PUBLIC RECORDS AND THE DECLARATION OF RESTRICTIONS DATED NOVEMBER 10, 2006, AS RECORDED IN OFFICIAL RECORDS BOOK 25127, PAGES 4785-4792, OF THE MIAMI-DADE COUNTY PUBLIC RECORDS AND CANCELLING THE SAME OF RECORD; AND GRANTING A VARIANCE PERMIT TO ALLOW A TEMPORARY WAIVER OF PLAT, PROVIDED THAT THE PROPERTY WILL BE REPLATTED IN 18 MONTHS FROM THE GRANT OF THE WAIVER; AND REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 06-31 (MAY 26, 2006) AND HIALEAH, FLA., ORDINANCE 06-80 (NOV. 16, 2006); **PROPERTY LOCATED ON A VACANT PARCEL OF LAND ON THE SOUTH SIDE OF NW 146 STREET AND THE NORTH SIDE OF NW 139 STREET, EAST**

**OF NW 97 AVENUE AND WEST OF THE I-75 EXPRESSWAY, 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 23, 2013 recommended approval of this ordinance; and

**WHEREAS,** the petitioner has proffered community standards that are acceptable to the City, which will be provided to all prospective purchasers of residential units and which future purchasers shall agreed to be bound thereby.

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

**Section 1:** The City of Hialeah, Florida hereby accepts the proffered community standards for the Residential Developed District described herein and is hereby incorporated by reference within this ordinance. Any future amendments to the proffered community standards, which are accepted and approved by the City, shall not require an amendment to this ordinance.

**Section 2:** The City of Hialeah, Florida hereby rezones 73.25 acres of land from GU (Interim District) to Residential Development District, having a minimum of 25% developed as RH-1 (One Family District), a minimum of 20% and a maximum of 30% developed as R-4 (Townhouse), maximum of 20% developed as RH-3-M (Multiple Family District, 8 to 14 units per net acre) and a maximum of 10% developed as R-3-MM (Multiple Family District, 15 to 24 units per net acre); hereby substitutes the requirements of the Residential Development District by approving the Site Plan dated December 19, 2012 and Pattern Book prepared by Pascal Perez Kiliddjian & Associates, Architects and Planners, and by approving the Landscape Plan dated September 21, 2012 prepared by

Witkin Hults Design Group; hereby reaffirms the Declaration of Restrictions dated August 14, 2007 and the obligation to pay the City the sum of $500,000 to be used for roadway improvements; hereby releases the Declaration of Restrictions dated June 8, 2006, as recorded in Official Records Book 24645, pages 2648-2655, of the Miami-Dade County Public Records and Declaration of Restrictions dated November 10, 2006, as recorded in Official Records Book 25127, pages 4785-4792, of the Miami-Dade County Public Records; hereby grant a variance permit to allow the temporary waiver of plat, provided that the property will be replatted within 18 months from the grant of the waiver. Property located on vacant parcel of land, on the south side of NW 146 Street and the north side of NW 139 Street, east of N.W. 97 Avenue and west of the I-75 Expressway, Hialeah, Miami-Dade County, Florida and legally described as follows:

> TRACTS 33 THROUGH 36, BOTH INCLUSIVE, IN SECTION 21, TOWNSHIP 52 SOUTH, RANGE 40 EAST, FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.
>
> LESS THE PART THEREOF TAKEN IN EMINENT DOMAIN PROCEEDINGS, CASE NO. 79-5-184 FOR INTERSTATE 75, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
>
> BEGIN AT THE NORTHEAST CORNER OF THE SOUTHWEST ¼ OF SAID SECTION 21, TOWNSHIP 52 SOUTH, RANGE 40 EAST; THENCE RUN SOUTH 2° 36' 44" EAST ALONG THE EAST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 21 FOR 1,320 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID TRACT 36; THENCE RUN SOUTH 89° 37' 29" WEST ALONG THE LAST DESCRIBED SOUTH LINE FOR 600.85 FEET TO A POINT ON A CIRCULAR CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1,035.92 FEET; THENCE

FROM A TANGENT BEARING OF NORTH 18° 49' 16" EAST, RUN NORTHEASTERLY 315.33 FEET THROUGH A CENTRAL ANGLE OF 17° 26" 26" IN THE END OF THIS PORTION OF SAID CURVE; THENCE RUN NORTH 1° 50' 49" EAST FOR 768.10 FEET; THENCE RUN NORTH 2° 37' 10" WEST FOR 243.52 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTHWEST 1/4; THENCE RUN NORTH 89° 37' 02" EAST ALONG THE LAST DESCRIBED NORTH LINE FOR 471.94 FEET TO THE POINT OF BEGINNING AND ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW BETWEEN THE REMAINING PORTIONS OF SAID TRACTS 33 AND 36 AND ANY FACILITY CONSTRUCTED ON THE PORTION TAKEN FOR INTERSTATE 75.

TRACTS 37, 38, 43, 44 AND 45, IN SECTION 21, TOWNSHIP 52 SOUTH, RANGE 40 EAST, A SUBDIVISION OF FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THOSE PORTIONS OF SAID TRACTS 37 AND 38 CONVEYED TO THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, IN DEED FILED JULY 20, 1979, IN OFFICIAL RECORDS BOOK 10458, PAGE 2138, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TRACT 46, IN SECTION 21, TOWNSHIP 52 SOUTH, RANGE 40 EAST, A SUBDIVISION OF FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PORTIONS OF TRACT 39, FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, OF SECTION 21, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY,

FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID TRACT 39; THENCE NORTH 02° 37' 47" WEST, ALONG THE WEST LINE OF SAID TRACT 39, FOR 330.20 FEET, TO THE NORTHWEST CORNER OF SAID TRACT 39; THENCE NORTH 89° 37' 53" EAST, ALONG THE NORTH LINE OF SAID TRACT 39, FOR 319.94 FEET, TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, SAID POINT ALSO BEING ON A CIRCULAR CURVE, SAID CURVE BEING CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1,315.92 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, THROUGH A CENTRAL ANGLE OF 11° 03' 51", FOR AN ARC DISTANCE OF 254.11 FEET; THENCE NORTH 77° 18' 30" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75; THENCE SOUTH 11° 23' 07" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, TO A POINT ON THE SOUTH LINE ON SAID TRACT 39; THENCE SOUTH 89° 38' 06" WEST, ALONG SAID SOUTH LINE OF TRACT 39, FOR 74.40 FEET, TO A POINT OF BEGINNING.

**Section 3:** Hialeah, Fla., Ordinance 06-31 (May 26, 2006) and Hialeah, Fla., Ordinance 06-80 (Nov. 16, 2006) are hereby repealed and rescinded in its respective entirety.

**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 26th day of February, 2013.

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

Isis Garcia-Martinez
Council President

Attest:

Approved on this 27 day of February, 2013.

Marbelys ~~Rubio~~ Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

S:\WMG\LEGISLAT\ORD\Ordinance 2012\lennarresidentialdevelopmenthialeahheights.docx

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".