

**ORDINANCE NO. 2020-006**

ORDINANCE REZONING PROPERTY FROM M-1 (INDUSTRIAL DISTRICT) TO M-3 (INDUSTRIAL DISTRICT); AND GRANTING A SPECIAL USE PERMIT (SUP) PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-161 TO ALLOW THE OPERATION OF A METAL RECYCLING FACILITY; AND GRANTING A VARIANCE PERMIT TO ALLOW A 264 SQUARE FOOT BUILDING, WHERE A 1,000 SQUARE FOOT AREA IS THE MINIMUM REQUIRED; ALLOW A PERVIOUS AREA OF 6.9%, WHERE 10% IS REQUIRED; ALLOW A WAIVER OF THE MINIMUM LANDSCAPE REQUIREMENTS OF 8 TREES AND 80 SHRUBS, PROVIDED THAT THE LANDSCAPING REQUIREMENTS ARE MITIGATED PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-2233; ALL CONTRA TO HIALEAH CODE OF ORDINANCES § 98-1373 AND THE LATEST EDITION OF THE HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015 PARAGRAPH (E), TABLE A AND PARAGRAPHS (D)(1) AND (8); **PROPERTY LOCATED AT 4938 EAST 11 AVENUE AND 4951 EAST 10 LANE, 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 December 11, 2019 recommended approval of this ordinance.

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 M-1 (Industrial District) to M-3 (Industrial District), and is hereby granted a special use permit (SUP) pursuant to Hialeah code of ordinances § 98-161, et. al., to allow the operation of a metal recycling facility. Property Located at 4938 East 11 Avenue and 4951 East 10 Lane, and legally described as:

Lots 9, 10 and 17, Block 42 of “**INGLESIDE PARK FIRST ADDITION**”, according to the plat thereof, as recorded in Plat Book 46, at Page 11 of the Public Records of Miami-Dade County, Florida.

**Section 2:** The above described property is hereby granted a variance permit to allow a 264 square foot building, where a 1,000 square foot area is the minimum required, contra to Hialeah Code of Ordinances § 98-1373 that provides: “In the M-1 industrial district, there shall be a minimum square footage of 1,000 square feet of total floor area for any building, including indoor bathroom facilities, located within the property.” ; allow a pervious area of 6.9%, where 10% is the minimum required, contra to the latest edition of the Hialeah Landscape Manual dated July 9, 2015, Paragraph (E), Table A that provides: “Land Use or Zoning District...Minimum Pervious Area M-3 Percent of Net Lot Area 10-12%.”; allow a waiver of the minimum landscape requirements of 8 trees and 80 shrubs, wherein 3 trees and 30 shrubs are being provided with the deficit of 5 trees and 50 shrubs mitigated pursuant to Hialeah Code of Ordinances § 98-2233, and contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraphs (D)(1) and (8) that provide respectively in relevant part: “Shrubs shall be provided at a ratio of ten (10) for each required tree”, and “[i]n order to maximize the distribution of shade, trees shall be planted throughout the interior of the parking lot at a minimum density of one (1) tree per eighty (80) square feet of landscaped area, exclusive of parking lot buffers.”

**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.

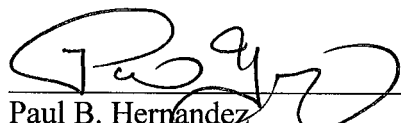
**Section 5: Severability Clause.**

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.

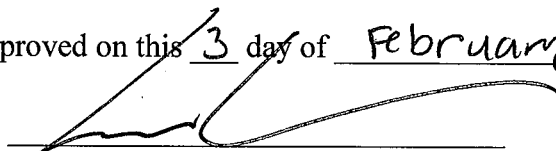
PASSED and ADOPTED this 28 day of January, 2020.

  
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Paul B. Hernandez  
Council President

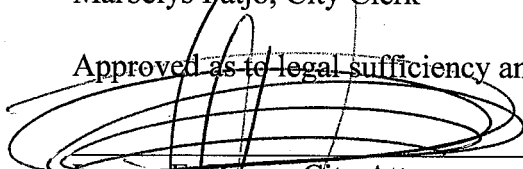
Attest:

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

Approved on this 3 day of February, 2020.

  
\_\_\_\_\_  
Mayor Carlos Hernandez

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

  
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Lorena E. Bravo, City Attorney

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Ordinance was adopted by a 7-0 vote with Councilmembers, Tundidor, Zogby, Hernandez, Garcia-Roves, De La Rosa, Perez and Cue-Fuente voting "Yes".