

ORDINANCE NO. 2020-011

ORDINANCE REZONING PROPERTY FROM M-1 (INDUSTRIAL DISTRICT) TO TOD (TRANSIT ORIENTED DEVELOPMENT DISTRICT); AND ALLOWING 118 ON-SITE PARKING SPACES, AND GRANTING A VARIANCE PERMIT TO ALLOW OFF-SITE SURFACE PARKING SPACES WITHIN 1,500 FEET OF THE PROPOSED DEVELOPMENT TO BE DETERMINED AT EACH PHASE OF THE PROPOSED DEVELOPMENT, CONTRA TO HIALEAH CODE OF ORDINANCES § 98-1545(b) AND (c), PROVIDED THAT THE ON-SITE PARKING SPACES ARE IDENTIFIED IN A PARKING PLAN, AND THE OFF-SITE PARKING SPACES ARE IDENTIFIED IN A COVENANT PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1545(c) OR BY PAYMENT OF THE OFF-SITE PARKING SPACES INTO THE PARKING IMPROVEMENT TRUST FUND PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1546(b)(1); INCORPORATING A CONCEPTUAL MASTER SIGN PLAN PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1561(m); AND A CONCEPTUAL SITE PLAN CONSISTING OF UP TO EIGHT BUILDINGS TO BE DEVELOPED IN VARIOUS PHASES WITH EACH BUILDING CONSTITUTING A SEPARATE PHASE; AND ALLOW A CONDITIONAL USE PERMIT PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1561(f), TO ALLOW DISTILLERIES, ENTERTAINMENT ESTABLISHMENTS, FESTIVALS, LIVE MUSIC VENUES, NIGHTCLUBS, BANQUET HALLS, DANCE HALLS, BARS, SPECIAL EVENTS, EXHIBITS, AND SIMILAR OUTDOOR USES, SUCH AS RETAIL, DINING (INCLUDING FOOD TRUCKS AND FOOD CARTS), AND OTHER ENTERTAINMENT, MUSIC AND ART FESTIVALS AS DEPICTED ON THE CONCEPTUAL SITE PLAN. **PROPERTY LOCATED AT 4800 NW 37 AVENUE LOCATED WITHIN THE FACTORY TOWN ENTERTAINMENT SUBDISTRICT PILOT PROGRAM, HIALEAH, ZONED M-1 (INDUSTRIAL 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 January 15, 2020 recommended denial of this ordinance; and

WHEREAS, the City of Hialeah City Council at its meeting of January 15, 2020 voted 6-0 to overturn the Planning and Zoning Board's recommendation and approve this ordinance; and

WHEREAS, the applicant has presented a conceptual site plan consisting of up to eight buildings to be developed in various phases with each building constituting a separate phase; and

WHEREAS, a complete application for site plan and concurrency review for each proposed phase of development, as depicted on the conceptual site plan and developed over time, shall be submitted to City for review pursuant to the terms of the declaration of restrictions; and

WHEREAS, the applicant has proffered a declaration of restrictions, 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 foregoing recitals are ratified and confirmed as true and correct and incorporated herein and made a part of this ordinance.

Section 2: The conceptual site plan consisting of up to eight buildings to be developed in various phases with each building constituting a separate phase as reflected in that certain site conceptual site plan entitled "Factory Town" as prepared by Touzet Studio is hereby accepted.

Section 3: The below described property is hereby rezoned from M-1 (Industrial District) to TOD (Transit Oriented Development District), and a conditional use permit is hereby granted, pursuant to Hialeah Code of Ordinances § 98-1561(f), Factory Town Entertainment Subdistrict Pilot Program, incorporating the conceptual site plan for the phased development of the below described property to allow distilleries, entertainment establishments, festivals, live music venues, nightclubs, banquet halls, dance halls, bars, special events, exhibits, and similar outdoor uses, such as retail, dining (including food trucks and food carts), and other entertainment, music and art festivals, wherein a complete application for site plan and concurrency review for each phase of the proposed development shall be submitted pursuant to the terms of the declaration of restrictions.

Section 4: The below described property shall provide a minimum of 118 on-site parking spaces, with off-site surface parking spaces within 1,500 feet of the proposed development to be determined at each phase of the proposed development in a parking covenant, contra to Hialeah Code Of Ordinances § 98-1545(b) and (c), that provide: “(b) *Commercial parking requirements.* (1) Minimum of three parking spaces for each 1,000 square feet of commercial use shall be provided on-site or off-site within a parking structure. (2) Provide two parking spaces for each 1,000 square feet of commercial use on-site or off-site within a parking structure and provide payment in-lieu of remaining required one space into the parking improvement trust fund. (c) *Parking provided off-site.* Parking requirements may be satisfied off-site within a parking structure that shall be located within 1,000 feet of the proposed development site.”; or pay for the off-site parking into the parking improvement trust fund as provided in Hialeah Code of Ordinances § 98-1546(b)(1), which states: “(b) *Schedule of fees and charges.* The schedule of fees and charges to be assessed and paid into the trust is as follows:(1) The fee in lieu of providing the required number of off-street parking spaces shall be calculated by adding the land cost of 315 square feet of land in the TOD transit oriented development district, which is the average area of a single parking space including access lane, and the average cost of construction of a single surface parking space. The resulting number shall be the fee in lieu per each parking space waiver and fraction thereof. The payment in lieu shall be made at the time of application for a certificate of waiver.”

Section 5: The below described property is hereby approved for a conceptual master sign plan wherein subsequent site plan review reflecting the proposed signage for each phase of development shall be submitted as provided in the declaration of restrictions and pursuant to Hialeah Code of Ordinances § 98-1561(m) that provides: “*Master sign plan.* Notwithstanding anything to the contrary, signage for projects within the Factory Town Entertainment District may exceed the sign size, number, height, type and location restrictions set forth in chapter 74, subject to approval of a master sign plan by the city council via the conditional use process in section 98-1561(f). LED signs within the Factory Town Entertainment District shall comply with the illumination standards set forth in the City Code. The master sign plan shall address, to the extent applicable, the following: (1) proposed locations; (2) materials; (3) type of illumination;

(4) size; (5) height; (6) quantity; (7) uniform standards for non-business signage, including directional, informational, and kiosk signs.”

Section 6: Property located at 4800 NW 37 Avenue, Hialeah, Florida, zoned M-1 (Industrial District), and legally described as follows:

That portion of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, Township 53 South, Range 41 East, lying East of the right-of-way line of the Seaboard Airline Railroad, LESS the East 35 feet for right-of-way; and that portion of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, Township 53 South, Range 41 East, lying East of the East right-of-way line of the Seaboard Airline Railroad, LESS the East 35 feet for Douglas Road; AND LESS AND EXCEPT the East 235 feet of the South 112 feet of said North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, lying in Miami-Dade County, Florida; LESS the following described parcel: from the Southeast corner of the North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, Township 53 South, Range 41 East, Miami-Dade County, Florida; thence run South along the East line of the Northeast $\frac{1}{4}$ of said Section 20, for a distance of 211.43 feet; thence run North 89 degrees 51 minutes 20 seconds West a distance of 35 feet to the Point of Beginning of the parcel of land hereinafter described; thence run North 89 degrees 51 minutes 20 seconds West a distance of 71.77 feet; thence run South 0 degrees 8 minutes 40 seconds West a distance of 28.00 feet; thence run North 89 degrees 51 minutes 20 seconds West a distance of 63.89 feet; thence run North 0 degrees 8 minutes 40 seconds West a distance of 17.04 feet; thence run North 89 degrees 51 minutes 20 seconds West a distance of 80.29 feet; thence run North 0 degrees 8 minutes 40 seconds East a distance of 28.22 feet; thence run North 31 degrees 36 minutes 9 seconds West a distance of 38.85 feet; thence run South 89 degrees 54 minutes 40 seconds West a distance of 138.38 feet; thence run North 40 degrees 52 minutes 16 seconds West a distance of 63.05 feet; thence run North 89 degrees 55 minutes 30 seconds West a distance of 171.89 feet; thence run North 0 degrees 34 minutes 55 seconds East a distance of 114.34 feet; thence run South 09 degrees 51 minutes 20 seconds East a distance of 586.63 feet; thence run South and parallel to the East line of the Northeast $\frac{1}{4}$ of said Section 20, for a distance of 211.43 feet to the Point of Beginning.

Section 7: Repeal of Ordinances in Conflict.

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

Section 8: 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.

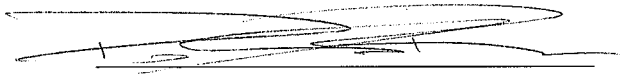
Section 9: Severability Clause.

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 10: 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 25 day of February, 2020.

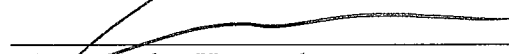


Oscar De la Rosa
Council Vice-President

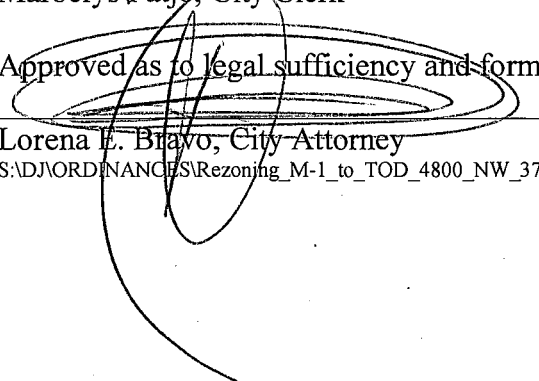
Attest:


Marbelys Fatjo, City Clerk

Approved on this 2 day of March, 2020.


Mayor Carlos Hernandez

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney
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Ordinance was adopted by a 4-0-3 vote with Councilmembers, Garcia-Roves, Perez, Tundidor and Zogby voting "Yes" and with Council Vice President De la Rosa having abstained from voting and Council President Hernandez and Councilmember Cue-Fuente absent.