

**ORDINANCE NO. 2021-044**

ORDINANCE REPEALING AND RESCINDING HIALEAH ORDINANCE 93-01 (ADOPTED JANUARY 12, 1993) AND THE RELATED UNITY OF TITLE RECORDED IN OFFICIAL RECORDS BOOK 15925 AT PAGE 3448 (MAY 24, 1993) FOR PROPERTIES ZONED RO (RESIDENTIAL OFFICE DISTRICT) LOCATED AT 4915 AND 4935 E 1 COURT, WHICH UPON REPEAL REVERTS FROM RO (RESIDENTIAL OFFICE DISTRICT) TO R-1 ZONING (ONE-FAMILY DISTRICT); REZONING PROPERTY LOCATED AT 4935 E 1 COURT FROM R-1 (ONE FAMILY DISTRICT) TO P (PARKING DISTRICT) FOR PROPOSED SURFACE PARKING TO SERVE A PROPOSED ADDITION TO THE BUILDING LOCATED AT 145 E 49 STREET; REZONING PROPERTY LOCATED AT 4915 E 1 COURT FROM R-1 (ONE FAMILY DISTRICT) TO RO (RESIDENTIAL OFFICE) AND GRANTING A VARIANCE TO ALLOW A REAR SETBACK OF 41 FEET, WHERE 45 FEET ARE REQUIRED AND ALLOW ONE PARKING SPACE AT THE FRONT SETBACK, WHERE PARKING IS REQUIRED AT THE BACK OF THE BUILDING; REZONING PROPERTY LOCATED AT 4950 E 1 COURT FROM R-1 (ONE FAMILY DISTRICT) TO P (PARKING DISTRICT) TO PROVIDE PARKING FOR A PROPOSED ADDITION TO THE BUILDING LOCATED AT 145 E 49 STREET THAT WILL EXPAND INTO 4935 E 1 AVENUE; GRANTING A VARIANCE PERMIT AT 4935 E 1 AVENUE AND 145 E 49 STREET TO ALLOW 0 FEET REAR SETBACK, WHERE 15 FEET ARE REQUIRED; GRANTING A VARIANCE PERMIT TO ALLOW 56 PARKING SPACES WHERE 58 ARE REQUIRED FOR PROPERTIES LOCATED AT 4915 E 1 COURT, 145 E 49 STREET AND BUILDING ADDITION PROPOSED AT 4935 E 1 AVENUE;

GRANTING A VARIANCE PERMIT TO ALLOW A TOTAL 15% PERVIOUS AREA ON THE PROPOSED SHARED DEVELOPMENT OF THE PROPERTIES LOCATED AT 125 E 49 STREET, 145 E 49 STREET, 4935 E 1 AVENUE AND 4950 E 1 COURT, WHERE 20% IS THE MINIMUM REQUIRED; AND GRANTING A VARIANCE TO ALLOW A COMBINED 6 FEET CBS WALL WITH A 2 FEET DECORATIVE ALUMINUM FENCE ON TOP, FOR A TOTAL HEIGHT OF 8 FEET, WHERE 6 FEET IS THE MAXIMUM ALLOWED. ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-930, 98-781 AND 98-781(5), 98-782, 98-2189(7), 98-2118 AND 98-2121 AND THE HIALEAH FLORIDA LANDSCAPE MANUAL, UPDATE JULY 9, 2015, PARAGRAPH (E) TABLE A. **PROPERTIES LOCATED AT 4915 EAST 1 COURT, ZONED RO (RESIDENTIAL OFFICE); 4935 EAST 1 COURT, ZONED RO (RESIDENTIAL OFFICE); 125 EAST 49 STREET, ZONED B-1 ((HIGHLY RESTRICTED RETAIL DISTRICT); 145 EAST 49 STREET, ZONED B-1 (HIGHLY RESTRICTED RETAIL DISTRICT); 4950 EAST 1 COURT, ZONED R-1 (ONE-FAMILY DISTRICT); AND 4935 EAST 1 AVENUE, HIALEAH, ZONED B-1 (HIGHLY RESTRICTED RETAIL 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 March 24, 2021 recommended approval of this ordinance; and

**WHEREAS**, 125 East 49 Street is not seeking a variance or rezoning but is the parking lot for 145 East 49 Street and shall join all other properties in the below covenant.

**WHEREAS**, the developer has proffered a declaration of use and restrictions to unify the properties and ensure access and parking, pursuant to Hialeah Code of Ordinances § 98-1618, 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 Unity of Title recorded in Official Records Book 15925 at Page 3448 (May 24, 1993) for properties zoned RO (Residential Office District) located at 4915 and 4935 East 1 Court is hereby repealed, which upon repeal revert to R-1 Zoning (One Family District).

**Section 2:** The property located at 4915 East 1 Court, Hialeah, Florida, is hereby rezoned from R-1 (One-Family District) to RO (Residential Office District) and is legally described as:

Lot 7, Block 1, of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, recorded in Official Records Book 56, Page 97 of the Public Records of Miami-Dade County, Florida.

Less the following: The South 5 feet and less that part of said Lot 7 included in the external area formed by a 25 foot radius arc concave to the northwest, tangent to the east line of the aforesaid Lot 7 and tangent to a line that is 40 feet north of and parallel to the south line of the southeast ¼ of Section 31, Township 52 South, Range 41 East, Miami-Dade County, Florida.

AND

Lot 8, Block 1, of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, as recorded in Plat Book 56, Page 97, of the Public Records of Miami-Dade County, Florida.

Less the following: The South 5 feet and less that part of said Lot 8 included in the external area formed by a 25 foot radius arc concave to the northeast, tangent to the west line of the aforesaid Lot 8 and tangent to a line that is 40 feet north of and parallel to the south line of the southeast ¼ of Section 31, Township 52 South, Range 41 East, Miami-Dade County, Florida.

Also known as: 4915 East 1 Court, Hialeah, FL 33013  
Folio No: 04-2131-015-0080

**Section 3:** The property located at 4915 East 1 Court, Hialeah, Florida, is hereby granted a variance to allow rear setback of 41 feet, where 45 feet are required, contra to § 98-781 Hialeah Code of Ordinances, which as relevant provides: “In the RO (Residential Office District), all

structures or buildings shall have the following setbacks: (2) Rear setback. There shall be a minimum rear setback of 45 feet from the property line.”; and allow one parking space at the front setback, where parking is required at the back of the building, contra to § 98-782 Hialeah Code of Ordinances, which provides: “In the RO (Residential Office District), the minimum parking requirements shall be the same as commercial districts. All parking shall be located in the rear of the property. Parking located in the front of the property shall only be provided by the grant of a variance permit.”

**Section 4:** The properties located at 4935 East 1 Court and 4950 East 1 Court, Hialeah, Florida, are hereby rezoned from R-1 (One Family District) to P (Parking District), and are legally described as:

Lot 9, Block 1 of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, as recorded in Plat Book 56, Page 97, of the Public Records of Miami-Dade County, Florida.

Also known as: 4935 East 1 Court, Hialeah, FL 33013  
Folio No: 04-2131-015-0090

AND

Lot 5, Block 2 of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, as recorded in Plat Book 56, Page 97, of the Public Records of Miami-Dade County, Florida.

Also known as: 4950 East 1 Court  
Folio No: 04-2131-015-0190

**Section 5:** The properties located at 4935 East 1 Avenue and 145 East 49 Street, zoned B-1, Hialeah, Florida, are hereby granted a variance permit to allow 0 feet rear setback, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-930 that provides: “In the B-1 (highly restricted retail district), the rear yard shall not be less than 15 feet.”, The properties are legally described as:

Lot 9, Block 2, of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, as recorded in Plat Book 56, Page 97, of the Public Records of Miami-Dade County, Florida.

Also known as: 4935 E 1<sup>st</sup> Avenue, Hialeah, FL 33013  
Folio No: 04-2131-015-0230

AND

Lot 8, less right-of-way, Block 2, of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, as recorded in Plat Book 56, Page 97 of the Public Records of Miami-Dade County, Florida. Less: that portion taken under eminent domain proceeding as per Case No. 59L-3011-F of the Circuit Court in and for Miami-Dade County, Florida, recorded at Official Records Book 425, Page 589, Miami-Dade County, Florida; and further less and except: The South 5 feet of Lot 8, Block 2, of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof, recorded in Plat Book 56, Page 97 of the Public Records of Miami-Dade County, Florida, and that part of said Lot 8 included in the external area formed by a 25 foot radius arc concave to the northeast, tangent to the west line of the aforesaid Lot 8 and tangent to a line that is 40 feet north of and parallel to the south line of the SE ¼ of Section 31, Township 52 South, Range 41 East, Miami-Dade County, Florida.

AND

Lots 6 and 7, less right-of-way, Block 2 of BRADLEY MANOR THIRD ADDITION, according to the Plat thereof as recorded in Plat Book 56, Page 97, of the Public Records of Miami-Dade County, Florida.

Also known as: 145 East 49 Street, Hialeah, FL 33013  
Folio No: 04-2131-015-0200

**Section 6:** The properties located at 4915 East 1 Court, 145 East 49 Street, and Building addition proposed at 4935 E 1 Avenue Hialeah, Florida, are hereby granted a variance permit to allow 56 parking spaces where 58 are required, contra to Hialeah Code of Ordinances § 98-2189 (7) that provides: “Commercial uses, not found elsewhere in this section. One parking space for each 200 square feet of gross floor area of the floor with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area. Parking spaces under the building shall not be considered in the calculation of floor areas”.

**Section 7:** the properties located at 125 East 49 Street, 145 East 49 Street, 4935 E 1 Avenue, and 4950 East 1 Court Hialeah Florida, are hereby granted a variance permit to allow a total 15% pervious area on the proposed shared development of the properties, where 20% is the minimum required, contra to Hialeah Code of Ordinances § 98-781 (5) and the Hialeah Florida Landscape Manual, update July 9, 2015, paragraph (E) Table A, which respectively as relevant provide: “In the RO (Residential Office District), all structures or buildings shall have the

following setbacks: Pervious area. The property shall have a minimum of 20 percent of the lot area as pervious or green area.”; and “Tree and lawn requirements by zoning classification. Table A Land Use or Zoning District...Minimum Pervious Area ... R-O (Residential Office ... Minimum Pervious Area ...20%.”

**Section 8:** The properties located at 4950 East 1 Court and 4935 E 1 Court are hereby granted a variance permit to allow a combined 6 feet CBS wall with a 2 feet decorative aluminum fence on top, for a total height of 8 feet, where 6 feet is the maximum allowed, contra to Hialeah Code of Ordinances § 98-2118, which as relevant provides: “No fence or wall on any property having a commercial or residential-office land use classification or commercial or residential-office zoning designation shall be erected along a lot line of an adjoining lot of a residential land use classification or zoning designation at a height greater than six feet” and § 2121(b)(2)(3), which as relevant provides: “No fence, wall or hedge within a residentially zoned district shall exceed the following heights: along a side lot line, six feet and along the rear lot line, six feet”.

**Section 9: Repeal of Ordinances in Conflict.**

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

**Section 10: 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.

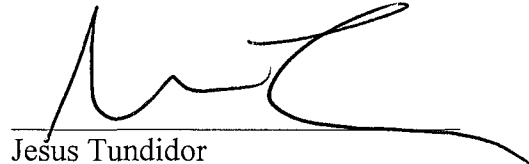
**Section 11: Severability Clause.**

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 12: 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.

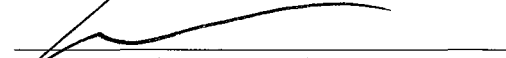
PASSED and ADOPTED this 27 day of April, 2021.

  
\_\_\_\_\_  
Jesus Tundidor  
Council President

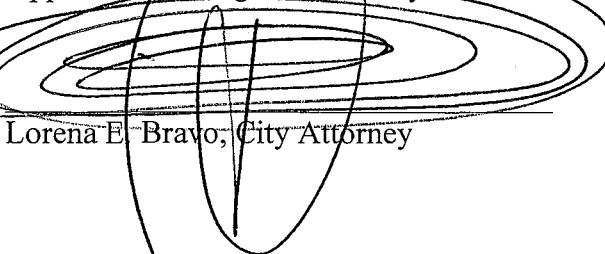
Attest:

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

Approved on this 3 day of May, 2021.

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

Approved as to legal sufficiency and form:

  
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Lorena E. Bravo, City Attorney

Ordinance was adopted by 5-0-2 vote with Councilmembers, De la Rosa, Garcia-Roves, Perez, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente and Council Member Hernandez absent.