



**BOARD OF APPEALS
CITY OF MIAMI SPRINGS, FLORIDA**

Mayor Maria Puente Mitchell

**Vice Mayor Jacky Bravo
Councilman Walter Fajet, Ph. D.**

**Councilman Bob Best
Councilman Victor Vazquez, Ph. D.**

**AGENDA
Board of Appeals Meeting
Wednesday, March 30, 2022
7:00 p.m.**

- 1. CALL TO ORDER AND ROLL CALL**
- 2. SWEARING IN OF ALL WITNESSES**
- 4. NEW BUSINESS**
 - A) CASE # 01-V-22
PETITIONER: UTD (UNITED TEACHERS OF DADE) BUILDING CORPORATION
ADDRESS: 5553 NW 36 STREET
ZONING: NW 36 STREET
LOT SIZE: 13,500 SQ. FT**

The petitioner is appealing an administrative determination that the building at 5553 NW 36th Street is in violation of Section 93-51(C)(4) of the City of Miami Springs Code of Ordinances.

- 5. OTHER BUSINESS: None.**
- 6. ADJOURNMENT**

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F.S. 286.0105), all of which the City does not provide.



City of Miami Springs, Florida

Board of Adjustments

Regular Meeting Minutes

Thursday, March 7th, 2022 6:30PM

City Hall Council Chambers, 201 Westward Drive, Miami Springs, FL

1. CALL TO ORDER/ROLL CALL:

The meeting was called to order by Chair Ernie Aloma at 6:30 PM

Present: Chair Ernie Aloma
Vice Chair Bill Tallman
Board Member Ralph P. Kropp
Board Member Rogelio Madan
Board Member Joe Valencia

Absent: Board Member Juan Molina

Also Present: City Planner Christopher Heid (via Zoom)
Mayor Maria P. Mitchell (via Zoom)
City Manager William Alonso (via Zoom)
Board Secretary Juan Garcia
Assistant to the City Clerk Sandra Duarte

Chair Aloma expressed condolences towards Chair Tallman and gives him best wishes along with encouragement towards the future. He also shared an update he had given to Council in regards to the Adjustment Board proceedings and how he requested for Council to support their recommendations.

2. APPROVAL OF MINUTES OF REGULAR MEETING:

a. May 3rd, 2021

Vice Chair Tallman motioned to approve the minutes as written of the May 3rd, 2021 meeting. Board Member Madan seconded the motion and was carried unanimously 5-0 on voice vote.

3. SWEARING IN OF ALL WITNESSES AND PLANNING DIRECTOR:

Board Secretary Garcia swore in everyone giving testimony during the proceedings.

4. NEW BUSINESS:

- A. CASE # 01-V-22
APPLICANT: UTD BUILDING CORPORATION
ADDRESS: 5553 NW 36th STREET
ZONING: NW 36th STREET
LOT SIZE: 13,500 SQ. FT**

City Attorney Alejandro Uribe summarized the staff report which involved a painted wall that did not follow the approved color pallet. Attorney Uribe outlined how as per the City's Code of Ordinance section 93-51(C)(4) there should be no more than three approved colors used to paint a building.

Chair Aloma asked City Planner Heid if any correspondence was received. City Planner Heid informed that no public correspondence was received besides UTD staff requesting an appeal. Chair Aloma clarified with City Planner Heid that the applicant has requested for the Board to make a judgment call on whether the mural is allowed or not to which City Planner Heid agreed.

The UTD Building Corp. Attorney Javier Fernandez from SMGQ Law located at 1200 Brickle Avenue addressed the Board and noted how UTD is seeking an appeal from the previous administrative decision. He presented the items showing UTD's stance, which is that the mural should be considered a non-commercial sign due to it being art under section 150-030 Sign Regulations. Attorney Fernandez showed signage for other commercial properties in the City and noted how the approved signage contradicted the color pallet requirement.

Chair Aloma offered public commentary from the UTD Staff that were present although they declined. Chair Aloma continued by specifying that section 150-030 is for a separate district and that the current UTD mural denial was due to the painting of the wall and not in regards to signage. He outlined that the signage which Attorney Fernandez presented did not apply to the current issue as there are separate requirements for signage. Chair Aloma again sets that the denial was due to the wall being painted and the regulation that was not followed was the 3-color allowance.

Further discussion is made between the Board and Attorney Fernandez. Board Member Valencia asked Attorney Fernandez whether a permit was applied for and Attorney Fernandez explained UTD interpreted via the Code section 150-030 that a permit was not needed. Board Member Valencia showed concern for the timeline between UTD being informed the mural was not allowed to the mural being painted.

UTD staff member Jeffrey Garcia approached the Board and Secretary Garcia swore him in. Mr. Garcia clarified that he believed the current timeline on record was not accurate as they were advised by a previous Council Member that the mural would be allowed as per the Code. Further discussion in regards to the timeline, permit requirements and section 150-030 continued.

Attorney Uribe reiterates that section 93-51 is specifically intended to be applied to the NW 36th street district which is for the allowed colors and that signage requirements are under a different section of the Code. Attorney Fernandez specified that he believed Code 150-030 does allow the mural as signage and that he believed the Code should be changed if his interpretation is incorrect.

Vice Chair Tallman repeated that the Code does not consider a mural a sign as it is art in a public space. Board Member Madan requested clarification on whether the Gateway District has exceptions for the color pallet for murals. City Planner Heid explained that if a mural were painted with three colors for the 36th Street district it would be acceptable but he wanted to correctly state that there are two approved color pallets. The first section of the color pallet includes the NW 36th Street district and second section of the color pallet includes all other commercially zoned districts.

Vice Chair Tallman questioned if a mural was proposed in the overlay district would it be expected to be limited to three shades of the color pallet in order to be permissible. City Planner Heid explained that a review process would be done whether to allow the design and if the mural fell into the requirements of the Code and FAR bonus.

Attorney Fernandez asked City Planner Heid if a mural were to be allowed in the Gateway District with more than three colors if no bonus was pursued. City Planner Heid clarified that murals were allowed in the Overlay District as per performance excellence standard in seeking the bonus through demolition or new construction.

Board Member Madan moved to recommend the City Council upholds the City Planners determination for the UTD's appeal to be denied. No Board Member seconded the motion. The motion failed.

Chair Aloma questioned the City Attorney's on the procedure of a failed motion. Attorney Arango noted that an action must be taken and the decision made will go before the Council for consideration. After further clarification the City Attorney's stated that the failed motion could be reconsidered by the Board.

Board Member Madan moved to recommend the City Council uphold the City Planners determination for UTD's appeal to be denied. Vice Chair Tallman seconded the motion which carried 3-2 on rollcall vote. The vote was as follows: Vice Chair Tallman, Board Member Kropp, Board Member Madan voted YES. Board Member Valencia and Chair Aloma voted NO.

After further discussion Board Member Madan expresses the Board should recommend to Council that they look into creating a process for authorizing artistic murals as it will benefit the district. Chair Aloma confirmed it should be done via a second motion.

Board Member Madan moved to recommend to City Council to create a process to allow murals and for murals to be specifically permitted on NW 36th street district. Board Member Tallman seconded the motion which carried unanimously 5-0 on voice vote.

5. Adjournment

There being no further business the meeting was adjourned at 07:47 PM.

Respectfully submitted:

Sandra Duarte
Board Secretary

Adopted by the Board on
this ___ day of _____, 2022.

Ernie Aloma, Chair

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.

“The comments, discussions, recommendations and proposed actions of City Citizen Advisory Boards do not constitute the policy, position, or prospective action of the City, which may only be established and authorized by an appropriate vote or other action of the City Council”.



BOARD OF ADJUSTMENT

MONDAY, MARCH 7th, 2022

6:30 P.M.

CITY HALL - COUNCIL CHAMBERS



**BOARD OF ADJUST
CITY OF MIAMI SPRINGS, FLORIDA**

Chair Ernie Aloma
Vice Chair Bill Tallman
Board member Joe Valencia

Board member Rogelio Madan
Board member Juan Molina
Alternate Ralph Kropp

AGENDA

Regular Meeting

Monday, March 7, 2022 at 6:30 P.M.

City Hall - Council Chambers

201 Westward Drive – Miami Springs

- 1. **CALL TO ORDER AND ROLL CALL**
- 2. **APPROVAL OF MINUTES OF REGULAR MEETING:**
 - A) **MAY 3, 2021**
- 3. **SWEARING IN OF ALL WITNESSES AND PLANNING DIRECTOR**
- 4. **NEW BUSINESS**
 - A) **CASE # 01-V-22**
APPLICANT: UTD BUILDING CORPORATION
ADDRESS: 5553 NW 36 STREET
ZONING: NW 36 STREET
LOT SIZE: 13,500 SQ. FT

Applicant is seeking an appeal from an administrative decision.

- 6. **ADJOURNMENT**

 The decisions of the Board of Adjustment may be appealed to the Board of Appeals pursuant to Code Section 150.113. Any person appealing any decision may need to ensure that a verbatim record is made of the proceedings, which record includes the testimony and evidence upon which the appeal is made. (F.S. 286.0105)



City of Miami Springs, Florida

Board of Adjustment Minutes

The **Board of Adjustment** met in Regular Session at 6:30 p.m., on Monday, May 3, 2021 in the Council Chambers at City Hall.

1) Call to Order/Roll Call

The meeting was called to order at 6:53 p.m.

Present were: Vice-Chair Bill Tallman
Board member Rogelio Madan
Board member Joe Valencia
Board member Juan Molina
Alternate Board member Ralph Kropp
Chair Ernie Aloma

Also Present: City Attorney Haydee S. Sera
Planning and Zoning Director Chris Heid
City Clerk Erika Gonzalez-Santamaria
Board Secretary Mary Arguedas

2) Approval of Minutes

Minutes of the January 6, 2020 meeting were approved as written.

Vice-Chair Tallman moved to approve the minutes as written. Board member Madan seconded the motion which carried unanimously 5-0 on voice vote.

3) Swearing in of All Witnesses:

Board Secretary Aleman swore in everyone giving testimony during the proceedings.

4) New Business:

- A) CASE # 01-V-21
APPLICANT: JULIO D. SOMARRIBA JR
ADDRESS: 661 FALCON AVENUE
ZONING: R-1B SINGLE FAMILY RESIDENTIAL**

The applicant is seeking variances in order to retain an after-the fact pergola and a storage shed.

Planning and Zoning Director Heid read his staff report to the Board.

The applicant was not present at the meeting to present his project.

Chair Aloma asked if any correspondence was received in favor or against this project. Board Secretary Aleman replied to the Board no correspondence was received.

Marlene Jimenez resident of 620 Plover Avenue spoke against this project.

Discussion ensued amongst the Board members regarding the height and setbacks of the pergola and shed.

Board member Madan moved to recommend denial of the variance. Vice Chair Tallman seconded the motion which carried unanimously 5-0 on voice vote. The vote was as follows: Board member Valencia, Vice-Chair Tallman, Board member Molina, Board member Madan, Chair Aloma voted YES.

**B) CASE # 02-V-21
APPLICANT: ENA MANTOVANELLI
ADDRESS: 141 GLENDALE DRIVE
ZONING: R-1C SINGLE FAMILY RESIDENTIAL**

The applicant is seeking approval and variances to divide an existing 13,970 square foot lot into two separate parcels.

Planning and Zoning Director Heid read his staff report to the Board.

Elliot Goldberg 117 Glendale Drive and Marlene Jimenez 172 Glendale Drive addressed the Board.

The owner Mr. Miller Mantovanelli addressed the Board.

Chair Aloma asked if the property had previously been sub-divided and consolidated at some point. Planning and Zoning Director Heid stated no records of this were found.

Chair Aloma asked if there was any correspondence in favor or against this project. Board Secretary Aleman replied to the Board that we did not receive correspondence, but Planning and Zoning Director Heid received a call opposed to the project and one that they would attend the meeting. Chair Aloma asked if the new lot will comply with the minimum set back of 5 ½ feet. Planning and Zoning Director Heid responded that the east side has more than 5 ½ feet set back and the west side will have the minimum set back requirement of 5 ½ feet. The lot will be left with the required setbacks of 5 ½ feet. Aloma stated that he believes the split of the two lots in the current neighborhood would not change the feel of the block.

Board member Madan suggested that in the future the Board should recommend to the City Council to look into modifying the regulations of the lot width depending on the zoning district.

Board member Molina moved to approve the project. Board member Madan seconded the motion which passed 4-1 on voice vote. The vote was as follows: Board member Valencia, Board member Molina, Board member Madan, Chair Aloma voted YES. Vice-Chair Tallman voted No.

5) Next Meeting – June 7, 2021

6) Adjournment

There was no further business to be discussed and the meeting was adjourned at 7:32 p.m.

Respectfully submitted:

Mayra Aleman
Board Secretary

Adopted by the Board on
this ___ day of _____, 2021.

Ernie Aloma, Chair

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.

“The comments, discussions, recommendations and proposed actions of City Citizen Advisory Boards do not constitute the policy, position, or prospective action of the City, which may only be established and authorized by an appropriate vote or other action of the City Council”.

VARIANCE CASE

NO. 01-V-22

UTD BUILDING CORPORATION

5553 NW 36TH STREET

BOARD OF ADJUSTMENT

Meeting: 03-07-2022

CITY OF MIAMI SPRINGS PLANNING DEPARTMENT



201 Westward Drive
Miami Springs, FL 33166-5289
Phone: (305) 805-5030
Fax: (305) 805-5036

STAFF REPORT

TO: Zoning Board of Adjustment
FROM: Christopher Heid, City Planner
DATE: March 4, 2022
SUBJECT: Appeal of Administrative Decision
CASE # 01-V-22

APPLICANT: United Teachers of Dade

ADDRESS: 5553 NW 36TH ST

ZONING DISTRICT: NW36 Northwest 36 Street

REQUEST: The applicant is appealing an administrative determination that the building at 5553 NW 36th Street is in violation of Section 93-51(C)(4) of the City of Miami Springs Code of Ordinances.

PROCEDURAL BACKGROUND: The subject property of this appeal is located at 5553 NW 36th Street, in the City of Miami Springs (the “UTD Property”). The UTD Property is zoned “NW36 – Northwest 36th Street District”. The UTD Property features an approximately 21,177 square foot building built in 1966. The building serves as the headquarters of the United Teachers of Dade, a union representing educators employed by Miami-Dade County Public Schools.

On March 10, 2021, a Building Department employee in the Code Compliance Division was contacted regarding the interest of United Teachers of Dade (UTD) in painting a mural of a wall of the UTD building. This was then discussed with the City Planner, who made a decision that the mural was not permitted. On March 18, 2021, a City of Miami Springs Code Enforcement Inspector noticed that UTD’s building’s east facing façade wall had a mural painted on it. The paintwork includes a young person reading a book whose pages are taking flight along with a stack of books with words such as “Equality”, “Justice”, and “Unions” written on them, also included is a quote from a poem and the colors of the rainbow. The mural features

more than three colors and the colors are not those permitted by the City's color palette for exterior surfaces of buildings in the Zoning District. On March 25, 2021, a Code Enforcement Inspector issued Citation/Notice of Violation No. 21-01221 (the "NOV") to the subject property for failure to comply with the applicable color palette. The NOV was sent on March 25 by certified mail and hand delivered to Mr. Molnar, UTD Chief of Staff. There were originally four violations cited¹, and the City subsequently dropped three of the violations. This left a single violation of Section 93-51(C)(4) of the City's Code of ordinances which limits the painting of commercial buildings to no more than three approved colors.

An application for permit was submitted to the City Manager on May 11, 2021 and forwarded to the Building Department. The application was disapproved by the City Planner on May 18.

On September 16, 2021, a summons to appear before the Code Compliance Board was sent to UTD. The case was heard on November 2, 2021, at which time the applicant was given until February 1, 2022, to come into compliance.

On December 16, UTD's counsel, Javier Fernandez, Esq. filed a request for an administrative determination by the City Planner. The City Planner responded to UTD's counsel on December 22, 2021, confirming that the mural violates Section 93-51(C)(4) of the City Code of Ordinances for exceeding the number of colors permitted within the Zoning District, and because none of the colors used in the mural are included in the City's approved color palette.

UTD's counsel thereafter submitted an application pursuant to Section 150-111(B)(1) of the City Code to appeal the City Planner's determination that the mural is in violation of the City Code. UTD's arguments against the City Planner's determination rely on the characterization of the images and words painted on the UTD building as a "wall mural" that can be erected/placed without the need for a sign permit pursuant to Section 150-030(B), and that the Applicable Color Palette does not apply to a wall mural or a sign.

ANALYSIS: The Applicant's appeal should be denied and the City Planner's administrative determination should be affirmed. The Applicant has not presented evidence of a branding requirement or variance from Section 93-51, and murals are not permitted within the subject property's zoning district. Accordingly, UTD's arguments, which are focused on whether a permit is needed to construct or paint the mural at the UTD Property, are irrelevant, as is whether murals are exempt from Section 93-51(C)(4) and may utilize more colors than three approved colors or other non-approved colors.

¹ The Notice of Violation initially included three additional violations for improper size of a wall sign (§150-030(G)(3)(a)); improper placement and/or width of a wall sign (§150-030(G)(3)(b)); and improper construction of a sign (§150-030(G)(3)). These three violations were dismissed by the City.

A. The City's Approved Color Palette

In 2011, the City Council resolved² to require the exterior walls of buildings within the NW36 – Northwest 36th Street District to be painted only in colors specifically identified and approved by the City Council (the “Approved Color Palette”). The requirements of the resolution were codified in Sections 93-51, and 150-028 of the City Code by City of Miami Spring Ordinance Nos. 1020-2011 and 1037-2012. In addition to requiring compliance with the Approved Color Palette, Section 93-51(C)(4) of the City's Code permits the use of a maximum three (3) different colors (from the Approved Color Palette) per building. The only exception to these restrictions is for buildings complying with branding requirements. (Section 93-51(C)(1)(a). Any other relief from the Approved Color Palette must be approved by the City Council as a variance. Neither branding requirements nor a variance application have been presented to justify the UTD building's non-compliance with the Applicable Color Palette.

B. Murals are not Permitted in the Applicable Zoning District

The City Code specifically identifies the areas where murals may be permitted. Murals are only permitted in the Miami Springs Gateway Overlay District. See Section 150-070.1(C)6. Murals are not permitted in the NW36 – Northwest 36th Street District where the subject property is located. The City Code only uses the word “mural” twice. The first is in Section 150-030(B), where murals are distinguished from commercial signs. According to Section 150-030(B), a “wall mural or other artwork” that “bears no relationship to a particular product, place, activity, person, institution, business or service” is excluded from the definition of a commercial sign, and from the regulations of Section 150-030. The second mention of “murals” is in Section 150-070.1, which are zoning regulations applicable in the Miami Springs Gateway Overlay District. In that district, the City Code specifically permits “murals” in connection with the Creative Excellence Standards which are encouraged within that district.³ Unlike the Miami Springs Gateway Overlay District, the NW36 – Northwest 36th Street District regulations in Section 150-164 do not include or reference murals. The public art bonus provisions applicable within the NW36 – Northwest 36th Street District do not contain the specific approval for murals that are found in the Miami Springs Gateway Overlay District regulations. Because murals are specifically referenced and permitted within the Miami Springs Gateway Overlay District, the absence of similar authority for murals in the NW36 – Northwest 36th Street District regulations lends further support that murals are not permitted in that district.

Because a mural is not permitted by the zoning district regulations applicable to the UTD property, all of UTD's arguments that the words and images constitute a

² See City of Miami Springs Resolution No. 2011-3511.

³ See Section 150-070.1(C)6. Subsection 6 provides Creative Excellence Standards as required for projects seeking additional floor area. Subsection A. Site Planning and Design specifically references murals among the artwork permitted. Further, murals are permitted only in connection with new developments and additions, after city review and approval as part of the overall development approval.

mural that requires no permitting are irrelevant. Similarly, UTD's final argument that the Applicable Color Palette does not apply to murals is irrelevant as murals are not permitted at all within the NW 36 – Northwest 36th Street District.

BOARD OF ADJUSTMENT'S ROLE:

Pursuant to Section 150-111(B)(1), the Board of Adjustment has the ability to "hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this chapter." Accordingly, the Board of Adjustment has authority to hear the Applicant's appeal.

Pursuant to Section 150-113, the Board of Adjustment's decision constitutes a recommendation to the City Council, which will be reviewed by the City Council at the next regular City Council meeting following the rendering of the recommendation. The City Council may then vote affirm the Board of Adjustment recommendation, or vote to schedule the appeal for hearing by the City Council, sitting as a board of appeals on the last Wednesday of the month.

RECOMMENDATION: Staff recommends that the Board of Adjustment recommend to the City Council that the City Planner's determination that the UTD Property is in violation of Section 93-51(C)(4) be AFFIRMED and UTD's appeal be DENIED.



ATTORNEYS | SMGQLAW.COM

January 3, 2022

Via E-mail to: gonzaleze@miamisprings-fl.gov
alemanm@miamisprings-fl.gov

Board of Adjustment
Zoning & Planning Department
City of Miami Springs
201 Westward Drive
Miami Springs, FL 33166

Re: UTD Building Corporation, Inc. Building Mural – 5553 N.W. 36th Street, Miami Springs, FL (the “Property”) –Administrative Determination Appeal

Dear Chairman Aloma & Members of the Board:

Our firm represents UTD Building Corporation, Inc., a Florida not-for-profit corporation (hereinafter, “UTD”), owner of the Property which is the subject of this request. Pursuant to s. 150-111 of the City of Miami Springs, Florida (“City”) Code of Ordinances (“Code”), we formally submit this appeal of an administrative determination rendered by the City Planner with regard to application of certain provisions of the Code specified hereinbelow to the *wall mural* erected by UTD on the eastern facade of its Property.

Background Information

On or about March 2021, UTD reviewed the City Code and inquired with City staff, with the assistance of a former city councilperson, to confirm their understanding of the rules regarding the erection of a *wall mural* on the eastern facade of the Property. At the time of their inquiry in early March 2021, all four of the building’s walls were painted in conformance with the requirements of s. 93-51, City Code—requiring that the colors of the exterior walls of a building be consistent with the City’s approved color palette for the 36th Street District. An image of the building’s condition at the time of the initial inquiry is included hereinbelow:



Following its interpretation of the code and consultations with City staff, UTD commissioned the erection of the *wall mural* which presently adorns its eastern façade. An image of the building's current condition is depicted below:



The condition of the *wall mural* remains largely consistent with the depiction above except for the portions of the *wall mural* that were defaced by vandal last year.

On March 25, 2021, UTD received a notice of violation issued by the City citing the following four (4) violations of the City Code: (i) Improper size of wall sign – s. 150-030(G)(3)(a); (ii) Improper placement and/or width of a wall sign – s. 150-030(G)(3)(b); (iii) Improper construction of sign – s. 150-030(G)(3); and (iv) Failure to comply with applicable color palette – s. 93-51. Thereafter, the alleged violations were scheduled for a hearing before the City's Code Enforcement Board (COB) on November 2, 2021. At the commencement of the hearing, the City moved to dismiss violations (i), (ii) and (iii) without explanation and moved forward only with the prosecution of violation (iv). At the conclusion of the hearing, the COB moved to adopt a resolution finding a violation of s. 93-51 based largely on their reluctance to "interpret" the City Code to determine whether the *wall mural* was a *noncommercial sign* and whether the color limitations s. 93-51 applied to building facades improved with a *wall mural*.

On December 15, 2021, our firm sent a letter to Chris Heid, the City Planner, requesting an administrative determination (the "UTD Letter") regarding the following:

1. The images and words depicted on the eastern facade/wall of the UTD building are properly characterized as a *wall mural*, as said term is commonly defined;
2. The *wall mural* depicted on the Property's eastern wall is a Noncommercial Sign and, consistent with the definition of Commercial Sign in s. 150-30.(B), is exempt from the signage regulations set forth in s. 150-30. as it does not bear a specific relationship to any business or institution.
3. *Wall murals* can be erected without the need for a sign permit as such a sign type is not listed in s. 150-30.(L)(1), City Code; and
4. There is no limitation or preclusion on the use of any specific color or the number of total colors that can be used in a *wall mural* (or other authorized Commercial Signs) and the limitations on the

use of color or the number of total colors in s. 93-51, City Code, is in applicable as it applies to buildings and not *wall murals* (a Noncommercial Sign).

On December 22, 2021, Christopher Heid, the City Planner, sent the following response to William Alonso, the City Manager: “[t]he City stands by its decision that the mural is in violation of Section 93-51 (C) (4) of the City’s Code of Ordinances which states that ‘The painting of commercial exteriors may utilize as many as three approved palette colors.’” This one sentence correspondence failed to render a determination on issues #1 - #3 outlined in the UTD Letter and provided no basis for its conclusion with respect to issue #4 raised therein.

Basis for Appeal

Section 150-111 of the City Code outlines the appellate process for matters within the jurisdiction of the Board of Adjustment (the “Board”). Subsection (B) of said section states the following:

The Board shall have the following duties and powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this chapter.

We believe City’s administrative determination that s. 93-51 is applicable to building walls improved with a *wall mural* (a Non-Commercial Sign) is *in error* and request that the Board consider this appeal at its next available meeting.

Analysis of Pertinent Zoning Code Regulations

Section 150-30 of the City Code regulates signage within the City. Subsection (A) describes the purpose of the section as follows:

The purpose of this section is to create a comprehensive system of street graphic controls, thereby facilitating clear communication, improving the appearance of the City and reducing traffic hazards.

Subsection (B), thereafter, sets forth the definition of certain terms for s. 150-30 which supplements the general definitions found in s. 150-002 of the City Code. Notably, s. 150-30 does not include a definition for the terms *wall mural* or *artistic mural*. In s. 150-002, a *Sign* is defined as follows:

Any display of characters, letters, illustrations, or any ornamentation designed as an advertisement or announcement, or to indicate direction or location. (Emphasis added)

The same section defines the term *Building* as follows:

Any permanent structure attached to the real estate, and having a roof, designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

The signage specific definitions in s. 150-30.(B) provide the following definitions of *Sign, commercial* and *Sign, noncommercial*. The former is defined as:

Any writing, pictorial identification, description, illustration, presentation, illumination or other device which is affixed to or represented directly or indirectly upon a building, structure or land and which identifies or directs attention to a product, place, activity, persons, institution, business or service. However, any such writing, pictorial, identification and the like which is inside a building and cannot be seen from the outside shall not be

considered a sign for the purpose of this section and shall not be regulated by this section. Any wall mural or other art work which bears no specific relationship to a particular product, place, activity, person, institution, business or services shall not be considered to be a sign for the purpose of this section and shall not be regulated by this section.(Emphasis added)

The latter (*Sign, noncommercial*) is defined generally as any sign that is not a *commercial sign*.

Finally, while the term *wall mural* is not expressly defined, the term is commonly defined¹ as:

[A] *very large image, such as a painting, applied directly to a wall or ceiling*

Given the above-outlined definitions, it would appear that the improvement to the Property's eastern facade/wall should be fairly characterized as a *Noncommercial Sign*, specifically, a *wall mural*, that is not subject to the regulations of s. 150-30. First, the improvement to the Property's eastern facade/wall consists of a very large image(s) painted directly onto a wall, consistent with the common definition of a mural. Secondly, the words and images on the wall do not advertise or announce the institution or business located within the building. Finally, the images and words forming part of the mural bear no specific relationship to the institution (United Teachers of Dade) located within the building. There is no definitive or explicit connection between the words or images on the mural that advertise or announce the presence of UTD such as the use of UTD's logo, slogan, or other mark or image that is associated with the institution.

Even assuming that a *wall mural* was subject to the regulations set forth in s. 150-30, it warrants noting that signage regulations for *Commercial Signs* permitted within the *Northwest 36th Street District*² contain no limitations on the use of color(s). Similarly, the supplemental regulations, set forth in s. 150-30.(K), City Code, do not limit or preclude the use of any colors on signs and, where color is addressed in such regulations, they seek only to ensure that use of color (along with other features) creates a unified design theme across the various signs placed on a building.

Determination Requested

UTD respectfully requests that the Board *recommend to the City Council* that the City Planner's determination was *in error* and find that:

1. The images/words depicted on the eastern facade of the UTD building is a *wall mural*;
2. The *wall mural* does not bear any specific relationship to any business or institution and, therefore, is a Non-Commercial Sign and exempt from the City's signage regulations set forth in s. 150-30.(B) of the City Code;
3. Such *wall murals* can be properly erected without a building permit as such a sign type is not listed in s. 150-30.(L)(1) of the City Code; and
4. s. 93-51 of the City Code is applicable only to building walls and not *wall murals* and, as such, the limitations on the type(s) and total number of colors set forth in said section apply only to building walls and not to a wall mural (or other forms of Signs).

¹ *The American Heritage College Dictionary, 4th Edition (2004), Pg. 915.*

² *See s. 150-30.(G), City Code.*

We greatly appreciate your assistance in reviewing this matter and look forward to your favorable consideration of our request.

Sincerely,

/s/ Javier E. Fernández

Javier E. Fernández, Esq.

Cc: Bill Tallman, Vice Chair
Rogelio Madan, Board Member
Juan Molina, Board Member
Joe Valencia, Board Member
Ralph Kropp, Alternate
William Alonso, City Manager
Christopher Heid, City Planner
Jose Arango, Esq., Acting City Attorney

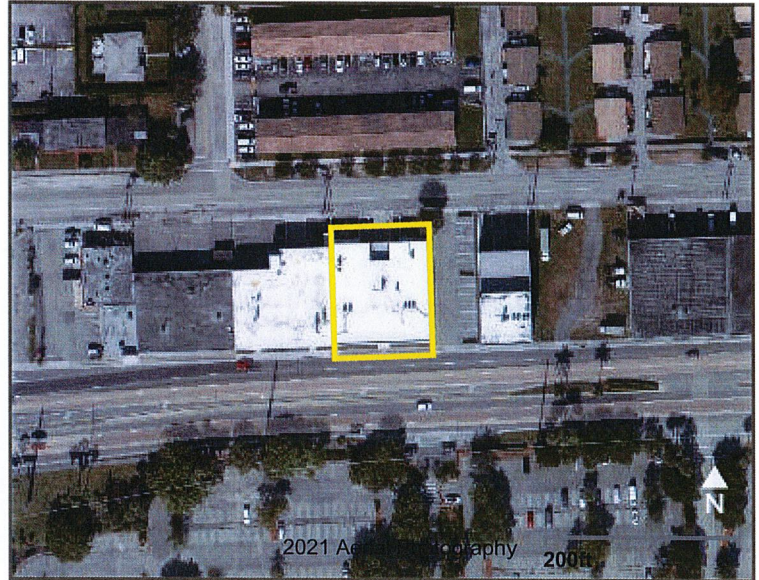


OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 3/3/2022

Property Information	
Folio:	05-3119-010-4970
Property Address:	5553 NW 36 ST Miami Springs, FL 33166-5873
Owner	UTD BUILDING CORPORATION
Mailing Address	5555 NW 36 ST MIAMI SPRINGS, FL 33166 USA
PA Primary Zone	6200 COMMERCIAL - ARTERIAL
Primary Land Use	1229 MIXED USE- STORE/RESIDENTIAL : MIXED USE - COMMERCIAL
Beds / Baths / Half	0 / 0 / 0
Floors	2
Living Units	0
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	21,177 Sq.Ft
Lot Size	13,500 Sq.Ft
Year Built	1966



Assessment Information			
Year	2021	2020	2019
Land Value	\$432,000	\$432,000	\$378,000
Building Value	\$7,482	\$7,482	\$7,131
XF Value	\$0	\$0	\$0
Market Value	\$439,482	\$439,482	\$385,131
Assessed Value	\$439,482	\$270,213	\$245,649

Benefits Information				
Benefit	Type	2021	2020	2019
Non-Homestead Cap	Assessment Reduction		\$169,269	\$139,482

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
COUNTRY CLUB EST SEC 2 PB 10-79 LOTS 14 & 15 LESS S15FT BLK 142 LOT SIZE 100.000 X 135 OR18529-1793/18720-1419 0699 5(2)

Taxable Value Information			
	2021	2020	2019
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$439,482	\$270,213	\$245,649
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$439,482	\$439,482	\$385,131
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$439,482	\$270,213	\$245,649
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$439,482	\$270,213	\$245,649

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
06/05/2020	\$3,425,000	31963-1735	Qual on DOS, multi-parcel sale
04/07/2016	\$1,300,000	30033-3425	Qual on DOS, multi-parcel sale
04/07/2016	\$100	30033-3438	Corrective, tax or QCD; min consideration

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

Javier Fernandez

From: William Alonso <alonsow@miamisprings-fl.gov>
Sent: Thursday, December 30, 2021 11:29 AM
To: Javier Fernandez
Cc: 'Jose L. Arango'; Haydee S. Sera; Chris Heid
Subject: FW: UTD

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Please see below from our City Planner

William Alonso CPA, CGFO

City Manager

CITY OF MIAMI SPRINGS

201 Westward Drive

Miami Springs, FL 33166

(O) 305.805.5011

(C) 786-219-6883

(E) alonsow@miamisprings-fl.gov



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From: Chris [mailto:cheid305@gmail.com]
Sent: Wednesday, December 22, 2021 10:08 AM
To: William Alonso <alonsow@miamisprings-fl.gov>
Subject: UTD

Dear Mr. Fernandez,

I am writing in response to your letter of December 16 regarding the United Teachers of Dade (UTD) mural painted on the building wall.

The City stands by its decision that the mural is in violation of Section 93-51 (C) (4) of the City's Code of Ordinances which states that "The painting of commercial exteriors may utilize as many as three approved palette colors."

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2021
LUS VARE



"but still, like the air, I'll rise!"
- Maya Angelou -



NOTICE
PLEASE USE MAIN
ENTRANCE DOOR
←

11/02/2021 11:31

CITY OF MIAMI SPRINGS

*** CUSTOMER RECEIPT ***

Oper: MIASNIT Type: OC Drawer: 1
Date: 2/25/22 01 Receipt no: 1034

Description	Quantity	Amount
B8	BD - APPLICATION FEES	
	1.00	\$600.00

APPEAL OF ADMIN DECISION FEE-
COMM
5553 NW 36 STREET
BOARD OF ADJUSTMENT

Tender detail		
CK CHECK	312	\$600.00
Total tendered		\$600.00
Total payment		\$600.00

Trans date: 2/25/22 Time: 15:54:28