

ORDINANCE NO. 2019-033

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL GRANTING A VARIANCE PERMIT TO ALLOW A LOADING AREA ON THE EXTERIOR OF THE BLOCK, WHERE LOADING AREAS ARE REQUIRED TO BE LOCATED IN THE INTERIOR BLOCKS; ALLOW A 10 FOOT HIGH DECORATIVE CONCRETE WALL AT THE PERIMETER OF THE PROPERTY, WHERE A MAXIMUM HEIGHT OF 8 FEET IS PERMITTED; ALLOW BLANK WALLS FRONTING WEST 40 AVENUE, WEST 108 STREET AND WEST 104 STREET, WHERE BLANK WALLS AT THE STREET LEVEL AND ABOVE THE GROUND FLOOR OF BUILDINGS ARE NOT PERMITTED; ALLOW 0% FRONTAGE ON WEST 104 STREET AND WEST 108 STREET, AND 49.9% FRONTAGE ON WEST 40 AVENUE, WHERE 65% IS THE MINIMUM FRONTAGE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1607.1(c)(3), 98-1607.1(c)(4), 98-1607.1(f)(1) AND 98-1371(a). **PROPERTY LOCATED AT 3850 WEST 108 STREET, HIALEAH, FLORIDA.** ZONED BDH (BUSINESS DEVELOPMENT 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 February 27, 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 granted a variance permit to allow a loading area on the exterior of the block, where loading areas are required to be located in the interior blocks, contra to § 1607.1(c)(3) that provides as relevant: “Loading and service areas.

Loading areas, recycling areas, service areas and trash and garbage containers shall be located in the interior of blocks and screened to minimize negative visual impacts.”; a 10 foot high decorative concrete wall at the perimeter of the property, where a maximum height of 8 feet is permitted, contra to § 98-1371(a) that provides: “In the M-1 Industrial district, [the permitted uses in M-1 are allowed in BDH § 1607.1(e)(1)] uses for land, buildings and other improvements are subject to the general conditions requiring that all storage of materials and products and all operations of work of every character are carried on entirely within the enclosing walls and under the roof of a building and/or enclosed by a masonry wall with a minimum height of eight feet...”; allow blank walls fronting west 40 avenue, west 108 street and west 104 street, where blank walls at the street level and above ground floor of buildings are not permitted, contra to § 98-1607.1(c)(4), which as relevant provides: “Blank walls at the street level and above the ground floor of buildings are not permitted.”; allow 0% frontage on west 104 street and west 108 street, and 49.9% frontage on west 40 avenue, where 65% is the minimum frontage required, contra to § 98-1607.1(f)(1) that provides: “(f) Minimum frontage. (1) Building frontage required. For the purpose of this section all sides of a building that abut a thoroughfare are to be considered fronts. The frontage requirement is related to the thoroughfare that the property fronts as follows: Access roads, boulevards, commercial connectors, entrance roads and park drives shall provide a minimum building frontage of 65 percent.” Property located at 3850 West 108 Street, Hialeah, Florida, and legally described as follows:

A Portion of land lying and being in Tract “A” of “COUNTYLINE CORPORATE PARK”, according to the Plat thereof, as recorded in Plat Book 172, at Page 77, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

PARCEL 1

Commence at the Northeast corner of Tract A as previously described of "COUNTYLINE CORPORATE PARK", according to the Plat thereof, as recorded in Plat Book 172, at Page 77, of the Public Records of Miami-Dade County, Florida, thence S 89°40'26"W for 1631.26 feet to the Point of Beginning, thence S 00°03'54"W for 1,236.05 feet; thence N 84°37'29"W for 74.41 feet; thence S 89°39'53"W for 225.32 feet; to a point of curvature with a curve concave to the Northeast; thence along said curve to the right with an arc length of 84.14 feet, a radius of 55.00 feet, with a chord bearing of N 46°30'39"W a chord length of 76.17 feet; and a curve angle of 87°38'57"; thence N 02°41'11"W for 802.53 feet; thence N 03°01'28"E for 100.50 feet; thence N 02°41'11"W for 216.68 feet; to a point of curvature with a curve concave to the Southeast, thence along said curve to the right with an arc length of 88.66 feet, a radius of 55.00 feet, with a chord bearing of N 43°29'37"E a chord length of 79.37 feet, and a curve angle of 92°21'36"; thence N 89°40'25"E for 343.90 feet; to the Point of Beginning.

PARCEL 2

Together with those certain Non-exclusive Easement Rights benefitting Parcel 1 as set forth in paragraph 3 of that certain Easement and Operating Agreement recorded in Official Records Book 30878, Page 481, of the Public Records of Miami-Dade County, Florida.

Containing a Net Area of 464.719 square feet of 10.67 Acres, and a Gross Area of 555,819 square feet or 12.76 acres, more or less, by calculations.

Section 2: Repeal of Ordinances in Conflict.

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

Section 3: 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 4: 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 5: Effective Date.

This ordinance shall become effective when passed by the City Council of the City of Hialeah, Florida, upon signature of the Mayor of the City of Hialeah 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 26 day of March, 2019.

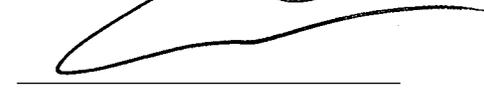
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Muñoz
Council President

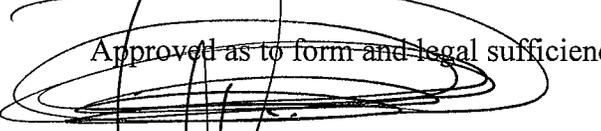
Attest:

Approved on this 3 day of April, 2019.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

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Ordinance was adopted by a 7-0 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Hernandez, Garcia-Martinez and Cue-Fuente voting "Yes".