

ORDINANCE NO. 2019-051

ORDINANCE REZONING C-1 (RESTRICTED RETAIL COMMERCIAL DISTRICT) AND C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT) TO C-3 (EXTENDED LIBERAL COMMERCIAL DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW 11 PARKING SPACES, WHERE 13 ARE REQUIRED; ALLOW 5 FEET REAR SETBACK, WHERE 15 FEET IS THE MINIMUM REQUIRED; AND ALLOW A PERVIOUS AREA OF 13.46%, WHERE AN 18% MINIMUM IS REQUIRED; CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2189(7), 98-1071, 98-1161; AND CONTRA TO THE LATEST EDITION OF THE CITY OF HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015, ¶ (E) TREE AND LAWN REQUIREMENTS BY ZONING CLASSIFICATION, TABLE A, ...MINIMUM PERVIOUS AREA...PERCENT OF NET LOT AREA. **PROPERTY LOCATED AT 975 AND 995 HIALEAH DRIVE, HIALEAH, FLORIDA;** REPEALING ALL 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 May 15, 2019, recommended approval of this ordinance; and

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 11 parking spaces, where 13 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.”; allow 5 feet rear setback, where 15 feet is the minimum required, contra to Hialeah Code of Ordinances § 98-1161 that provides: “Rear yard required. In the C-3 extended liberal commercial district, the rear yard shall be the same as in the C-1 district.”; and Hialeah Code of Ordinances § 98-1071 that provides: “Rear yard required. In the C-1 restricted retail commercial district, there shall be a rear yard of not less than 15 feet in depth, except as a use of an R-3 district where rear yard requirements shall be the same as required under that use district.”; and allow a pervious area of 13.46%, where an 18% minimum is required, contra to latest edition of the City of Hialeah Landscape Manual dated July 9, 2015, ¶ (E) Tree and lawn requirements by zoning classification, Table A, that provides in relevant part: “...MINIMUM PERVIOUS AREA...Percent of Net Lot Area...C-3...18%.” Property located at **975 and 995 Hialeah Drive, Hialeah, Florida**, and legally described as follows:

The East 264.53 feet of the South 160.00 feet of the SW ¼ of the SE ¼ of Section 17, Township 53 South, Range 41 East, in the City of Hialeah, Miami-Dade County, Florida, less the South 35 feet thereof and less the East 60 feet thereof.

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 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 June, 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.



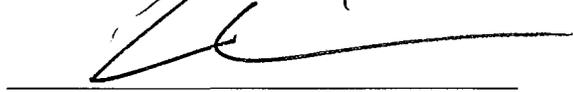
Vivian Casals-Muñoz
Council President

Attest:

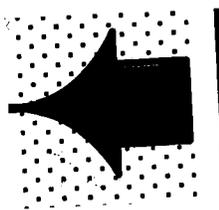
Approved on this 1 day of July, 2019.



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 5-0-2 vote with Councilmembers, Zogby, Casals-Munoz, Garcia-Martinez, Hernandez, voting "Yes" and with Councilmembers Cue-Fuente and Lozano absent.