

**ORDINANCE NO. 2019-067**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW 13 OFF-STREET PARKING SPACES, WHERE 17 PARKING SPACES ARE REQUIRED; ALLOW A SIDE SETBACK OF 2 FEET 4 INCHES, WHERE 2 FEET 7 INCHES IS THE MINIMUM REQUIRED; AND ALLOW A WAIVER OF THE MINIMUM LANDSCAPE REQUIREMENTS TO ALLOW 7.16% PERVIOUS AREA, WHERE 10% IS THE MINIMUM REQUIRED AND ALLOW 4 TREES AND 100 SHRUBS PROVIDED THAT 18 TREES AND 120 SHRUBS ARE MITIGATED TO PROTECT AND MAINTAIN TREE CANOPY AND LANDSCAPE COVER OF THE CITY PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-2233. PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT). ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2189(22) AND § 98-1372; AND THE LATEST EDITION OF THE HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015, PARAGRAPH (E) TABLE A TREE AND LAWN REQUIREMENTS BY ZONING CLASSIFICATION AND PARAGRAPH (G) LANDSCAPE LEGEND INFORMATION...SHRUBS. **PROPERTY LOCATED AT 340 WEST 78 ROAD, 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 June 26, 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 13 off-street parking spaces, where 17 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189 (22) that provides: “Minimum required off-street parking spaces. Self-storage facilities. One parking space for each 4,000 square feet of gross floor area, with a minimum of five parking spaces, regardless of the size of the self-storage facilities.”; allow a

side setback of 2 feet 4 inches, where 2 feet 7 inches is the minimum required, contra to Hialeah Code of Ordinances, § 98-1372 that provides: "Building site area. In the M-1 industrial district, there shall be no minimum front yard requirement. There shall be required a minimum side yard and rear yard setback of from two feet seven inches to five feet one inch as set forth elsewhere in this chapter."; and allow a waiver of the minimum landscape requirements to allow 7.16% pervious area, where 10% is the minimum required, contra to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015, that provides: "Paragraph (E) Tree and lawn requirements by zoning classification, Table A ...minimum pervious area... percent of net lot area M-1...10-12%" and allow 4 trees and 100 shrubs where 22 trees and 220 shrubs are required that provides: "Paragrah (E) Table A...number of trees required...per acre of net lot area M-1....15 and Paragraph (G) Landscape Legend Information...shrubs (A)...N° of trees required x 10= number of shrubs required"; provided that 18 trees and 120 shrubs are mitigated to protect the tree canopy and landscape cover pursuant to Hialeah Code of Ordinances § 98-2233 that provides: "Waiver of minimum landscaping requirements; landscape mitigation. The city council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual. Such a waiver must be predicated on physical limitations and restrictions on the property. In order to protect and maintain the tree canopy and landscape cover of the city, the grantee of a waiver of minimum landscaping requirements shall mitigate the loss of tree canopy and landscape cover on the affected property by providing new, viable trees and landscaping acceptable to the city as represented by the difference between the required number of trees and landscaping (shrubbery and ground cover) and the actual number of trees and landscaping allowed by waiver granted by the city. The trees and landscaping shall be delivered to the city for planting in areas within the city, such as parks, recreation and open spaces and

street medians, as designated by the city.” Property located at 340 West 78 Road Hialeah, Florida and legally described as follows:

A portion of the West ½ of Section 30, Township 52 South, Range 41 East, being more particularly described as:

Commence at the Northwest Corner of said Section 30, and run S 3° 44' 17" East along the West line of said Section 30 for 953.50 feet to a point; thence run North 87° 02' 55" East along a line North of and parallel to the South line of said Section 30 for 401.37 feet to a point of beginning of the Tract of land hereinafter described: thence continue North 87° 02' 55" East for 183.82 feet to a point; thence run North 3° 44' 17" West along a line East of and parallel with the West line of said Section 30 for 414.52 feet to a point; thence run South 49° 26' 41" West along a line Southeasterly of and parallel with the Southerly right-of-way line of N.W. 119<sup>th</sup> Street expressly, as recorded in Plat Book 77, at Page 96 of the Public Records of Miami-Dade county, Florida, for 229.59 feet to a point; thence run South 3° 44' 17" East parallel with the West line of said Section 30 for 274.41 feet to the point of beginning; lying and being in the city of Hialeah, Miami-Dade County, Florida.

**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.

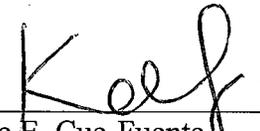
**Section 4: Severability Clause.**

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.

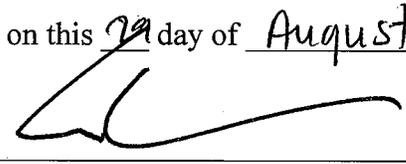
PASSED and ADOPTED this 27 day of August, 2019.

  
\_\_\_\_\_  
Katharine E. Cue-Fuente  
Councilwoman

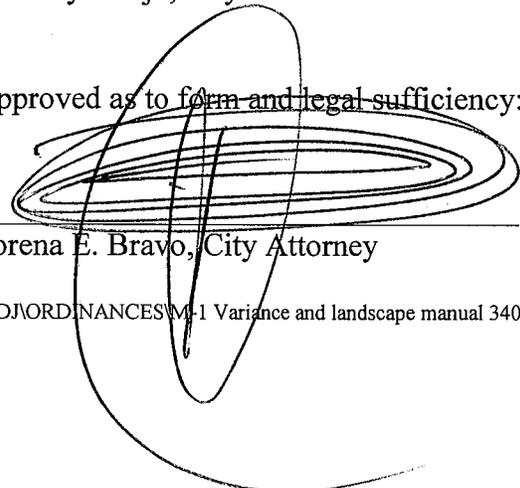
Attest:

Approved on this 29 day of August, 2019.

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

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

Approved as to ~~form and legal sufficiency:~~

  
\_\_\_\_\_  
Lorena E. Bravo, City Attorney

S:\DJ\ORDINANCES\M-1 Variance and landscape manual 340 West 78 Road.docx

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Cue Fuente, Lozano, Caragol, Hernandez and Zogby voting "Yes" and wi Councilmembers Casáls-Muñoz and Garcia-Martinez absent.