

ORDINANCE NO. 2019-069

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL GRANTING A VARIANCE PERMIT TO ALLOW LOADING AREA AND SURFACE PARKING ON THE EXTERIOR OF THE BLOCK, WHERE LOADING AREAS ARE REQUIRED TO BE LOCATED IN THE INTERIOR BLOCKS; ALLOW BLANK WALLS FRONTING WEST 40 AVENUE, WEST 108 STREET AND WEST 104 STREET AND NW 107 AVENUE, WHERE BLANK WALLS AT THE STREET LEVEL AND ABOVE THE GROUND FLOOR OF BUILDINGS ARE NOT PERMITTED; ALLOW 0% BUILDING FRONTAGE, WHERE 65% IS THE MINIMUM FRONTAGE REQUIRED; AND ALLOW 459 PARKING SPACES, WHERE 615 ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1607.1(c)(3), 98-1607.1(c)(4), 98-1607.1(f)(1), AND § 98-2189(24). **PROPERTY LOCATED AT WEST 40 AVENUE AND NW 107 AVENUE, AND BETWEEN WEST 104 STREET AND 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 August 14, 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 and surface parking on the exterior of the block, where loading areas are required to be located in the interior blocks, contra to Hialeah Code of Ordinances § 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.”; allow blank walls fronting West 40 Avenue, West 108 Street and West 104 Street and NW 107 Avenue, where blank walls at the street level and above the 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% building frontage, where 65% is the minimum frontage required, contra to Hialeah Code of Ordinances § 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.”; and allow 459 parking spaces, where 615 are required, contra to Hialeah Code of Ordinances § 98-2189(24) that provides: “BDH business development district. For warehouse distribution buildings, which shall be defined as storage buildings for a variety of goods involved in local, interstate and international shipping, shall provide one parking space for each 1,000 square feet of gross floor area in the building up to 10,000 square feet and then one space for each 2,000 square feet of gross warehouse floor area thereafter. For the gross floor area that is used as offices or other commercial uses, not exceeding ten percent of the total area of each warehouse bay or unit, one parking space for each 300 square feet of gross floor area of such building or fractional part thereof. And, one parking space for each 200 square feet of gross floor area or fractional part thereof for office and retail areas exceeding ten percent of the total area of the warehouse bay or unit.” Property located at West 40 Avenue and NW 107 Avenue, and between West 104 Street and West 108 Street, Hialeah, Florida, and legally described in attached exhibits “A” and “B”.

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 10 day of September, 2019.

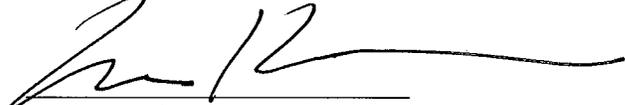
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.


Vivian Casals-Munoz
Council President

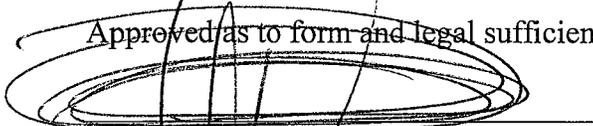
Attest:

Approved on this 10 day of September, 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 6-0-1 vote with Councilmembers, Cue-Fuente, Caragol, Hernandez Zogby, Casals-Munoz and Garcia-Martinez voting "Yes" and with Councilmember Lozano absent.