

**ORDINANCE NO. 2019-114**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH GRANTING A VARIANCE PERMIT TO ALLOW 91.92 FEET FRONT SETBACK ALONG NW 102 AVENUE, AND 126.6 FEET FRONT SETBACK ALONG NW 162 STREET, WHERE 52 FEET IS THE MAXIMUM ALLOWED; ALLOW 0% BUILDING FRONTAGE ALONG NW 102 AVENUE AND ALONG NW 162 STREET, WHERE 65% IS THE MINIMUM BUILDING FRONTAGE REQUIRED; ALLOW LOADING AND SERVICE AREAS AT THE FRONT OF THE BUILDING, WHERE LOADING AND SERVICE AREAS ARE REQUIRED TO BE LOCATED IN THE INTERIOR BLOCKS; AND ALLOW SURFACE PARKING ALONG NW 162 STREET, WHERE SURFACE PARKING IS REQUIRED IN THE INTERIOR BLOCKS; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1607.1(c)(3), 98-1607.1(j)(1).a, 98-1607.1(f)(1), AND § 98-1607.1(c)(5). **PROPERTY LOCATED AT THE NORTHEAST CORNER OF NW 102 AVENUE 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 November 13, 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 91.92 feet front setback along NW 102 Avenue, and 126.6 feet front setback along NW 162 Street, where 52 feet is the maximum allowed, contra to Hialeah Code of Ordinances § 98-

1607.1(j)(1).a. that provides: “*Minimum setbacks. (1) Front setback required.* For the purpose of this section all sides of a building that abut a thoroughfare are to be considered fronts. The front setback requirement is related to the thoroughfare that the property fronts as follows: a. *Access roads serving industrial uses, commercial connectors and park drives.* The minimum front setback required is seven feet and the maximum is 52 feet from the property line; or greater than 52 feet to exclusively address physical or environmental conditions. The front setback shall be improved with a minimum seven-foot landscape buffer and/or a public walkway to widen the sidewalk.”; allow 0% building frontage along NW 102 Avenue and along NW 162 Street, 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.”; allow loading and service areas at the front of the building, where loading and service areas are required to be located in the interior blocks, contra to Hialeah Code of Ordinances § 98-1607.1(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 surface parking along NW 162 Street, where surface parking is required in the interior blocks; contra to Hialeah Code of Ordinances § 98-1607.1(c)(5) that provides: “*Surface parking.* On commercial buildings fronting boulevards, entrance roads, commercial connector roads and park drives, surface parking lots shall be located in the interior, except when the nature of a particular commercial use renders exterior surface parking more suitable.” Property located at the

Northeast Corner of NW 102 Avenue and West 108 Street, Hialeah, Florida, and legally described as follows:

The West ½ of Tract 9, less the West 35 feet and less the South 35 feet and less the external area of curve in the Southwest corner for right of way; and the west ½ of Tract 10, less the West 35 feet for right of way; and the West ½ of Tract 11, less the West 35 feet for right of way, FLORIDA FRUIT LANDS CO SUBDIVISION, in Section 17, Township 52 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida;

AND

Tract 12, less the North 100 feet and the West 35 feet for right of way, FLORIDA FRUIT LANDS CO SUBDIVISION, in Section 17, Township 52 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida

Containing a Net Area of 879,518 Square Feet or 20.19 Acres, more or less and a Gross Area of 956,599 Square Feet or 21.96 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.

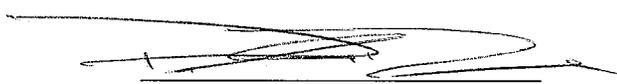
**Section 4: Severability Clause.**

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.

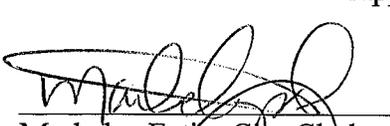
**Section 5: Effective Date.**

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 10 day of December, 2019.

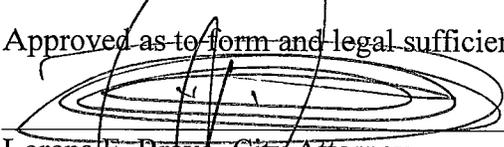
  
Oscar De la Rosa  
Council Vice-President

Attest: Approved on this 18 day of December, 2019.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
Lorena E. Bravo, City Attorney

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