

ORDINANCE NO. 2017-032

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REPEALING AND RESCINDING HIALEAH, FLA. ORDINANCE NO. 2009-91 (ADOPTED NOVEMBER 10, 2009), RELEASING THE DECLARATION OF RESTRICTIONS RECORDED IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA AT BOOK 27099, PAGES 2787-2795; GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW 10 SHORT-TERM OCCUPANCY LIVING UNITS USED BY THE CLERGY AFFILIATED WITH THE CHURCH PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-181; AND GRANTING A VARIANCE PERMIT TO ALLOW A PERVIOUS AREA OF 17% WHERE 20% IS REQUIRED; ALLOW 27 PARKING SPACES WHERE 291 SPACES ARE REQUIRED CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-882(2)(a), 98-2189(4)(i); PROPERTY ZONED CR (COMMERCIAL RESIDENTIAL DISTRICT). **PROPERTY LOCATED AT 500 PALM AVENUE, a/k/a 47 WEST 5TH STREET, 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 April 26, 2017, recommended approval of this ordinance; and

WHEREAS, the applicant has proffered a Declaration of Restrictive Covenants, and has agreed to certain specific uses and limitations in connection with the property consisting of the hours of worship, time limits for the occupancy of the units, restricting unit occupancy by

members of the clergy only and their immediate family that are members of the church, prohibiting permanent occupancy, among other things, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1. Repeal and rescission of Hialeah, Fla. Ordinance No. 2009-91.

Hialeah, Fla. Ordinance No. 2009-91 (adopted November 10, 2009) is hereby repealed and rescinded, and the declaration of restrictions recorded in the public records of Miami-Dade County, Florida at book 27099, pages 2787-2795 is hereby released.

Section 2: The below described property is granted a conditional use permit (CUP) to allow 10 short-term occupancy living units used by the clergy affiliated with the church pursuant to Hialeah Code of Ordinances § 98-181.

Section 3: The below described property is granted a variance permit to allow a pervious area of 17% where 20% is required, and allow 27 parking spaces where 291 parking spaces are required, contra to Hialeah Code of Ordinances §§ 98-882(2)(a) and 98-2189(4)(i) that respectively provide in pertinent part: “*Nonresidential use.* At least 20 percent of the site shall be used as open space.”; “Minimum required off-street parking spaces. ... *CR commercial-residential zoning districts. Places of worship.* One parking space for each 40 square feet of gross floor area of the main auditorium (sanctuary), chapels and other rooms used for general assembly and recreation, and classrooms.” Property located at **500 PALM AVENUE a/k/a 47 WEST 5TH STREET**, Hialeah, Florida, and legally described as follows:

Lots 10, 11, and 12, Block 18, and the South ½ Tract 18-A, and the East 100 feet of the South ½ of Tract 18 of Block 18 TOWN OF HIALEAH, according to the Plat thereof in Plat Book 33 Page 15 of the Public Records of Miami-Dade County, Florida.

Section 4: Repeal of Ordinances in Conflict.

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

Section 5: 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 6: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city business tax receipt license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and parking variance.

Section 7: 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.

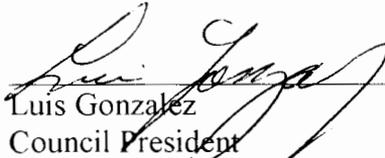
Section 8: Effective Date.

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.

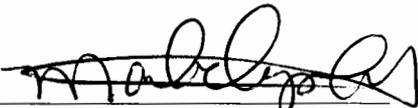
PASSED and ADOPTED this 23 day of May, 2017.

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


Luis Gonzalez
Council President

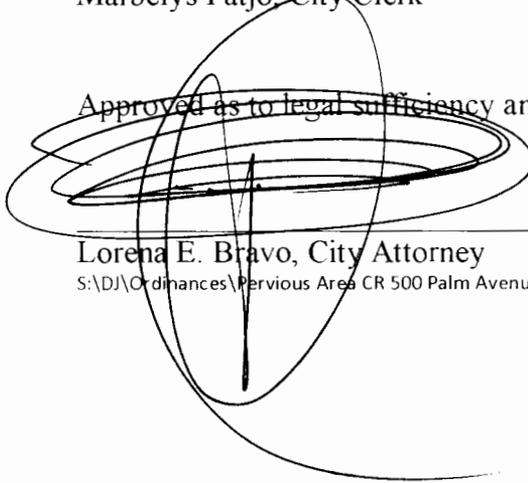
Attest:

Approved on this 30 day of May, 2017.


Marbelys Fatjo, City Clerk


Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

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Ordinance was adopted by a (6-0-1) vote with Councilmembers, Caragol, Gonzalez, Hernandez, Cue-Fuente, Garcia-Martinez and Lozano voting "Yes". Councilwoman Casals-Muñoz not present during roll call.