

ORDINANCE NO. 2017-037

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW 57 PARKING SPACES, WHERE A TOTAL OF 80 SPACES ARE REQUIRED; 7 BACK-OUT SPACES ONLY ALLOWED IN LOW DENSITY RESIDENTIAL DISTRICTS; AND 8 ON-STREET PARKING SPACES PURSUANT TO § 98-2192(a) AND (b); A 2% PERVIOUS AREA, WHERE 10% IS REQUIRED; AND WAIVING THE 7-FOOT LANDSCAPE BUFFER ALONG THE NORTH AND EAST SIDE OF THE ENTIRE LENGTH OF THE PROPERTY LOCATED AT 3270 EAST 11TH AVENUE REQUIRED BY THE LATEST EDITION OF THE CITY OF HIALEAH LANDSCAPE MANUAL § D(7); PROPERTIES ZONED M-1 (INDUSTRIAL DISTRICT); ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2186, 2189(7) AND (15), 98-2197(a) AND § E OF THE LATEST EDITION OF THE CITY OF HIALEAH LANDSCAPE MANUAL. **PROPERTIES LOCATED AT 3251 AND 3270 EAST 11TH AVENUE, 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 24, 2017, recommended approval of this ordinance; and

WHEREAS, the developer has proffered and the City has accepted a unity of title to be executed and recorded in the public record.

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

Section 1: The below-described properties are hereby granted a variance permit to allow 57 parking spaces, where a total of 80 spaces are required, contra to Hialeah Code of Ordinances §§ 98-2189 (7) and (15) that respectively provide: “Minimum required off-street parking spaces. Off-street parking shall be provided in accordance with the following minimum standards. If a calculation of minimum parking spaces results in a number with a fraction, then the next higher whole number shall be considered the proper calculation. [For the 3271 property]: (7) *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. [For the 3250 property]: (15) *Manufacturing and industrial use.* One parking space for each 1,000 square feet, or fractional part thereof, of gross floor area...”; 7 back-out spaces only allowed in low density residential districts contra to Hialeah Code of Ordinances § 2186 that provides: “Backout parking means a parking space so located that a vehicle occupying the space must reenter the public right-of-way in a reverse direction. Backout parking shall be allowed in low density residential districts or areas.”; 8 on-street parking spaces pursuant to Hialeah Code of Ordinances § 98-2192(a) and (b) that provide: “Sec. 98-2192. - Location and percentage of on-street parking that would satisfy required parking. (a) *Property zoned industrial.* Up to 20 percent of required parking may be satisfied by utilizing on-street parking within 600 feet of the main entrance of the use served, except for streets or rights-of-way where on-street parking is not permitted. On-street parking must be paved, marked and approved by the streets department. Any on-street parking space that is used to calculate required parking shall not be reserved for the exclusive use of the property owner, but shall be used for the general public. (b) *Property zoned commercial.* Up to

20 percent of required parking may be satisfied by utilizing on-street parking within areas that abut the property line or lines that face a right-of-way, except for streets or rights-of-way where on-street parking is not permitted. On-street parking must be paved, marked and approved by the streets department. Any on-street parking space that is used to calculate required parking shall not be reserved for the exclusive use of the property owner, but shall be used for the general public.”; allow a 2% pervious area at 3251 and 3270 East 11th Avenue, where 10 % is required for each, and waiving the 7-foot landscape buffer along the north and east side of the entire length of the property located at 3270 East 11th Avenue contra to Hialeah Code of Ordinances § 98-2187 (a), and the City of Hialeah Landscape Manual §§ D(7) and E that respectively provide: “Landscaping. (a) Off-street parking areas shall be landscaped according to the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular use areas, as modified and supplemented by the city landscape manual...”; (D) Shrubs, vines, ground covers, mulch, buffers... (7) Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting ... within a seven (7)-foot landscaped strip incorporating said planting...on private property... (E) Tree and lawn requirements by zoning classification... M-1... minimum pervious area 10-12%...”. Properties located at **3251 and 3270 East 11th Avenue Hialeah, Florida**, and legally described as follows:

PARCEL 1: Lot 4, Block 3, of Bing’s Terminals, according to the plat thereof as recorded in Plat Book 61, Page 1, of the Public Records of Miami-Dade County, Florida.

PARCEL 2: Lot 12, of Bing’s Terminals Replat, according to the plat thereof as recorded in Plat Book 123, Page 61, of the Public Records of Miami-Dade County, Florida.

Also known as:

Lot 12, Block 4 of Bing's Terminals Replat, according to the Plat thereof as recorded in Plat Book 123, Page 61, of the Public Records of 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.

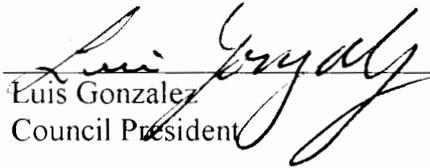
Section 5: Effective Date.

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 June, 2017.

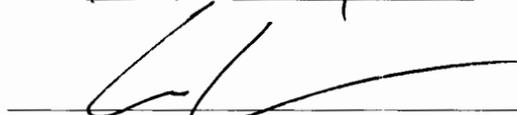
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.


Luis Gonzalez
Council President

Attest:

Approved on this 10 day of July, 2017.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

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