

**ORDINANCE NO. 2017-051**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW 36 PARKING SPACES, 33 ON SITE AND 3 ON STREET, WHERE 41 ARE REQUIRED; ALLOW A STREET SIDE SETBACK OF 4 FEET, WHERE 10 FEET ARE REQUIRED; ALLOW A LANDSCAPE BUFFER OF 5.7 FEET, WHERE 7 FEET ARE REQUIRED; ALLOW A PERVIOUS AREA OF 5.8%, WHERE AN 18% MINIMUM IS REQUIRED; AND ALLOW A TEMPORARY WAIVER OF PLAT PROVIDED THE PLATTING PROCESS IS COMPLETED WITHIN 18 MONTHS; CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2189(7), 98-1160, 98-1070, 98-590; CONTRA TO THE CITY OF HIALEAH LAND DEVELOPMENT CODE 10-4(c); AND CONTRA TO THE LATEST EDITION OF THE CITY OF HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015, §§ D(7) AND E; PROPERTY ZONED C-3 (EXTENDED LIBERAL COMMERCIAL DISTRICT); **PROPERTY LOCATED AT 1975 WEST 76 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 August 9, 2017, recommended approval of this ordinance; and

**WHEREAS**, the developer has proffered a declaration of restrictive covenants, restricting the mix of uses such that the 36 allocated parking spaces shall not be exceeded, to which the City has accepted.

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 36 parking spaces, where 41 are required, 33 on site and 3 on-street, contra to Hialeah Code of ordinances § 98-2189 (7) that provides: “*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.”; allow a street side setback of 4 feet, where 10 feet are required, and contra to Hialeah Code of ordinances §§ 98-1160, 98-1070, and 98-590 that respectively provide: “Side yard required. In the C-3 extended liberal commercial district, the side yard shall be the same as in the C-1 district.”; “In the C-1 restricted retail commercial district, no side yard shall be required, except as a use of an R-3 district, where side yard requirements shall be the same as required under the use district.”; and “In the R-3 multiple-family district, there shall be side yards, and the width of each shall not be less than ten feet.”; allow a landscape buffer of 5.7 feet, where 7 feet are required, contra to the latest edition of the City of Hialeah Landscape Manual dated July 9, 2015, § D(7) that provides in relevant part: “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....The seven (7)-foot landscape buffer may be reduced subject to the inclusion of improved design features on the site upon approval of the Planning and Zoning Official.”; allow a pervious area of 5.8%, where an 18% minimum is required, contra to latest edition of the City of Hialeah Landscape Manual dated July 9, 2015, § (E) Table A that provides in relevant part: “...Minimum pervious area...Percent of Net Lot Area...C-3...18%.”

**Section 2:** The below-described property is hereby granted an eighteen month temporary waiver of plat provided the platting process is completed within 18 months, pursuant to Hialeah

Land Development Code § 10-4(c) that provides: “Waiver of Plat. *Temporary waiver of plat.* A temporary waiver of plat is of a limited time duration and may be granted only conditioned on obtaining an approved plat within a reasonable time agreed to by the city.”

**Section 3:** Property located at **1975 WEST 76 Street, Hialeah, Florida**, and legally described as follows:

Tract 20, CHAMBERS LAND COMPANY’S SUBDIVISION of the Northwest ¼ of Section 26, Township 52 South, Range 40 East, as Recorded in Plat Book 2 at Page 68, of the Public Records of Dade County, Florida; excepting therefrom the following described parcels: The North 145 feet; the East 360 feet; that portion thereon lying within the West 150 Feet of the said Northwest ¼ and that portion thereof, lying within the South 35 feet of the said Northwest ¼; Hialeah, Dade County, Florida; together with the buildings and Improvements thereon and the furniture, furnishings, fixtures and Equipment therein and thereunto appertaining.

**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: Severability Clause.**

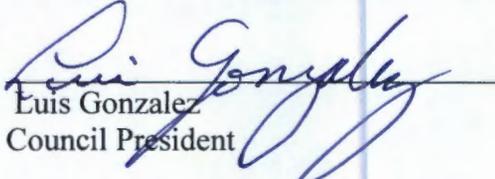
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 7: 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.

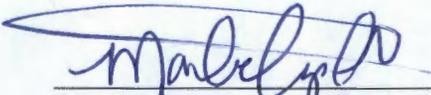
PASSED and ADOPTED this 18 day of September, 2017.

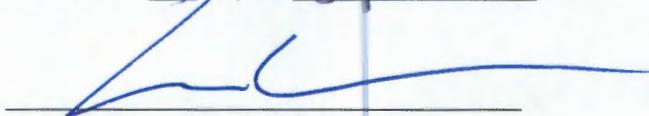
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Luis Gonzalez  
Council President

Attest:

Approved on this 21 day of September, 2017.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a (7-0) unanimous vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Hernandez, Gonzalez, Lozano and Casáls-Muñoz voting "Yes".