

ORDINANCE NO. 2016-24

ORDINANCE GRANTING A VARIANCE PERMIT TO WAIVE A PORTION OF THE MINIMUM STANDARDS SET FORTH IN SECTIONS (D)(7) AND (D)(8) OF THE CITY OF HIALEAH LANDSCAPE MANUAL, DATED JULY 9, 2015, PURSUANT TO HIALEAH CODE § 98-2233, ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT). **PROPERTY LOCATED AT 1995 WEST 49 STREET, HIALEAH, FLORIDA.** 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, an existing gas easement running along the west side of the subject property prevents the applicant from complying with Sections (D) (7) and (D) (8) of the City of Hialeah Landscape Manual, dated July 9, 2015; and

WHEREAS predicated on the existing physical limitations and restrictions on the property, the Planning and Zoning Board at its meeting of March 23, 2016 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 foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a variance permit to waive a portion of the minimum standards set forth in Sections (D)(7) and (D)(8) of the City of Hialeah Landscape Manual, dated July 9, 2015, pursuant to Hialeah Code § 98-2233, which provides in pertinent part: “ The city council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual. Such

a waiver must be predicated on physical limitations and restrictions on the property. In order to protect and maintain the tree canopy and landscape cover of the city, the grantee of a waiver of minimum landscaping requirements shall mitigate the loss of tree canopy and landscape cover on the affected property by providing new, viable trees and landscaping acceptable to the city as represented by the difference between the required number of trees and landscaping (shrubbery and ground cover) and the actual number of trees and landscaping allowed by waiver granted by the city. The trees and landscaping shall be delivered to the city for planting in areas within the city, such as parks, recreation and open spaces and street medians, as designated by the city.” Property located at 1995 West 49 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

SEE ATTACHED EXHIBIT “A”.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: 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 5: Severability Clause.

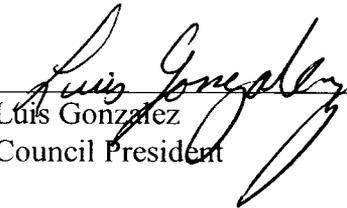
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

Section 6: 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 26 day of April, 2016.

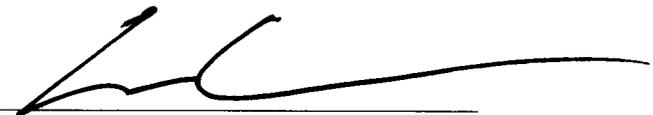
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.


Luis Gonzalez
Council President

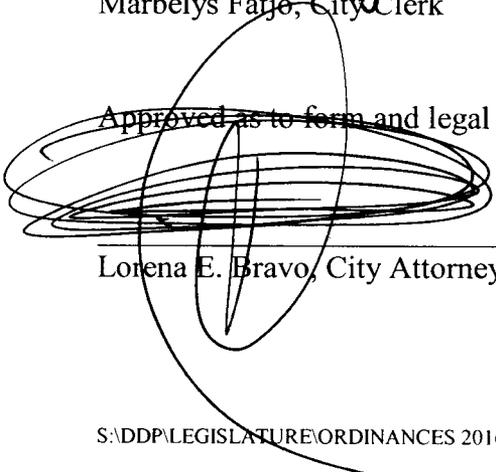
Attest:

Approved on this 2 day of May, 2016.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

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