

ORDINANCE NO. 2015-77

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A COLLEGE EDUCATIONAL FACILITY PURSUANT TO HIALEAH CODE §98-181(2)i ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT). **PROPERTY LOCATED AT 530 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, the Planning and Zoning Board at its meeting of November 18, 2015, recommended approval of this ordinance; and

WHEREAS, the Petitioner proffered a declaration of restrictive covenants, 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: 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 conditional use permit (CUP) to allow a college educational facility pursuant to Hialeah Code §98-181(2)i. on property zoned C-2 (Liberal Retail Commercial District). The property is located at 530 West 49 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

PARCEL I –FEE ESTATE:

TRACT “C”, “FIFTH ADDITION TO PALM SPRINGS SUBDIVISION SECTION FIVE”, AS RECORDED IN PLAT BOOK 70 AT PAGE 95 OF PUBLIC RECORDS OF DADE COUNTY, FLORIDA. LESS THE FOLLOWING DESCRIBED PARCEL:

BEGIN AT THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE NORTH 0 DEGREES 56 MINUTES 16 SECONDS EAST ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT "C" FOR 126.50 FEET; THENCE SOUTH 89 DEGREES 03 MINUTES 44 SECONDS EAST FOR 27.00 FEET; THENCE SOUTH 0 DEGREES 48 MINUTES 18 SECONDS WEST FOR 49.50 FEET; THENCE SOUTH 80 DEGREES 35 MINUTES 44 SECONDS EAST FOR 100.10 FEET; THENCE SOUTH 0 DEGREES 17 MINUTES 27 SECONDS WEST FOR 105.95 FEET; THENCE NORTH 87 DEGREES 43 MINUTES 14 SECONDS WEST FOR 3.43 FEET; THENCE RUN SOUTH 0 DEGREES 56 MINUTES 16 SECONDS WEST FOR 17.89 FEET; THENCE NORTH 43 DEGREES 23 MINUTES 29 SECONDS WEST FOR 64.06 FEET; THENCE NORTH 89 DEGREES 03 MINUTES 44 SECONDS WEST FOR 80.21 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF "FLORIDA FRUIT LAND CO'S SUBDIVISION" OF SECTION 1, TOWNSHIP 53 SOUTH, RANGE 40 EAST, AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY 1 FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE NORTH 0 DEGREES 56 MINUTES 16 SECONDS EAST, ALONG THE WESTERLY BOUNDARY OF SAID TRACT "C", FOR 390.01 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE NORTH 0 DEGREES 56 MINUTES 16 SECONDS EAST, ALONG THE LAST DESCRIBED COURSE, FOR 124.41 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY AND EASTERLY, ALONG A CIRCULAR CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 91 DEGREES 20 MINUTES 30 SECONDS FOR AN ARC DISTANCE OF 39.86 FEET TO POINT OF TANGENCY; THENCE SOUTH 87 DEGREES 43 MINUTES 14 SECONDS EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST 49 STREET (N.W. 103RD STREET) AS SHOWN ON SAID PLAT OF FIFTH ADDITION TO PALM SPRINGS SUBDIVISION SECTION FIVE", FOR 89.41 FEET; THENCE SOUTH 0 DEGREES 56 MINUTES 16 SECONDS WEST, ALONG A LINE EAST OF AND PARALLEL WITH THE EASTERLY RIGHT-OF-WAY LINE OF WEST 8TH AVENUE, AS SHOWN ON SAID PLAT OF "FIFTH ADDITION TO PALM SPRINGS SUBDIVISION SECTION FIVE", FOR 150.00 FEET; THENCE NORTH 87 DEGREES 43 MINUTES 14 SECONDS WEST, ALONG A LINE SOUTH OF AND PARALLEL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF THE AFORESAID WEST

49TH STREET (N.W. 103RD STREET), FOR 115.00 FEET TO THE POINT OF BEGINNING.

ALL OF THE ABOVE, LYING AND BEING IN HIALEAH, MIAMI-DADE COUNTY, FLORIDA.

PARCEL II – EASEMENT ESTATE:
NON-EXCLUSIVE EASEMENT FOR PARKING, INGRESS, EGRESS AND UTILITIES FOR THE BENEFIT OF PARCEL I AS SET FORTH IN THAT DECLARATION OF EASEMENT BY PALM SPRINGS MILE ASSOCIATES, LTD., RECORDED APRIL 16, 1993 IN OFFICIAL RECORDS BOOK 15881, PAGE 3796.

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: 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 occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

Section 6: Severability Clause.

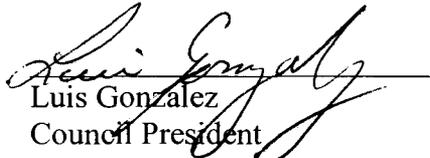
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

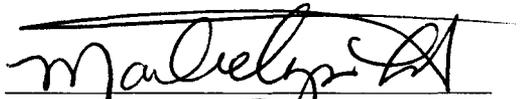
PASSED and ADOPTED this 8 day of December, 2015.

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

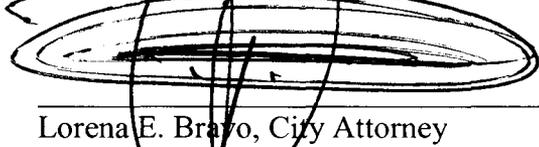
Attest:

Approved on this 14 day of December, 2015.


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) unanimous vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Lozano and Casáls-Muñoz voting "Yes". Councilman Hernandez not present.