

**ORDINANCE NO. 2018-122**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, GRANTING A VARIANCE PERMIT TO ALLOW A BUILDING HEIGHT OF 65 FEET, WHERE 45 FEET IS THE MAXIMUM ALLOWED, CONTRA TO HIALEAH CODE OF ORDINANCES § 98-1601(d); **PROPERTY LOCATED AT 9100 WEST 40 AVENUE HIALEAH, FLORIDA. PROPERTY ZONED (INDUSTRIAL DISTRICT).** 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 October 10, 2018 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 below described property is granted a variance permit to allow a building height of 65 feet, where 45 feet is the maximum allowed, contra to Hialeah Code of Ordinances § 98-1601(d) that provides: "*Building height limitations.* The maximum building height shall not exceed 45 feet or four stories." Property located at 9100 West 40 Avenue Hialeah, Florida, and legally described in exhibit "A."

**Section 2. Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict. The variance of 50 feet in height granted pursuant to Hialeah, Fla. Ordinance No. 2017-021, is hereby repealed.

**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.**

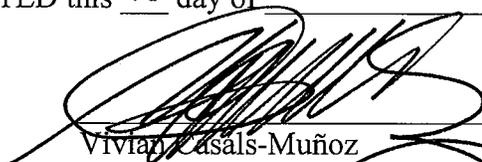
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 13 day of November, 2018.

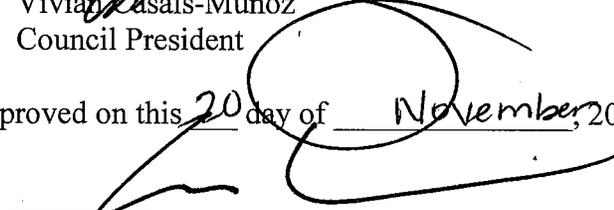
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

  
Vivian Casals-Muñoz  
Council President

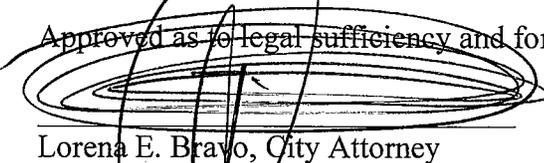
Attest:

  
Marbelys Fatjo, City Clerk

Approved on this 20 day of November, 2018.

  
Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Zogby, Lozano, Casals-Munoz, Hernandez, Garcia Martinez and Cue-Fuente voting "Yes" and with Councilmember Caragol absent.

Exhibit "A"

LEGAL DESCRIPTION:

A parcel lying and being in Section 20, Township 52 South, Range 40 East, in Miami-Dade County, Florida, and within the plat of "Chambers Land Company Subdivision" as recorded in Plat Book 2, Page 68, and Tract "A" of "Rinker Lake" as recorded in Plat Book 82, Page 47, both of the public records of Miami-Dade County, Florida, also being a portion of the vacated Right-of-Way at N.W. 105th Avenue, being more particularly described as follows:

Commence at the Southwest corner of said Section 20; thence North  $02^{\circ}34'51''$  West, along the West line of said Section 20 for 3,072.30 feet; thence North  $89^{\circ}40'31''$  East for 10.00 feet to the POINT OF BEGINNING of the hereinafter described Parcel 1; thence continue North  $89^{\circ}40'31''$  East for 1,048.46 feet; thence North  $00^{\circ}19'29''$  West, at right angles to the previous course, for 67.17 feet, thence North  $52^{\circ}09'43''$  West for 1379.56 feet to a point on a line being parallel with and ten (10) feet East of, as measured at right angles, the West line of said Section 20, said line also being the East Right of Way line of N.W. 107th Avenue as shown on said plat of "Chambers Land Company Subdivision"; thence South  $02^{\circ}34'51''$  East, along said parallel line for 920.31 feet to the POINT OF BEGINNING.

Containing 511,625 square feet, or 11.745 acres.

AND

A portion of Rinker Lake, N.W. 102nd Avenue, and Tract "A" of "Rinker Lake" according to the plat thereof as recorded in Plat Book 82, Page 47, of the Public Records of Miami-Dade County, Florida, all being in Section 20, Township 52 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Section 20; thence North  $02^{\circ}34'51''$  West, along the West line of said Section 20 for 3072.30 feet; thence North  $89^{\circ}40'31''$  East for 760.00 feet to the POINT OF BEGINNING of the hereinafter described Parcel 2; thence continue North  $89^{\circ}40'31''$  East for 298.46 feet; thence North  $00^{\circ}19'29''$  West, at right angles to the previous course, for 67.17 feet; thence North  $79^{\circ}20'21''$  East for 697.68 feet; thence North  $68^{\circ}39'30''$  East for 210.18 feet;

thence North 48°25'38" East for 100.17 feet; thence South 02°36'37" East along a line parallel with and 609.07 feet West of the East line of Northwest 1/4 of said Section 20 for 766.40 feet to a point on the South line of the Northwest 1/4 of said Section 20; thence North 89°40'06" East along said South line for 609.55

feet to the Center of said Section 20; thence South 02°36'37" East along the East line of the Southeast 1/4 of said Section 20 for 567.67 feet; thence South 89°40'31" West for 500.40 feet; thence South 02°36'37" East along a line Parallel with and 500.00 feet West of said East line of the Southwest 1/4 for a distance of 542.34 feet to the Northeast corner of Tract "F" of said "Rinker Lake", according to the plat thereof as recorded in Plat Book 82, at Page 47 of the public records of Miami-Dade County, Florida; thence South 89°40'31" West along the North line of said Tract "F" for 211.97 feet; thence North 02°36'37" West for 542.34 feet; thence South 89°40'31" West for 1167.35 feet; thence north 02°34'51" west for 1000.00 feet to the POINT OF BEGINNING.

Containing 1,888,528 square feet, or 43.35 acres.

AND

A parcel of land lying in Section 20, Township 52 South, Range 40 East, Miami-Dade County, Florida and within the Plat of "Chambers Land Company Subdivision" as recorded in Plat Book 2, Page 68 and Tract "A" of "Rinker Lake" as recorded in Plat Book 82, Page 47, both of the Public Records of Miami-Dade County, Florida, also including a portion of the vacated rights-of-way of N.W. 146 Street and N.W. 105 Avenue, being more particularly described as follows:

Commence at the Southwest corner of said Section 20; thence N 02°34'51" W along the West line of said Section 20 and the centerline of N.W. 107 Avenue for 2072.23 feet; thence N 89 °40'31" E for 10.01 feet to the East right-of-way line of N.W. 107 Avenue and POINT OF BEGINNING of the hereinafter described

parcel; thence N 89°40'31" E for 750.00 Feet; thence N 02°34'51" W and parallel with the West line of said Section 20 for 1000.00 feet; thence S 89°40'31" W for 719.98 feet to a point on said East right-of-way line of N.W. 107 Avenue; thence S 02°34'51" E along said East right-of-way line of N.W. 107 Avenue which lies 40.00 feet East of and parallel with the West line of said Section 20 for 102.58

feet to a point on the North line of Tract 20 of the Northwest of said Section 20 of the said "Chambers Land Company Subdivision"; thence S89°40'00" W along the North line of said Tract 20 for 30.02 feet to a point on said East right-of-way line of N.W. 107 Avenue; thence S 02°34'51" E along the said East right-of-way line of N.W. 107 Avenue and the West line of said "Chambers Land Company Subdivision" for 319.95 feet to the Southwest corner of said Tract 20; then N 89°40'06" E along the South line of said Tract 20 also being the North right-of-way line of N.W. 146 Street for 70.05 feet; thence S 02°34'51" E for 20.02 feet to a point on the North line of Tract 13 of the Southwest 1/4 of said Section 20 of said "Chambers Land Company Subdivision"; S 89°40'06" W along the North line of said Tract 13 for 70.05 feet to the Northwest corner of said Tract 13; thence S 02°34'51" E along said East right-of-way line of N.W. 107 Avenue and the West line of said "Chambers Land Company Subdivision" for 557.44 feet to the POINT OF BEGINNING.

Containing 744,942.0 square feet or 17.10 Acres more or less.

Total Area of the Subject Property = 3,145,095 square feet or 72.2 Acres more or less.