

ORDINANCE NO. 2018-137

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A BUILDING HEIGHT OF APPROXIMATELY 54 FEET, WHERE 35 FEET IS THE MAXIMUM ALLOWED; CONTRA TO HIALEAH CODE OF ORDINANCES § 98-1375(a). PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT). **PROPERTY LOCATED AT 725 SOUTH EAST 9 COURT, 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 October 24, 2018, recommended approval of this ordinance; and

WHEREAS, the developer has 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 below-described property is hereby granted a variance permit to allow a building height of approximately 54 feet, where 35 feet is the maximum allowed; contra to Hialeah Code of Ordinances § 98-1375(a), that provides: “In general. In the M-1 industrial district, the maximum height shall be two stories or 35 feet to the cornice line or top of parapet except that if a building frontage faces a frontage road, then the maximum height shall be six stories or 95 feet to the cornice line or top of parapet.” Property is located at 725 South East 9 Court, Hialeah Florida, and legally described in the attached Exhibit “A”.

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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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

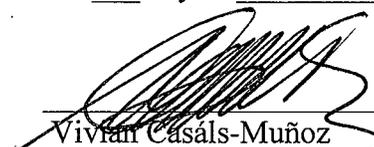
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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



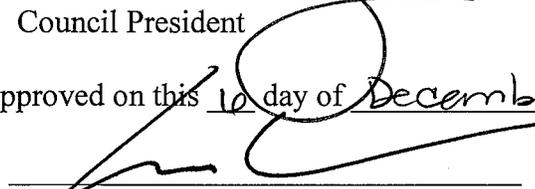
Vivian Casals-Muñoz
Council President

Attest:



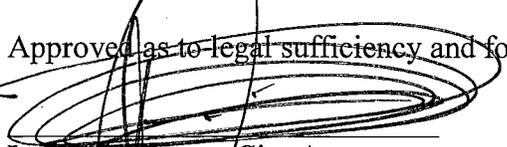
Marbelys Fatjo, City Clerk

Approved on this 10 day of December, 2018.



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, Zogby, Lozano, Casals-Munoz, Garcia-Martinez, Hernandez, voting "Yes" and with Councilmember Caragol and Cue-Fuente absent.

Exhibit "A"

Portion of the Northeast 1/4 of Section 20, Township 3 South, Range 41 East, more particularly described as follows:

Begin at the Southeast corner of Lot 3, Block 6, "ROSE SUBDIVISION" according to the plat thereof, as recorded in Plat Book 47, at Page 38 of the Public Records of Dade County, Florida; thence North 0 degrees 01 minutes 50 seconds West along the Easterly boundary of said plat of "ROSE SUBDIVISION" for 638.22 feet to the Northeast corner of said "ROSE SUBDIVISION"; thence South 89 degrees 49 minutes 15 seconds East along the South line of the Northeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of said Section 20 for 162.39 feet to a Point on a Curve; (said last mentioned course also being coincident with the South line of that certain plat of "HIALEAH HOMES" according to the plat thereof, as recorded in Plat Book 59 at Page 76 of the Public Records of Dade County, Florida) said point bearing North 89 degrees 58 minutes 10 seconds East from the radius point of the next described curve; thence Northwesterly along a circular curve to the left having a radius of 476.00 feet and a central angle of 16 degrees 04 minutes 29 seconds, from an arc distance of 133.55 feet to a Point of Reverse Curvature; thence Northwesterly along a circular curve to the, right having a radius of 225.00 feet and a central angle of 16 degrees 04 minutes 29 seconds for an arc distance of 63.13 feet to a Point of Tangency; thence North 0 degrees 01 minutes 50 seconds West for 104.45 feet; (said last mentioned three courses being coincident with the Easterly Right of Way line of S.E. 9th Court as shown on the aforesaid plat of "HIALEAH HOMES"; thence South 89 degrees 49 minutes 19 seconds East along the Southerly Right of Way line of S. E. 5th Street as dedicated by Deed Book 475, Page 608 of the Public Records of Dade County; Florida for 773.63 feet; thence South 0 degrees 35 minutes 19 seconds West for 178.48 feet; thence South 89 degrees 49 minutes 15 seconds East along a line parallel with and 120.00 feet North of, as measured at right angles to the South line of the North 1/2 of the South 1/2 of the Northeast 1/4 of said Section 20 for 208.71 feet; thence South 0 degrees 35 minutes 32 seconds West for 457.18 feet; thence South 89 degrees 47 minutes 29 seconds East for 1.00 feet thence South 0 degrees 35 minutes 32 seconds West for 307.18 feet; (said last mentioned three courses being coincident with the Westerly Right-of-Way line of Seaboard All Florida Railway); thence North 89 degrees 45 minutes 43 seconds West along a line 30.00 feet North of and parallel with the South line of the Northeast 1/4 of said Section 20 for 604.79 feet; thence North 0 degrees 00 minutes

43 seconds West along the East line of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of said Section 20, for 5.00 feet; thence North 89 degrees 45 minutes 43 seconds West along a line 35.00 feet North of and parallel with the South line of the Northeast 1/4 of said Section 20, for 326.03 feet to a Point on a Curve; (said point bearing South 53 degrees 06 minutes 20 seconds West from the radius point of the next described curve); thence Northwesterly along a circular curve to the right, having a radius of 25.00 feet and a central angle of 36 degrees 52 minutes 15 seconds, for an arc distance of 16.09 feet to a Point of Tangency; thence North 0 degrees 01 minutes 28 seconds West along the East line of the West 70.00 feet of the East 3/5 of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of said Section 20, for 40.00 feet; thence North 89 degrees 45 minutes 43 seconds West along a line 90.00 feet North of and parallel with the South line of the Northeast 1/4 of said Section 20 for 70.00 feet; thence South 0 degrees 01 minutes 28 seconds East along the West line of the East 3/5 of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of said Section 20 for 55.00 feet; said last mentioned four courses being coincident with the boundary of that certain Right-of-Way Deed to Dade County, as recorded in Official Records Book 10745, a Page 329 of the Public Records of Dade County Florida; thence North 89 degrees 45 minutes 43 seconds West along a line 35.00 feet North of and parallel with the aforesaid South line of the Northeast 1/4 of Section 20, for 102.32 feet to the Point of Beginning, lying and being in the City of Hialeah, Dade County Florida.

LESS

The West 2/5 of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 20, Township 53 South, Range 41 East Dade County, Florida, LESS the South 35 feet thereof for road purposes, and ALSO LESS the West 165 feet thereof, as said 165 feet is measured along the North and South lines of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of said Section 20.