ORDINANCE NO. 2014-03

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW NO FRONT SETBACK, WHERE 10 FEET ARE REQUIRED, FOR A DISTANCE OF 115.84 FEET TO ACCOMMODATE THE BUILDING FAÇADE TO THE NORTH, TO ALLOW A REAR SETBACK OF 4 FEET, WHERE 15 FEET ARE REQUIRED, FOR THE FIRST THREE LEVELS ONLY AND TO ACCOMMODATE THE GARAGE ACCESS RAMPS, TO ALLOW A STREET SIDE SETBACK OF 2.66 FEET, WHERE 10 FEET ARE REQUIRED, TO ACCOMMODATE A PORTION OF THE RETAIL SPACE AT THE SOUTHWEST CORNER, CONTRA TO HIALEAH CODE §§ 98-1630.3 (e)(1) AND 98-1630.3(e)(2). **PROPERTY LOCATED AT 2701 AND 2735 EAST 4 AVENUE, 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 13, 2013 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 hereby granted a variance permit to allow no front setback, where 10 feet are required, for a distance of 115.84 feet to accommodate the building façade to the north, to allow a rear setback of 4 feet, for the first three levels only and to accommodate the garage access ramps, and to allow a street side setback of 2.66 feet, where 10 feet are required, to accommodate a portion of the retail space at the southwest corner of the building, contra to Hialeah Code §§ 98-

1630.3(e)(1) and 98-1630.3(e)(2), which provide in pertinent part: "(e) *Setback requirements.* The minimum setbacks shall be as follows: (1) Front setback and street side setback. For the pedestal or base of a building, a minimum setback of ten feet, built-to-line, or as provided in the urban design plan...For the tower or middle of a building a minimum setback of 22 feet...(2) Interior side setback and interior rear setback. For the pedestal or base of a building, there is no minimum setback requirement, except that all property lines abutting low density or medium density residential districts shall provide a minimum setback of 15 feet." The property is located at 2701 and 2735 East 4 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOTS 6, 31, 32, 33, 34 AND 35, IN BLOCK 44-B, OF AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, AT PAGE 37, AS AMENDED BY AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 34, AT PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, TOGETHER WITH A 6 FOOT ALLEY LYING EAST AND ADJACENT THERETO, CLOSED PURSUANT TO HIALEAH, FLORIDA ORD. 1994-104 (November 15, 1994).

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 14 day of January, 2014

Isis Garcia-Martinez
Council President

Attest:

Marbelys L. Fatjo, Acting City Clerk

Approved on this 15 day of January, 2014

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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