ORDINANCE NO. 13-13

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW 20 PARKING SPACES, WHERE AT LEAST 27 ARE REQUIRED, OF WHICH 5 SPACES WILL BE ON STREET PARKING, ALLOW A 4.5 FOOT FRONT SETBACK, WHERE 20 FEET ARE REQUIRED, ALLOW NO REAR SETBACK, WHERE 15 FEET ARE REQUIRED, AND ALLOW 9.7% OF LANDSCAPED AREA, WHERE A MINIMUM 18% LANDSCAPED AREA IS REQUIRED, CONTRA TO HIALEAH CODE §§98-1115, 98-1117, 98-2189(7), 98-2192(b) AND 98-2233, ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT). **PROPERTY LOCATED AT 2464 – 2488 PALM 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 January 23, 2013, recommended approval of this ordinance; and

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 20 parking spaces, where at least 27 are required, of which 5 spaces will be on-street parking, allow a 4.5 foot front setback, where 20 feet are required, allow no rear setback, where 15 feet are required, and allow 9.7% of landscaped area, where a minimum 18% is required, contra to Hialeah Code §§98-1115, 98-1117, 98-2189(7), 98-2192(b) and 98-2233, which provide in pertinent part: "In the C-2 liberal retail commercial district, the front yard shall be the same as in the C-1 district." which is provided for in §98-1069(a) requiring that "In the C-1 restricted retail commercial district, setbacks on all retail property shall be 20 feet unless a setback is already

established by two or more buildings in the block"., "In the C-2 liberal retain commercial district, the rear yard shall be the same as in the C-1 district." which is provided for in §98-1071 requiring that "In the C-1 restricted retail commercial district, there shall be a rear yard of not less than 15 feet in depth", "*Commercial uses, not found elsewhere in this section.* One parking space for each 200 square feet of gross floor area of the floor with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area." and "The City Council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual" as modified and supplemented by the city landscape manual which provides in Table A at (E) Tree and lawn requirements by zoning classification, that a minimum 18% lawn area (pervious) shall be provided for properties classified as C-2., respectively. The property is located at 2464-2488 Palm Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOTS 10, 11, 12, 13 AND 14, IN BLOCK 159, OF TENTH ADDITION TO THE TOWN OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, AT PAGE 100, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

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 punished by 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 26th day of February, 2013.

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

Isis Garcia-Martinez
Council President

Attest:

Approved on this 27 day of February, 2013.

Marbelys L. Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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