ORDINANCE NO. 09-92

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A VOCATIONAL SCHOOL PURSUANT TO HIALEAH CODE §98-181(2)i, ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT). **PROPERTY LOCATED AT 3420 WEST 84 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 October 14, 2009, recommended approval of this ordinance; and

WHEREAS, the Petitioner proffered a declaration of restrictive covenants limiting the class size to 20 students and the number of staff to 4 for classes held during the hours of 7:00 a.m. and 5:00 p.m. from Monday through Friday, and increasing the class size to a maximum of 40 students and the number of staff to a maximum of 6 for classes held after 5:00 p.m. and on weekends, 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 vocational school pursuant to Hialeah Code §98-181(2)i., on property zoned C-2 (Liberal Retail Commercial District). The property is located at 3420 West 84 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

> A PORTION OF TRACT 11, OF CHAMBERS LAND COMPANY SUBDIVISION, OF THE NW ¼ OF SECTION 28, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS

RECORDED IN PLAT BOOK 2, AT PAGE 68, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT 11; THENCE N89°38'18"E ALONG THE SOUTH RIGHT-OF-WAY LINE OF WEST 84 STREET, HIALEAH, FLORIDA FOR A DISTANCE OF 164.88 FEET, THENCE S02°34'25"E FOR A DISTANCE OF 152.35 FEET TO A POINT; THENCE S87°25'35"W FOR A DISTANCE OF 164.75 FEET TO POINT ON THE WEST BOUNDARY LINE OF SAID TRACT 11; THENCE N02°34'25"W ALONG SAID WEST BOUNDARY LINE OF TRACT 11 FOR A DISTANCE OF 158.71 FEET TO THE POINT OF BEGINNING.

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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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 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 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, if submitted, 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 10th day of November, 2009.

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

Carlos Hernández
Council President

Attest:

Approved on this 17th day of November, 2009.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

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, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

CFN 2009R0842626
OR Bk 27092 Pgs 4082 - 4084; (3pgs)
RECORDED 11/23/2009 16:07:28
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by: City of Hialeah
Planning and Zoning Division
501 Palm Avenue, Second Floor
Hialeah. Florida 33010

DECLARATIONS OF RESTRICTIONS (CORPORATE)

This Declaration of Restrictions executed this 13th October, 2009, by Hialeah Lakes Office Park D & F, LLC, a Florida limited liability company "Owner(s)").

WITNESSETH:

WHEREAS, the undersigned, Hialeah Lakes Office Park D & F, LLC, a Florida limited liability company, is the fee simple owner of the following described property located in the City of Hialeah, Florida:

SEE EXHIBIT "A" ATTACHED HERETO

Property address: 3420 West 84th Street, Hialeah, Florida

NOW, THEREFORE, for good and valuable consideration, the undersigned owner(s) hereby covenant(s) and agree(s) as follows:

1. The use of the property, as a vocational school, shall be subject to the following conditions:

   (a) The number of students and staff, at the school, during the hours of 7:00 AM and 5:00 PM, Monday – Friday, shall be limited to twenty (20) and four (4), respectively; and

   (b) The number of students and staff, at the school, after 5:00 PM, and on weekends, shall limited to forty (40) and six (6), respectively.

2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land, specifically as to the school use only, and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in the Hialeah Charter.

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3. The use of the property shall be in compliance with all ordinances, regulations, codes and charter of the City of Hialeah and applicable state and federal law and laws and regulations of Miami-Dade County, Florida.

IN WITNESS WHEREOF, We have hereunto set our hands and seals at Miami Dade County, this 13 day of October, 2009.

Signed, sealed and ~~delivered~~ in the presence of:

Attest: _____
~~Corporate Secretary~~ WITNESS
MIGUEL FREIRE
Typed/Printed Name

_____
Witness
Typed/Printed Name SIUBY FLEITES

_____
Witness
Typed/Printed Name _____

CORPORATE NAME: HIALEAH PARKS OFFICE DTF, LLC

By: _____
President:
Adalberto M. Pasqual
Typed/Printed Name

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 13 day of October by Adalberto M. Pasqual, ~~as President,~~ and Managing Member, ~~as Secretary, of~~
(Name of Officer or Agent) (Name of Secretary)
Hialeah Parks Office Florida LLC. ~~corporation,~~ on behalf of the corporation.
(Name of Corporation) (State of Incorporation)
PARK DTF

They are personally known to me or have produced the following October 13, 2009 as identification and did (did not) take an oath and attested ~~to the truth~~ and accuracy of the representations contained herein.

_____
Signature of Notary

_____
Name of Notary ~~typed, printed,~~ or stamped
Commission No.

MIGUEL A. FREIRE
MY COMMISSION # DD 924520
EXPIRES: January 11, 2014
Bonded Thru Notary Public Underwriters

8890764_v1

EXHIBIT "A"

LEGAL DESCRIPTION

A portion of Tract 11, of "CHAMBERS LAND COMPANY SUBDIVISION", of the NW 1/4 of Section 28, Township 52 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2, at Page 68, of the Public Records of Miami-Dade County, Florida more particularly described as follows:

Commence at the Northwest corner of said Tract 11; thence N89°38'18"E along the South Right-of-Way line of West 84th Street, Hialeah, Florida for a distance of 164.88 feet, thence S02°34'25"E for a distance of 152.35 feet to a point; thence S87°25'35"W for a distance of 164.75 feet to point on the West Boundary line of said Tract 11; thence N02°34'25"W along said West Boundary line of Tract 11 for a distance of 158.71 feet to the Point of Beginning.

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