ORDINANCE NO. 2014-23

ORDINANCE GRANTING A SPECIAL USE PERMIT AND A CONDITIONAL USE PERMIT (CUP) TO ALLOW A DAYCARE ON PROPERTY ZONED R-1 PURSUANT TO HIALEAH CODE §98-181(2)h, ON CONDITION THAT THE DAYCARE USE IS CONTINGENT UPON THE CONTINUED OPERATION OF A HOUSE OF WORSHIP, AND GRANTING A VARIANCE PERMIT TO ALLOW 46 PARKING SPACES, WHERE 92 SPACES ARE REQUIRED, CONTRA TO HIALEAH CODE §98- 2189(8) ON PROPERTY ZONED R-1 (ONE FAMILY DISTRICT). **PROPERTY LOCATED AT 2600 EAST 8 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 February 25, 2014, 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 special use permit to allow the operation of a child day care facility on property zoned R-1 (One Family Residential).

Section 2: The below-described property is hereby granted a conditional use permit (CUP) to allow a child day care facility pursuant to Hialeah Code §98-181(2)h., on condition that the daycare use is contingent upon the continued operation of a house of worship, and is hereby granted a variance permit to allow 46 parking spaces, where 92

spaces are required, contra to Hialeah Code §98-2189(8), which provides in part: "Off-street parking shall be provided in accordance with the following minimum standards...(8) *Day care centers, child care facilities, kindergarten and preelementary schools.* One parking space for each 400 square feet of gross floor area.", on property zoned R-1 (One Family District). The property is located at 2600 East 8 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

> THE WEST 20 FEET OF LOTS 15 AND 16 AND ALL OF LOTS 17, 18, 19, 20, 21, 22, 23 AND 24, IN BLOCK 40B, OF 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, AND A 6-FOOT ALLEY LYING NORTH AND ADJACENT THERETO.

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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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 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 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 25 day of March, 2014.

Isis Garcia Martinez
Council President

Attest:

Approved on this 31 day of March, 2014.

Marbelys R. Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

Ordinance was adopted by a 5-1-1 vote with Council Members. Caragol. Cue-Fuente, Garcia-Martinez, Hernandez and Lozano voting "Yes", Council Member Casáls-Muñoz voting "no", and Council Vice President Gonzalez absent.

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