ORDINANCE NO. 2014-37

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A MOTEL WITH 43 ROOMS AND ALLOW A HOTEL WITH 34 ROOMS, PURSUANT TO HIALEAH CODE §98-181(2)g., REZONING LOTS 33 AND 34 FROM R-3 (MULTIPLE FAMILY DISTRICT) TO P (PARKING DISTRICT) TO BE USED FOR OVERFLOW PARKING, GRANTING A VARIANCE PERMIT TO ALLOW A FRONT SETBACK FROM OKEECHOBEE ROAD OF 18.5 FEET, WHERE A MINIMUM OF 25 FEET ARE REQUIRED, AND ELIMINATING A WEST SIDE STREET SETBACK ON SOUTHEAST 7 AVENUE, WHERE A MINIMUM OF 15 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §98-1834(a)(1) AND §98-1834(a)(3), ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT). **PROPERTY LOCATED AT 699 EAST OKEECHOBEE ROAD, 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 Petitioner, in support of its applications, submitted renderings, drawings, pictures and made representations before the Planning and Zoning Board to illustrate generally the landscaping, lighting, signs and architectural design of the proposed hotel-motel and overflow parking facility;

WHEREAS, the Petitioner proffered to build a privacy wall along the perimeter of the hotel/motel and overflow parking facility lot to be landscaped along the exterior, limit entry to the hotel/motel and overflow parking facility only on Southeast 7 Avenue, and improve the site in substantial conformity with the renderings, drawings, pictures and representations made; and

WHEREAS, the Planning and Zoning Board, at its meeting of May 14, 2014, 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 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 motel with 43 rooms and allow a hotel with 34 rooms, pursuant to Hialeah Code §98-181(2)g. and is hereby granted a variance permit to allow a front setback from Okeechobee Road of 18.5 feet, where a minimum of 25 feet are required, and to eliminate a west side street setback on Southeast 7 Avenue, where a minimum of 15 feet are required, contra to Hialeah Code §98-1834(a)(1) and §98-1834(a)(3), which provide in part: "(a) For hotels and motels, setback requirements shall be as follows: (1) *Front setback.* For structures not exceeding 35 feet in height, the minimum setback shall be 25 feet...(3) *Interior setback and side street setback.* Minimum setback for all structures shall be determined by a 65-degree line projected from the interior side property line upwards towards the center of the site; provided, however, that no structure shall be permitted to be closer than ten feet to the interior side property lines or 15 feet to the side street property line.", on property zoned C-2 (Liberal Retail Commercial District). The property is located at 699 East Okeechobee Road, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOTS 1 THROUGH AND INCLUDING 4 AND LOTS 55 THROUGH AND INCLUDING 67, IN BLOCK 2, OF HIALEAH PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, AT PAGE 22, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: The below-described property is hereby rezoned from R-3 (Multiple Family District) to P (Parking). The property is located at 699 East Okeechobee Road, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOTS 33 AND 34, IN BLOCK 3, OF HIALEAH PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, AT PAGE 22, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 4: Repeal of Ordinances in Conflict.

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

Section 5: 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 6: 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 7: 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 8: 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 24 day of June, 2014.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 02 day of July, 2014.

Marbelys R. Fatjo, City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

Lorena E. Bravo, Acting City Attorney

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Ordinance was adopted by a (6-1) vote with Council Members, Caragol, Cue-Fuente, Cásals-Munoz, Garcia-Martinez, Hernandez and Lozano voting "Yes", Council Vice President Gonzalez voting "no".

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