ORDINANCE NO. 2015-60

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A K-12 SOUTH FLORIDA AUTISM CHARTER SCHOOL ON PROPERTY ZONED BDH (BUSINESS DEVELOPMENT DISTRICT HIALEAH HEIGHTS). **PROPERTY LOCATED AT A VACANT PARCEL LYING NORTH OF NORTH WEST 162 STREET, AND EAST OF NORTH WEST 99 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 August 26, 2015, recommended approval of this ordinance; and

WHEREAS, the petitioner proffered a declaration of restrictive covenants limiting the maximum student population to 400 students, and prohibiting any student from driving to the school or parking his or her vehicle at school, 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 K-12 South Florida Autism Charter School, pursuant to Hialeah Code §98-181(2) i, which provides in pertinent part: " (2) CUP conditional use permit shall be used in connection with uses that are permitted within the zoning district that are deemed to have extraordinary impacts with the surrounding neighborhood or area. The following uses would require a conditional use permit: (i) Private schools, charter schools, vocational and technical schools, and post-secondary education facilities, colleges and universities.", on property zoned BDH (Business Development District Hialeah Heights). The property is located at a vacant parcel lying North of North West 162 Street, and East of North West 99 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE WEST 660 FEET OF TRACT 8 IN SECTION 17, TOWNSHIP 52 SOUTH, RANGE 40 EAST, OF FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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 13th day of October, 2015.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 16 day of October, 2015.

Marbelys Fatjo, City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

Lorena E. Bravo, City Attorney

DDP

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

Ordinance was adopted by a 6-0 vote with Council Members, Casals-Munoz, Caragol, Gonzalez, Hernandez, Cue-Fuente, and Lozano voting "Yes", and Council President Garcia-Martinez not present in Council Chambers during roll call.