

ORDINANCE NO. 2020-063

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN EXISTING K-5 GRADE SCHOOL WITH AN ENROLLMENT OF 121 STUDENTS TO EXPAND TO 144 STUDENTS WITHIN A FACILITY THAT ALSO INCLUDES A DAYCARE WITH AN ENROLLMENT OF 22 STUDENTS AND ALLOW THE DAY CARE TO EXPAND TO 54 STUDENTS, PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-181; AND GRANTING A VARIANCE PERMIT TO ALLOW THE EXPANSION ON THE NONCONFORMING SITE WITH 98 PARKING SPACES, WHERE 118 PARKING SPACES ARE REQUIRED; ALLOW A 7.30 FOOT FRONT SETBACK ON WEST 49 STREET, WHERE 20 FEET ARE REQUIRED; ALLOW A 3 FOOT REAR SETBACK FOR DUMPSTER ENCLOSURE, WHERE 10 FEET ARE REQUIRED; ALLOW 12 FOOT REAR SETBACK ON WEST 47 PLACE FOR EXISTING BUILDING, WHERE 15 FEET ARE REQUIRED; AND ALLOW 10.6% PERVIOUS AREA, WHERE 18% IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 78-108(c)(1), 98-1069, 98-1071, 98-1115, 98-1117, 98-2189(8) and (9); AND THE LATEST EDITION OF THE HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015 PARAGRAPH (E) TREE AND LAWN REQUIREMENTS BY ZONING CLASSIFICATION, TABLE A. **PROPERTY LOCATED AT 1290 AND 1300 WEST 49 STREET, ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT)**. 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, 2020 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a Declaration of Restrictions, 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 below described property is granted a conditional use permit (CUP) to allow an existing K-5 grade school with an enrollment of 121 students to expand to 144 students within a facility that also includes a daycare with an enrollment of 22 students and allow the daycare to expand to 54 students, pursuant to Hialeah Code of Ordinances § 98-181.

Section 2. The below described property is granted a variance permit to allow the expansion on the nonconforming site with 98 parking spaces, where 118 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(8) and (9) that provides: (8) “Day care centers, child care facilities, kindergarten and preelementary schools. One parking space for each 400 square feet of gross floor area. Safe and convenient ingress and egress to the center, facility or school, including a dropoff area, is required.”, and (9) that provides: “Elementary, middle and high schools, post-secondary schools, colleges, vocational or trade schools. One parking space for each 200 square feet of gross floor area of the floor with the greatest area and one parking space for each 400 square feet of all other floors. Housing facilities on college campuses must provide off-street parking of one parking space for every two residents.”; allow a 7.30 foot front setback on West 49 Street, where 20 feet are required, contra to Hialeah Code of Ordinances § 98-1115 that provides: “Front yard required. In the C-2 liberal retail commercial district, the front yard shall be the same as in the C-1 district.”, and Hialeah Code of Ordinances § 98-1069 that as relevant provides: “Front yard required. (a) In the C-1 restricted retail commercial district, setbacks on all retail commercial property shall be 20 feet...”; allow a 3 foot rear setback for dumpster enclosure, where 10 feet are required, contra to Hialeah Code of Ordinances § 78-108(c)(1) that provides: “Location of enclosure. Enclosures shall be located no less than ten feet from any street right-of-way and shall be located as to facilitate safe vehicular movement and to be convenient for users and accessible to collectors.”; allow 12 foot rear setback on West 47 Place for existing building, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-1117 that provides: “Rear yard required. In the C-2 liberal retail commercial district, the rear yard shall be the same as in the C-1 district.”, and Hialeah Code of Ordinances § 98-1071 that as relevant provides: “Rear yard required. In the C-1 restricted retail commercial district, there shall be a rear yard of not less than 15 feet in depth...”; and allow 10.6% pervious area, where 18% is the minimum required, contra

to the latest edition of the Hialeah Landscape Manual Dated July 9, 2015 Paragraph (E) Tree and lawn requirements by zoning classification, Table A that provides: “Land Use or Zoning District...Minimum Pervious Area C-2 Percent of Net Lot area 18%.”

Section 3: Property located at 1290 and 1300 West 49 Street, Hialeah, Florida and legally described as follows:

A portion of the North ½ of the North ½ of Section 2, Township 53 South, Range 40 East, and a portion of Tract A of Replat of Rose Lawn Subdivision, as recorded in Plat Book 50, at Page 99, of the Public Records of Miami-Dade County, Florida. Being more particularly described as the North 199.93 feet of the South 499.86 feet of the North 1707.09 feet of the West 99.97 feet of the West 174.95 feet of the East 709.81 feet of Section 2, Township 53 South, Range 40 East, Miami-Dade County, Florida. All distances are as measured at right angles to the North and East Lines of said Section 2; and

A portion of the North ½ of the North ½ of Section 2, Township 53 South, Range 40 East, and a portion of Tract “A”, of Replat of Rose Lawn Subdivision, as recorded in Plat Book 50, at Page 99, of the Public Records of Miami-Dade County, Florida, being more particularly described as the South 499.86 feet of the North 1707.09 feet of the West 199.84 feet of the East 909.75 feet of Section 2, Township 53 South, Range 40 East, 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 or declaration of restrictions, 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.

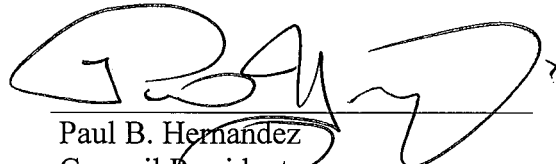
Section 6: Severability Clause.

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.

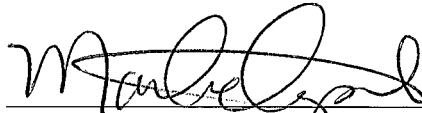
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 27 day of October, 2020.


Paul B. Hernandez
Council President

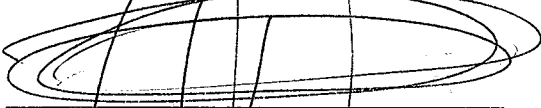
Attest:

Approved on this 10 day of November, 2020.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 5-0-2 vote with Councilmembers, Cuenca-Fuente, Garcia-Roves, Hernandez, Tundidor and Zogby voting "Yes" and with Council Member Perez not present during roll call and Council Vice President De la Rosa absent.