

**ORDINANCE NO. 2020-071**

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) AND CONDITIONAL USE PERMIT (CUP) TO ALLOW A CHILD DAYCARE PURSUANT TO ORDINANCES §§ 98-161 AND 98-181 AND GRANTING A VARIANCE PERMIT TO ALLOW INTERIOR WEST SIDE SETBACK OF 5 FEET, WHERE 7.5 FEET IS THE MINIMUM REQUIRED AND ALLOW REAR SETBACK OF 5 FEET, WHERE 20 FEET IS THE MINIMUM REQUIRED FOR THE PROPOSED CHILD DAYCARE BUILDING; CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-501 AND 98-502. **PROPERTY LOCATED AT 871 EAST 9 STREET, HIALEAH, ZONED R-1 (ONE-FAMILY 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 October 14, 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 special use permit (SUP) and conditional use permit (CUP) to allow a child daycare pursuant to Hialeah Code of Ordinances § 98-161 and § 98-181.

**Section 2:** The below described property is granted variance permit to allow an interior west side setback of 5 feet, where 7.5 feet is the minimum required, contra to Hialeah Code of Ordinances § 98-501 that as relevant provides: “In the R-1 one-family district, there shall be side yards...no more than 7½ feet in width”; and allow a rear setback of 5 feet, where 20 feet is the

minimum required, contra to Hialeah Code of Ordinances § 98-502 that as relevant provides: “In the R-1 one-family district every principal residential building shall provide a rear yard of a minimum depth of 20 feet to a rear lot line or front of accessory building...”.

**Section 3:** Property located at 871 East 9 Street, Hialeah, zoned R-1 (One-Family District) and legally described as follows:

Lots 13, Block 27 of SUN-TAN VILLAGE SECTION 4, according to the Plat thereof, as recorded in Plat Book 50 at Page 24, 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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.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 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.

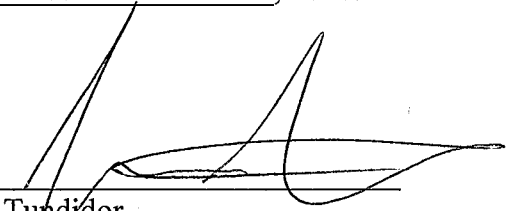
**Section 6: Severability Clause.**

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 10 day of November, 2020.

  
\_\_\_\_\_  
Jesus Tundidor  
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:

  
\_\_\_\_\_  
Florena E. Bravo, City Attorney

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