

**ORDINANCE NO. 2021- 141**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA GRANTING A VARIANCE PERMIT TO ALLOW SINGLE COMMERCIAL USE, WHERE MIXED COMMERCIAL/RESIDENTIAL USE IS REQUIRED; ALLOW 2 FEET FRONT SET SETBACK FOR ACCESS RAMP AND DECORATIVE CANOPY ON THE SECOND FLOOR ENCROACHING INTO THE FRONT SETBACK; AND ALLOW 3 PARKING SPACES, WHERE 7 PARKING SPACES ARE REQUIRED. ALL CONTRA TO THE HIALEAH CODE OF ORDINANCES §§ 98-877, 98-881(1)a., AND 98-2189(4)(c). **PROPERTY LOCATED AT 402 EAST 13 STREET, HIALEAH, ZONED CR (COMMERCIAL-RESIDENTIAL 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 November 10, 2021, 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 below-described property is hereby granted a variance permit to allow single commercial use, where mixed commercial/residential use is required; contra to Hialeah Code of Ordinances § 98-877 that as relevant provides: “No building or land shall be used and no building shall be hereinafter erected, constructed, reconstructed or structurally altered that is designated, arranged or intended to be used or occupied for any purpose, unless it provides residential uses and one or more of the principal uses ...; allow 2 feet front setback for access ramp and decorative canopy on the second floor encroaching into the front setback, contra to Hialeah Code of Ordinances § 98-881(1)a. that as relevant provides: “Front and street side setbacks:

Required front and street side setbacks are five feet.”; allow 3 parking spaces, where 7 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(4)c. that provides: “*Commercial uses, not found elsewhere in this section.* One parking space for each 550 square feet of gross floor area.” Property located at 402 East 13 Street, Hialeah, zoned CR (Commercial Residential District) and legally described as follows:

Lot 1, Block 5E of “EIGHTH ADDITION TO HIALEAH”, according to the Plat thereof, as recorded in Plat Book 9, at Page 11, of the Public Records of Miami-Dade County, Florida.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: 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.

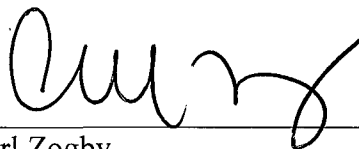
**Section 4: Severability Clause.**

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 5: Effective Date.**

This ordinance shall become effective when passed by the City Council of the City of Hialeah, Florida, upon signature of the Mayor of the City of Hialeah 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.

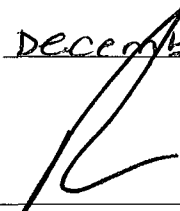
PASSED and ADOPTED this 14 day of December, 2021.

  
\_\_\_\_\_  
Carl Zogby  
Council President

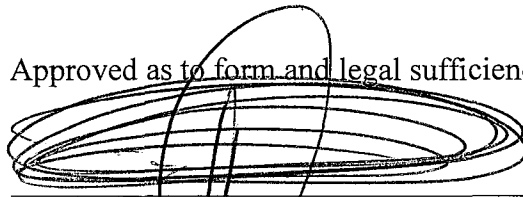
Attest:

Approved on this 21 day of December, 2021.

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

  
\_\_\_\_\_  
Mayor Esteban Bovo, Jr.

Approved as to form and legal sufficiency:

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

Ordinance was adopted by 4-0-3 vote with Councilmembers, Calvo, Garcia-Roves, Rodriguez and Zogby voting "Yes" and with Council Vice President Perez, Council Member De la Rosa and Council Member Tundidor absent.