

ORDINANCE NO. 2021- 146

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN ELEMENTARY SCHOOL FOR A MAXIMUM OF 23 STUDENTS PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-181; AND GRANTING A VARIANCE PERMIT TO ALLOW 13 PARKING SPACES, WHERE 23 PARKING SPACES ARE REQUIRED; CONTRA TO HIALEAH CODE OF ORDINANCES § 98-2189(9); ALLOW A 1.4% PERVIOUS AREA, WHERE 18% IS REQUIRED; ALLOW A 2 FOOT LANDSCAPE BUFFER, WHERE A 7 FOOT LANDSCAPE BUFFER IS REQUIRED; AND ALLOW NO TREES AND NO SHRUBS, WHERE 8 TREES AND 80 SHRUBS ARE REQUIRED, SUBJECT TO MITIGATION PURSUANT TO § 98-2233; ALL CONTRA TO THE CITY OF HIALEAH LANDSCAPE MANUAL, LATEST EDITION DATED JULY 9, 2015, ¶ (E) TREE AND LAWN REQUIREMENTS BY ZONING CLASSIFICATION, TABLE A, ...MINIMUM PERVIOUS AREA...PERCENT OF NET LOT AREA, ¶ (D)(7), PARKING LOT BUFFERS, AND ¶ (G) LANDSCAPE LEGEND INFORMATION REQUIRED TO BE PERMANENTLY AFFIXED TO PLAN, SUBPART TREES AND SHRUBS. PROPERTY ZONED C-1 (RESTRICTED RETAIL COMMERCIAL DISTRICT); **PROPERTY LOCATED AT 375 EAST 49 STREET, HIALEAH, FLORIDA.** REPEALING ALL 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 May 15, 2019, recommended approval of this ordinance; and

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 elementary school for a maximum of 23 students pursuant to Hialeah Code of Ordinances § 98-181.

Section 2: The below described property is granted a variance permit to allow 13 parking spaces, where 23 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(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.*”; allow a 1.4% pervious area, where 18% is required, contra to the City of Hialeah Landscape Manual, latest edition dated July 9, 2015, ¶ (E) Tree and lawn requirements by zoning classification, Table A, that provides in relevant part: “...MINIMUM PERVIOUS AREA C-1 Percent of Net Lot area 18%.”; allow a 2 foot landscape buffer, where a 7 foot landscape buffer is required, contra to the City of Hialeah Landscape Manual, latest edition dated July 9, 2015, ¶ (D)(7) that provides: “ Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3)-foot high wall within a seven (7)-foot landscape strip incorporating said planting and/or wall on private buffer. The seven (7)-foot landscape buffer may be reduced subject to the inclusion of improved design features on the site upon approval of the Planning and Zoning Official.”; and allow no trees and no shrubs, where 8 trees and 80 shrubs are required, contra to the City of Hialeah Landscape Manual, latest edition dated July 9, 2015 ¶ (G), Landscape Legend Information Required to be Permanently Affixed to Plan, subpart trees and shrubs that require 8 trees and 80 shrubs, subject to mitigation as may be required pursuant to § 98-2233. Property located at 375 East 49 Street, Hialeah, Florida, and legally described as follows:

The East ½ of Lot 5 and all of Lots 6 and 7, Block 2, of “COBO’S FRONTON SUBDIVISION NO. ONE”, according to the Plat thereof, as recorded in Plat Book 18, at Page 20, of the Public Records of Miami-Dade County, Florida, less the South 7 feet for right-of-way.

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 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.

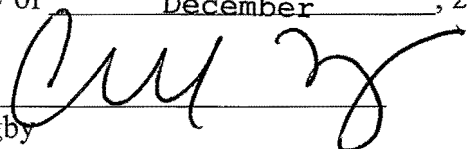
Section 5: Severability Clause.

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 6: 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 14 day of December, 2021.



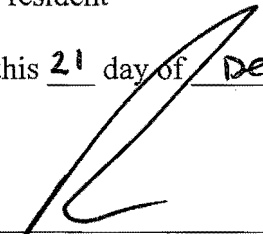
Carl Zogby
Council President

Attest:

Approved on this 21 day of December, 2021.

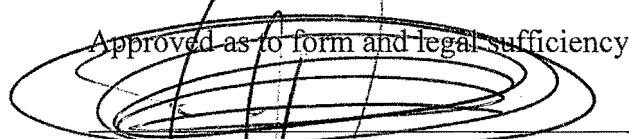


Marbelys Fatjo, City Clerk



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.