

ORDINANCE NO. 2022-060

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA GRANTING A VARIANCE PERMIT TO ALLOW 17 PARKING SPACES, WHERE 25 PARKING SPACES ARE REQUIRED; AND ALLOW A 1.64-FOOT LANDSCAPE BUFFER FOR A DISTANCE OF 90 FEET FACING WEST 19 COURT, WHERE A 7 FOOT LANDSCAPE BUFFER IS REQUIRED PROPERTY TO BE DEVELOPED AS A FAST FOOD RESTAURANT ON AN OUTPARCEL; ALL CONTRA TO HIALEAH CODE OF ORDINANCES § 98-2189(7) AND CONTRA TO THE LATEST EDITION OF THE CITY OF HIALEAH LANDSCAPE MANUAL DATED JULY 9, 2015, PARAGRAPH D, SUBSECTION 7. **PROPERTY LOCATED AT 1950 WEST 49 STREET, HIALEAH, ZONED C-3 (EXTENDED LIBERAL 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 May 25, 2022 recommended approval of this ordinance; and

WHEREAS, the item is approved with the condition that a safety barrier is provided between the parking lot and the sidewalk on West 19th Court, which the developer proffered shall be satisfied.

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 17 parking spaces, where 25 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(7) that provides: “Commercial uses, not found elsewhere in this section. One parking space for each 200 square feet of gross floor area of the floor with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area. Parking spaces under the building shall not be considered in the calculation of floor areas.”; and allow a 1.64-foot landscape buffer for a distance of 90 feet facing West 19 Court, where a 7-foot landscape buffer is required, and providing for the construction of a safety barrier between the parking lot and sidewalk contra to the latest edition of the City of Hialeah Landscape Manual dated July 9, 2015, Paragraph D, Subsection 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 landscaped strip incorporating said planting and/or wall on private property. 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.” Property located at 1950 West 49 Street, Hialeah, zoned C-3 (Extended Liberal Commercial District) and legally described in attached Exhibit “A”.

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.

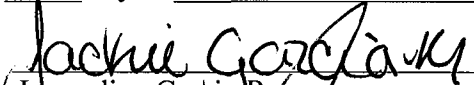
Section 4: Severability Clause.

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 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.

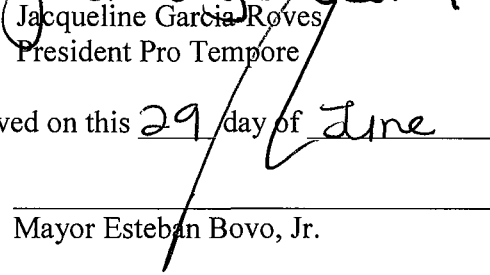
PASSED and ADOPTED this 28 day of June, 2022.


Jacqueline Garcia Roves
President Pro Tempore

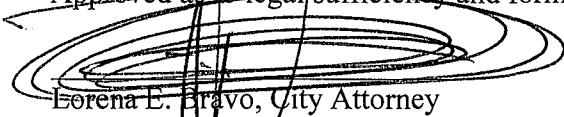
Attest:


Marbelys Fatjo, City Clerk

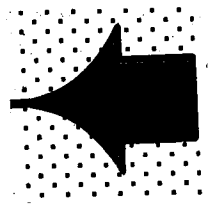
Approved on this 29 day of June, 2022.


Mayor Esteban Bovo, Jr.

Approved as to legal sufficiency and form:


Eorena E. Bravo, City Attorney

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Ordinance was adopted by 5-0-2 vote with Councilmembers Calvo, Garcia-Roves, Casals-Munoz, Rodriguez, and Tundidor voting "Yes" and with Council President Zogby and Council Vice President Perez absent.

THE FOREGOING ORDINANCE OF THE CITY OF MIAMI WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 168.041 PRIOR TO FINAL READING.

EXHIBIT "A"
LEGAL DESCRIPTION

TRACT "A" OF HIALEAH INN TRACT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 99, AT PAGE 62 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA LESS PARCEL 101, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 101:

A PARCEL OF LAND LYING WITHIN THE NW 1/4 OF SECTION 2, TOWNSHIP 53 SOUTH, RANGE 40 EAST, DADE COUNTY, FLORIDA, BEING IN TRACT "A" OF HIALEAH INN TRACT, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 99, AT PAGE 62, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "A" WHICH IS ON THE SOUTHERLY RIGHT OF WAY LINE OF WEST 49TH ST. (N.W. 103RD ST.) CITY OF HIALEAH AS SHOWN ON SAID PLAT; THENCE NORTH $89^{\circ}39'41''$ EAST, A DISTANCE OF 9.83 FEET, TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,859.86 FEET THROUGH A CENTRAL ANGLE OF $02^{\circ}59'39''$, FOR AN ARC DISTANCE OF 97.19 FEET, TO THE POINT OF COMPOUND CURVATURE WITH A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST; THENCE FROM A TANGENT BEARING OF SOUTH $87^{\circ}20'40''$ EAST, RUN EASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET THROUGH A CENTRAL ANGLE OF $85^{\circ}33'16''$, FOR AN ARC DISTANCE OF 37.33 FEET TO THE POINT OF TANGENCY WITH THE WESTERLY RIGHT OF WAY LINE OF WEST 19TH COURT, AS SHOWN ON SAID PLAT; THENCE $S01^{\circ}47'24''$ EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 15.35 FEET, TO THE POINT OF INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST; THENCE FROM A TANGENT BEARING OF NORTH $44^{\circ}14'24''$ WEST, RUN NORTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 42.00 FEET THROUGH A CENTRAL ANGLE OF $44^{\circ}40'57''$, FOR AN ARC DISTANCE OF 32.75 FEET, TO THE POINT OF REVERSE CURVATURE WITH A CIRCULAR CURVE, CONCAVE TO THE NORTH; THENCE FROM A TANGENT BEARING OF NORTH $88^{\circ}55'21''$ WEST, RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 6,987.13 FEET THROUGH A CENTRAL ANGLE OF $00^{\circ}49'48''$, FOR AN ARC DISTANCE OF 101.22 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT LINE ALSO BEING THE WESTERLY LINE OF SAID TRACT "A"; THENCE RUN NORTH $01^{\circ}47'24''$ WEST, ALONG SAID WESTERLY LINE, A DISTANCE OF 26.13 FEET, TO THE POINT OF BEGINNING.

AND FURTHER LESS ALL RIGHTS OF ACCESS, EGRESS, INGRESS, LIGHT, AIR AND VIEW BETWEEN THE TRACT "A" OF HIALEAH INN TRACT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 99, AT PAGE 62, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND THE EAST FRONTAGE ROAD OF THE PALMETTO FEEDER ROAD (STATE ROAD NO. 826) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 87260-2103, AS RECORDED IN ROAD MAP BOOK 60, AT PAGE 91, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, ALSO KNOWN AS WEST 20TH AVENUE (CITY OF HIALEAH), ALONG THE FOLLOWING DESCRIBED LINE:

BEGIN AT THE SOUTHWEST CORNER OF SAID TRACT "A"; THENCE RUN NORTH $01^{\circ}47'24''$ WEST, ALONG THE WESTERLY LINE OF SAID TRACT "A" ALSO BEING THE EASTERLY RIGHT OF WAY LINE OF THE ABOVE MENTIONED FRONTAGE ROAD, FOR A DISTANCE OF 605.48 FEET TO THE POINT OF TERMINATION.