

ORDINANCE NO. 2017-097

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO RO (RESIDENTIAL OFFICE DISTRICT) ACCORDING TO THE SITE PLAN PREPARED BY PABLO R. GARCIA, CIVIL ENGINEER, DATED JULY 24, 2017; AND GRANTING A VARIANCE PERMIT TO ALLOW A REAR SETBACK OF 44.5 FEET, WHERE 45 ARE REQUIRED; ALLOW A PERVIOUS AREA OF 15.4 PERCENT, WHERE 20 PERCENT IS REQUIRED; AND ALLOW A HANDICAPPED PARKING SPACE AT THE FRONT OF THE PROPERTY, WHERE ALL PARKING IS REQUIRED IN THE REAR; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-781(2) AND (5), 782 AND 98-2189(20).; **PROPERTY LOCATED AT 420 WEST 65 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 October 25, 2017 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a Declaration of Restrictive Covenants to, among other things, limit the business in the property to pediatric dentistry, and ensure adequate parking by limiting the number of dentists to one and schedule only two appointments per hour, and to ameliorate the impacts to the surrounding residential properties, 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 hereby rezoned from R-1 (One Family District) to RO (Residential Office District) according to the site plan prepared by Pablo R.

Garcia, Civil Engineer, dated July 24, 2017; and granted a variance permit to allow a rear setback of 44.5 feet, where 45 are required, contra to § 98-781(2) that provides: "Sec. 98-781. - Setbacks. (2) Rear setback. There shall be a minimum rear setback of 45 feet from the property line."; allow a pervious area of 15.4 percent, where 20 percent is required, contra to Hialeah Code of Ordinances § 98-781(5) that provides: "Sec. 98-781(5). - Setbacks. (5) Pervious area. The property shall have a minimum of 20 percent of the lot area as pervious or green area."; allow a handicapped parking space at the front of the property, where all parking is required in the rear, contra to Hialeah Code of Ordinances § 98-782 that provides: "Sec. 98-782. - Parking. In the RO residential office district ... All parking shall be located in the rear of the property. Parking located in the front of the property shall only be provided by the grant of a variance permit."; and allow 5 parking spaces, where 7 parking spaces are required, contra to § 98-2189(20) that provides: "Residential-office. One parking space for each 200 square feet of gross floor area." Property located at **420 West 65th Street**, Hialeah, Florida, and legally described as follows:

Lot 7, Block 54, Fourth Addition to Palm Springs Section E,
According to the Plat thereof, as recorded in Plat Book 57,
Page 73, 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.

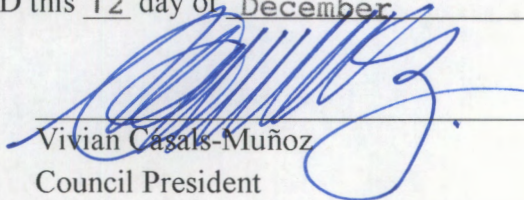
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council 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.

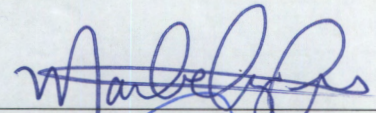
PASSED and ADOPTED this 12 day of December, 2017.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



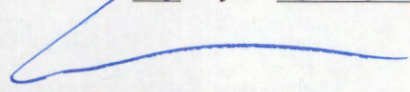
Vivian Casals-Muñoz
Council President

Attest:



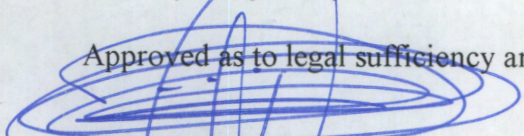
Marbelys Fatjo, City Clerk

Approved on this 21 day of December, 2017.



Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

Ordinance was adopted by a (7-0) vote with Councilmembers, Caragol, Zogby, Cue-Fuente, Casáls-Munoz, Hernandez, Garcia, and Lozano voting "Yes".