

ORDINANCE NO. 2013-77

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE USE OF A COOKING OIL RECYCLING PLANT WHERE OIL, WATER AND OTHER LIQUID AND SEDIMENT IS SOLD FOR REUSE ON PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW ALL EXISTING PARKING SPACES TO BACK-OUT IN THE STREET, WHICH IS ONLY ALLOWED IN LOW DENSITY RESIDENTIAL DISTRICTS OR AREAS, AND WAIVE THE REQUIREMENTS OF THE MIAMI-DADE LANDSCAPE MANUAL AS MODIFIED AND SUPPLEMENTED BY THE HIALEAH LANDSCAPE MANUAL, TO WIT: 7-FOOT LANDSCAPE BUFFER BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, ONE TREE PER 35 LINEAR FEET OF RIGHT-OF-WAY PERIMETER AND ONE TREE FOR EACH 80 SQUARE FEET OF LANDSCAPED AREA, CONTRA TO HIALEAH CODE §§ 98-2186 AND 98-2197(a). **PROPERTY LOCATED AT 4480 EAST 11 AVENUE, HIALEAH, FLORIDA.** 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 City Council of the City of Hialeah, Florida at its regular meeting of September 24, 2013 directed the Law Department to provide this ordinance overriding the Planning and Zoning Board's recommendation of denial at its regular meeting of September 11, 2013; and

WHEREAS, the Petitioner has entered into a Declaration of Restrictive Covenants, which shall be part hereof and attached hereto, wherein Petitioner has proffered to limit the entrance and exit of large storage tankers from removing oil, water or other liquid from the premises to only hours from 6:30 pm to 6:30 am on the average of approximately twice weekly; proffered to offer landscaping according to a City-approved landscaping plan; and proffered to prohibit direct deliveries of cooking oil from customers to the premises; and providing access from a neighboring property for additional parking.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City accepts the Declaration of Restrictive Covenants, which is set forth herein and made a part hereof as Exhibit “1”.

Section 2: A special use permit (SUP) is hereby granted on the property described herein zoned M-1 (Industrial District) to allow the use of a cooking oil recycling plant where oil, water and other liquid and sediment is sold for reuse and a variance permit is hereby granted to allow all existing parking spaces to back-out in the street, which is only allowed in low density residential districts or areas, and waive the requirements of the Miami-Dade Landscape Manual as modified and supplemented by the Hialeah Landscape Manual, to wit: 7-foot landscape buffer between the off-street parking and the right-of-way, one tree per 35 linear feet of right-of-way perimeter and one tree for each 80 square feet of landscaped area, contra to Hialeah Code §§ 98-2186 and 98-2197(a), which provides in pertinent part: “Backout parking shall be allowed in low density residential districts or areas. “ and “Off-street parking areas shall be landscaped according of the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular areas, as modified and supplemented by the city landscape manual, . . . “, respectively. Property located at 4480 East 11 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 29 AND 30, BLOCK 28, INGLESIDE PARK HI-A-LE-AH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 31, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

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: Additional Penalties on Change of Use.

Any change of the special use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning designation without the benefit of the special use.

Section 6: Severability Clause.

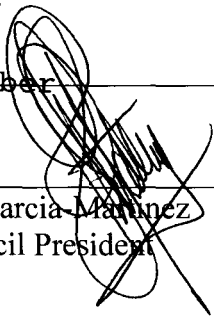
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 22 day of October, 2013.

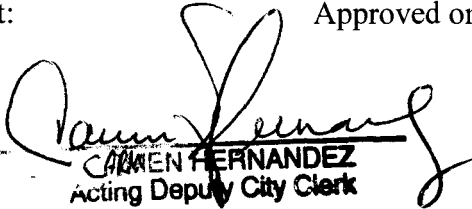


Isis Garcia-Martinez
Council President


Attest:

Approved on this 30 day of October, 2013.

ATTEST.



CARMEN HERNANDEZ
Acting Deputy City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0-1 vote with Council Members, Caragol, Cue-Fuente, Garcia-Martinez, Hernandez and Lozano voting "Yes", Council Members Casals-Munoz voting "no".