ORDINANCE NO. 1387

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 4, DIVISION 3, ENTITLED "NON-RESIDENTIAL DISTRICTS," SPECIFICALLY AT SECTION 4-302 ENTITLED "USES PERMITTED", TO ESTABLISH "RETAIL SHOWROOM, AUTOMOBILE" AS A SPECIAL EXCEPTION USE IN THE C-2BW ZONING DISTRICT, TO FOSTER ECONOMIC GROWTH, AND AMENDING ARTICLE 7, AT SECTION 7-101 ENTITLED "DEFINITIONS", TO PROVIDE FOR A DEFINITION OF "RETAIL SHOWROOM, AUTOMOBILE," AS WELL AS ESTABLISHING CLEAR REGULATIONS FOR SAID USE, CONSISTENT WITH THE INTENT OF THE NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, on April 28, 2009, the Mayor and City Council adopted the City of North Miami ("City") Land Development Regulations under Chapter 29 of the City's Code of Ordinances ("LDRs"); and

WHEREAS, applicable provisions of the LDRs are calculated to protect and regulate commercial use of neighborhoods, as reflected in the various nonresidential zoning districts within the City, consistent with the intent of the City Comprehensive Plan ("Comprehensive Plan"); and

WHEREAS, Policy 9.4.6 of the Comprehensive Plan, further requires that the City "create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry"; and

WHEREAS, Article 7 of the LDRs entitled "Definitions," currently includes a definition for the term 'Retail, Sales, and Services' which allows for "a use, the principle use or purpose of which is the sale of primarily new goods, products, materials, or services directly to the consumer, including the sale of principally new automobiles involving the outdoor display of a maximum of twenty (20) automobiles of which no more than thirty (30) percent shall be

pre-owned", the latter being an 'auto boutique' type of use and not including a service component, as is proposed here; and

WHEREAS, BRAC Holdings, Inc. ("Applicant"), who owns and operates a Volvo brand auto dealership ("Dealership") in the City of Miami Gardens, Florida, desires to relocate the Dealership to the City, at a property zoned C-2BW and situated at 12550 Biscayne Boulevard ("Subject Property"), in order to establish Volvo's fist indoor retail automobile showroom use, with a service component that is not currently established as a use category in the LDRs; and

WHEREAS, the Applicant proposes to amend Section 4-302 and Section 7-101 of the LDRs in order to establish a new special exception use and definition called "*Retail Showroom Automobile*", dedicated solely to the indoor display of new automobiles for sale/lease, with the ability to service and repair vehicles made by Applicant's licensed manufacturer, onsite; and

WHEREAS, City administration believes the proposed request is beneficial to facilitate the relocation of a flagship commercial brand to the City and in so doing, will encourage business investment, create new employment and further increase the City's tax base; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on May 5, 2015, found the proposed amendments to Section 4-302 and Section 7-101 of the LDRs are consistent with the Comprehensive Plan and promote the orderly commercial development of the City; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments to the Mayor and City Council, pursuant to Section 3-1004 of the LDRs, and subject to the thirteen (13) development standards indicated in staff's report including a restrictive covenant, to be approved by the City Attorney, limiting the timing and locations of deliveries (i.e., loading and unloading vehicles and other items) on the Subject Property, and test-driving vehicles away from the residential areas in the locality; and

WHEREAS, the Mayor and City Council find the proposed amendments are consistent with the intent of the Comprehensive Plan, furthers the public health, safety and welfare, and thereby, accept the Planning Commission's recommendation of approval.

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

Section 1. **Amendments to Chapter 29 Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 4, Division 3, entitled "Non-residential Districts," specifically at Section 4-302 entitled "Uses Permitted", to establish "*Retail Showroom, Automobile*" as a special exception use in the C-2BW Zoning District, to foster economic growth, and amending Article 7, at Section 7-101 entitled "Definitions", to provide for a definition of "Retail Showroom, Automobile," as well as establishing clear regulations for said use consistent with the intent of the North Miami Comprehensive Plan, as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 4. - ZONING DISTRICTS

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DIVISION 3. NONRESIDENTIAL DISTRICTS

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Sec. 4-302. Uses permitted.

The following chart establishes the uses permitted in the non-residential zoning district in the city. No use is permitted which is not listed as permitted on this chart. "P" indicates whether the use is permitted, subject to review and approval in accordance with Article 3 of this Code. "P*" indicates that the use is permitted with administrative site plan review. "SE" indicates that the use is permitted but only through special exception review. No use is permitted unless it complies with the provision of the zoning district in which it is located and the applicable development standard in Article 5 of this Code.

Nonresidential Districts Permitted Uses	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
Accessory Uses and Structures	P	P	P	P	P
Adult Businesses					SE
Adult Daycare (stand alone building)	P*	P*	P*	P*	
Animal Boarding	P*	P*	P*		P*
Animal Grooming Establishment	P	P	P	P	
Appliance, Furniture, Electronic Rentals and Repair	P				P

Nonresidential Districts Permitted Uses	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
Auto Service Station	SE				SE
Banquet	P*			P*	
Bar, Lounge or Tavern**	P	P	P	P	SE
Boat Repair					P*
Catering Kitchen	P				P
Check Cashing Store					P
Child Care Centers	SE			SE	
Community Facilities	SE	SE	SE		
Consignment Shops	P*	P*	P*	P*	
Convention Center	SE		SE	SE	
Day Spa	P	P	P	P	
Drive Through	SE	SE	SE	SE	
Dry Cleaning Plant					P
Educational Facilities	SE*		SE*	SE*	
Funeral Homes	SE				
Government Uses	P	P	P	P	P
Gun Shops					SE
Hospitals	SE	SE	SE	SE	
Hotel	P*	P*	P*	P*	
Industrial					P
Institutional Uses	P*	P*	P*	P*	
Light Industrial	SE				P
Liquor Package Stores***		SE	SE		
Manufacturing					P
Marinas		P*			
Mechanical Car Washing	SE				P
Medical	P	P	P	P	
Museums				P*	P*
Nightclubs	SE	SE	SE	SE	SE
Nursing and Convalescent Homes	P*		P*		
Office	P	P	P	P	
Outdoor Storage (as main use)					SE
Public Facilities	P	P	P	P	P
Public Park	P	P	P	P	P
Recording and TV/Radio	P	P	P	P	P
Recreation, Indoor	P*	P*	P*	P*	P*
Recreation, Outdoor					SE
Religious Institutions	SE				
Research and Technology Uses	P				P

Nonresidential Districts Permitted Uses	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
Restaurants	P	P	P	P	P*
Retail, Sales, Services	P	P	P	P	P
Retail Showroom, Automobile			SE*****		
Schools, Special and Technical	SE	SE		SE	
Self-Service Laundries	SE				
Self Storage	P******				P
Studios (fine arts)					P*
Temporary Uses	P	P	P	P	P
Tow Truck Yard					P*
Vehicle Sales/Displays	SE				SE
Vehicle Sales/Displays, Major					SE
Vehicle Rental	P*				P*
Vehicle Service, Major					P*
Vehicle Service, Minor	P*				P*
Veterinary Clinics	P*	P*	P*		P*
P = Permitted Use					
P* = Administrative Site Plan Required					
SE = Special Exception					

* If a college/university dormitory was included in a master plan approved by the City prior to the adoption of these LDRs, administrative site plan shall be required.

** Subject to chapter 3 of the city's Code.

*** Prohibited in the arts, culture and design overlay district (AOD) subject to section 4-403E and chapter 3 of the city's Code.

**** Retail and personal service uses larger than one (1) acre in size are prohibited in the industrial district, in an effort to minimize a depletion of the industrial land supply. Retail sales and service uses one (1) acre and less in size should front on major east west corridors including NE 146 Street and NE 151 Street.

***** *Retail Showroom, Automobile* use requires minimum lot area of one (1) acre. No more than fifteen (15) percent of the gross building area (GBA) assigned to the retail automobile showroom business shall be devoted to minor vehicle service.

****** Prohibited in C-1 zoned areas that abuts a single family residential district and on major C-1 commercial corridors such as Dixie Highway, NW 7th Avenue and NW 119th Street.

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ARTICLE 7. DEFINITIONS.

Sec. 7-101. Definitions.

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Restaurant, fast-food means a restaurant facility with the following characteristics: standardized limited menu; fast food preparation; orientation to take-out or eat-in service; utilization of disposable eating utensils and packaging; no waiter or waitress service at the tables.

Restaurant, open-air means a use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main structure for consumption on the premises. This definition does not include an accessory outdoor bar counter, which is considered to be a separate accessory use to an outdoor cafe or a hotel pool deck.

Retail, sales, and service mean a use, the principle use or purpose of which is the sale of primarily new goods, products, materials, or services directly to the consumer from within an enclosed building, including grocery stores, bakeries, hardware stores, antique and collectible stores, dry cleaning drop-off and pick-up station, dry cleaning establishments, pet shops, personal services, indoor recreation, personal instruction, art galleries, and including the sale of alcoholic beverages for off-premises consumption provided that the sale of alcoholic beverages is subordinate to the principal use and the display of alcoholic beverages occupies less than twenty-five (25) percent of the floor area of the use, sale of principally new automobiles involving the outdoor display of a maximum of twenty (20) automobiles of which no more than thirty (30) percent shall be pre-owned, not including street vendors, farmer's markets, consignment shops, automobile services stations, thrift stores, self-service laundries, the on-premise consumption of alcoholic beverages or problematic uses.

Retail Showroom, Automobile means a use, the principal use or purpose of which shall be the marketing and display of new automobiles, whether by sale, lease, or other commercial or financial means to the consumer from within an enclosed building and attendant parking structures; said use, which shall be operated on a site of at least one (1) acre, may include, among other secondary supporting uses, an inventory of vehicles for sale or lease, and on-site facilities for minor servicing of vehicles previously sold, or leased of the same brand or manufacturer licensed to the retail showroom owner, provided that the sale of pre-owned/preleased automobiles by the retail owner, shall be subordinate to the principal use, and that no more than forty-nine (49) percent of the total stock should be pre-owned/preleased. Furthermore, no more than fifteen (15) percent of the gross building area (GBA) assigned to the retail automobile showroom business shall be devoted to minor vehicle service.

Ride matching means the process of identifying interested drivers and interested riders with other drivers and riders of similar interests, employment origins and destinations for purposes of sharing rides by car pooling, van pooling or other.

Ride sharing means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term shall include ride-sharing arrangements known as car pools, vanpools, and bus pools.

Right-of-way means that portion of land, duly defined, either public or private, designed for the express purpose of transporting persons or vehicles, utilities and transmission lines or canals.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

Section 3. **Conflicts.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by 4 -1 vote of the Mayor and City Council on first reading this 9th day of June, 2015.

PASSED AND ADOPTED by 4 - 1 vote of the Mayor and City Council on second reading this 23rd day of June, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Bien-Aime

Vote:

Mayor Dr. Smith Joseph, D.O., Pharm. D.	X (Yes)	(No)
Vice Mayor Carol Keys, Esq.	(Yes)	X (No)
Councilman Scott Galvin	X (Yes)	(No)
Councilman Philippe Bien-Aime	X (Yes)	(No)
Councilman Alix Desulme	X (Yes)	(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.