

**RESOLUTION NO. 2019-R-107**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, ACTING AS THE ZONING APPEALS BOARD PURSUANT TO SECTION 2-501 OF THE LAND DEVELOPMENT REGULATIONS, CONSIDERING AN APPEAL OF A DENIAL OF AN APPLICATION FOR A SPECIAL EXCEPTION PERMIT PURSUANT TO ARTICLE 5, DIVISION 1, SECTION 5-101(E) OF THE LAND DEVELOPMENT REGULATIONS (LDRS) TO ALLOW A PROPOSED DRIVE-THROUGH IN CONNECTION WITH A WENDY'S RESTAURANT AT THE PROPERTY LOCATED AT 13400 N.E. 3 COURT IN THE C-1 DISTRICT; SAID SPECIAL EXCEPTION TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, on June 28, 2018, Jerry B. Proctor filed an application for a Special Exception Permit to allow a proposed Drive-Through in connection with a Wendy's restaurant at the property located at 13400 N.E. 3 Court in the C-1 District; and

**WHEREAS**, on December 19, 2018, the Board of Adjustment held a duly noticed public hearing to consider the Special Exception Permit; and

**WHEREAS**, evidence, both written and oral, including the staff report and supporting documents, was presented at said hearing; and

**WHEREAS**, at the conclusion of the hearing, the Board of Adjustment, by vote of 5-0 denied the Special Exception Permit due to inadequate parking, inadequate access facilities for the estimated amount of traffic, and the negative impacts on the surrounding neighborhood as indicated in the Board of Adjustment Order attached as Exhibit "1"; and

**WHEREAS**, on January 18, 2019, the Applicant timely filed an appeal of the Board of Adjustment's Order Denying Special Exception Permit; and

**WHEREAS**, notice of the public hearing before the City Council to consider the appeal of the Board of Adjustment's decision was provided in accordance with 3-302 of the City's Land Development Regulations; and

WHEREAS, the Mayor and City Council held a public hearing on September 24, 2019, to consider the appeal of the Board of Adjustment's decision, where it received evidence both written and oral, staff reports and other supporting documents.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CITY OF NORTH MIAMI, FLORIDA, AS FOLLOWS:

**Section 1. Overturn Order of the Board of Adjustment.** The Mayor and City Council of the City of North Miami, Florida, hereby overturns the Order of the Board of Adjustment denying a Special Exception Permit to allow a proposed Drive-Through in connection with a Wendy's restaurant at the property located at 13400 N.E. 3 Court in the C-1 District.

**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 4-1 vote of the Mayor and City Council of the City of North Miami, Florida, this 24th day of September, 2019.

  
PHILIPPE BIEN-AIME  
MAYOR

ATTEST:

  
\_\_\_\_\_  
VANESSA JOSEPH, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Keys

Seconded by: Desulme

**Vote:**

Mayor Philippe Bien-Aime  
Vice Mayor Carol Keys, Esq.  
Councilman Scott Galvin  
Councilwoman Mary Estimé-Irvin  
Councilman Alix Desulme, Ed.D.

  X   (Yes)        (No)  
  X   (Yes)        (No)  
       (Yes)   X   (No)  
  X   (Yes)        (No)  
  X   (Yes)        (No)