

ORDINANCE NO. 2020-030

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE (NBD) NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8; AND GRANTING A VARIANCE PERMIT TO ALLOW ONLY RESIDENTIAL USES, WHERE RESIDENTIAL AND COMMERCIAL USES ARE REQUIRED; ALLOW RESIDENTIAL USE ON THE GROUND FLOOR, WHERE RESIDENTIAL USES ARE ALLOWED ABOVE THE GROUND LEVEL ONLY; ALLOW 27 UNITS WITH AREA OF 615 SQUARE FEET, WHERE AREA OF 850 SQUARE FEET IS THE MINIMUM REQUIRED FOR 90% OF THE UNITS; ALLOW 5.66 FEET FRONT SETBACK FOR BUILDING WALL FACING WEST 23 STREET PROVIDED A SIDEWALK IS BUILT ALONG WEST 23 STREET AND 4 FEET FOR THE BALCONIES ABOVE THE GROUND FLOOR WHERE 10 FEET BUILT-TO-LINE IS REQUIRED; ALLOW 7 FOOT WEST INTERIOR SIDE SETBACK FOR SOUTH BUILDING, 10 FEET WEST SIDE SETBACK FOR NORTH BUILDING, AND 10 FEET INTERIOR SOUTH SIDE SETBACK FOR BUILDING WALLS, WHERE 15 FEET ARE REQUIRED; ALLOW 32 PARKING SPACES WHERE 68 PARKING SPACES ARE REQUIRED PROVIDED 5 ON-STREET PARKING SPACES ARE BUILT ON WEST 23 STREET; ALLOW 17% PERVIOUS AREA, WHERE 30% IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.1, 98-1630.2, 98-1630.3(e)(1), 98-2189(16)a., 98-2056(b)(1). **PROPERTY LOCATED AT 40 WEST 23 STREET, HIALEAH, ZONED R-3 (MULTIFAMILY DISTRICT).** 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 June 24, 2020 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a parking management plan and a Declaration of Restrictions, 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 granted a Special Use Permit (SUP) pursuant to Hialeah code of ordinances § 98-1630.8 to allow the expansion of the NBD (Neighborhood Business District) regulations.

Section 2: The below-described property is hereby granted a variance to allow only residential uses, where residential and commercial uses are required, contra to Hialeah Code of Ordinances § 98-1630.1 that as relevant provides: “No building or land shall be used and no building shall be hereinafter erected, constructed, reconstructed or structurally altered that is designed, arranged or intended to be used or occupied for any purpose, unless it provides residential use and one or more of the principal commercial uses...”; allow residential use on the ground floor, where residential uses are allowed above the ground level only, contra to Hialeah Code of Ordinances § 98-1630.2 that as relevant provides: “Residential uses shall be allowed above the ground level only.”; allow 27 units with area of 615 square feet, where area of 850 square feet is the minimum required for 90% of the units, contra to Hialeah Code of Ordinances § 98-1630.2 that as relevant provides: “Each residential unit shall have minimum of 850 square feet, except that ten percent of residential units may have a minimum of 600 feet for studios on one bedroom units.”; allow 5.66 feet front setback for building wall facing West 23 Street provided a sidewalk is built along West 23 Street and 4 feet for the balconies above the ground floor where 10 feet built-to-line is required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(1) that as relevant provides: “Front setback and street side setback. For the pedestal or base of a building, a minimum setback of ten feet, built-to-line, or as provided in the urban design plan.”; allow 7 foot west interior side setback for South Building, 14.83 feet west side setback for north building, and 10 feet interior south side setback for building walls, where 15 feet are required, contra to Hialeah Code of Ordinances § 1630.3(e)(2) that as relevant provides: “Interior side setback and interior rear setback. For the pedestal or base of a building, there is no minimum setback requirement, except that all property lines abutting low density and medium density residential districts shall provide a minimum setback of 15 feet.”; allow 32 parking spaces where 68 parking spaces are required provided 5 on-street parking spaces are built on West 23 street, contra to Hialeah Code of Ordinances § 98-2189(16)(a.) that provides: “*Residential uses.* Parking for residential uses shall be two parking spaces for one or two

bedrooms and one-half parking spaces for each additional bedroom. An additional one-quarter parking space for each dwelling unit shall be provided for guest parking. The guest parking requirement may be satisfied, in whole or in part, by the operation of valet parking services for residential guests, approved by the city.”; allow 17% pervious area, where 30% is the minimum required, contra to Hialeah Code of Ordinances § 98-2056(b)(1) that provides: “A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space, which space may include recreation areas, swimming pools, and setback areas.” Property located at 40 West 23 Street, Hialeah, zoned R-3 (Multifamily District) and legally described as follows:

Lots 7, 8 and 9, Block 151, and the North 6 feet of Alley lying South and Adjacent closed per Ordinance 94-104, of TENTH ADDITION TO THE TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 8, at Page 100, 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: 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 6: 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

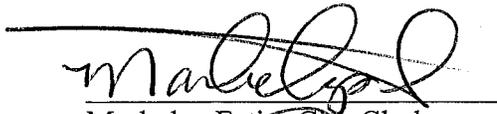
signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 27 day of July, 2020.


Paul B. Hernandez
Council President

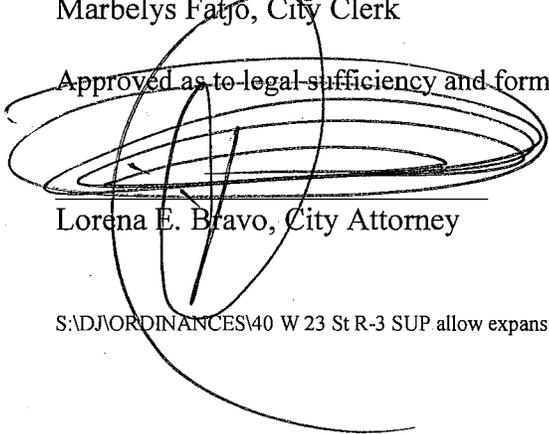
Attest:

Approved on this 10 day of August, 2020.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, Cue-Fuente, De la Rosa, Hernandez, Garcia-Roves, Perez, and Zogby, voting "Yes" and with Council Member Tundidor absent.