

ORDINANCE NO. 2020-042

ORDINANCE REPEALING AND RESCINDING CITY OF HIALEAH, FLA., ORDINANCE 92-26 (MARCH 24, 1992) AND DECLARATION OF RESTRICTIONS RECORDED IN BOOK 15484, PAGES 2652-2657 RECORDED IN THE MIAMI DADE PUBLIC RECORDS; REZONING PROPERTY LOCATED AT 11 EAST 12 STREET TO R-3-3; AND GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NBD (NEIGHBORHOOD BUSINESS DISTRICT) OVERLAY 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 625 SQUARE FEET, WHERE AREA OF 850 SQUARE FEET IS THE MINIMUM REQUIRED FOR 90% OF THE UNITS; ALLOW 6 FEET FRONT SETBACK FOR BALCONIES ABOVE THE GROUND FLOOR ENCROACHING INTO THE PALM AVENUE FRONT SETBACK, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW 6 FEET FOR BALCONIES ABOVE THE GROUND FLOOR ENCROACHING INTO THE EAST 12 STREET FRONT SETBACK AND ALLOW 7.66 FEET FRONT SETBACK FOR BUILDING WALL FACING EAST 12 STREET, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW NORTH SIDE SETBACK OF 10 FEET, WHERE 15 FEET ARE REQUIRED; ALLOW 30 PARKING SPACES, WHERE 68 PARKING SPACES ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.1, 98-1630.2, 98-1630.3(e)(1), 98-1630.3(e)(2) AND 98-2189(16)a.; AND ALLOW A WAIVER OF THE MINIMUM LANDSCAPE REQUIREMENTS PROVIDED THAT TREES AND SHRUBS ARE MITIGATED IN ACCORDANCE TO § 98-2233. **PROPERTIES LOCATED AT 1201 PALM AVENUE AND 11 EAST 12 STREET, HIALEAH, ZONED CR (COMMERCIAL-RESIDENTIAL DISTRICT) AND R-3-2 (MULTIPLE-FAMILY DISTRICT);** 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 Planning and Zoning Board at its meeting of June 29, 2020 recommended approval of this ordinance; and

WHEREAS, the developer has proffered 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 above recitations are hereby incorporated by reference.

Section 2. Hialeah, Fla. Ordinance 92-26 (March 24, 1992), attached hereto as Exhibit “A,” is hereby repealed and rescinded in its entirety.

Section 3. The Declaration of Restrictions recorded in Book 15484, Pages 2652-2657 recorded in the Miami Dade Public Records is hereby repealed and rescinded in its entirety, attached as Exhibit “B”.

Section 4. The below described property located at 11 East 12 Street is hereby rezoned to R-3-3.

Section 5: 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) Overlay.

Section 6: The below-described property is hereby granted a variance permit 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 625 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 or one bedroom units.”; allow 6 feet front setback for balconies above the ground floor encroaching into the Palm Avenue front setback, where 10 feet built-to-line are required, and allow 6 feet for balconies above the ground floor encroaching into the East 12 Street front setback and allow 7.66

feet front setback for building wall facing East 12 Street, where 10 feet built-to-line are 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 north side setback of 10 feet, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(2) that as relevant provides: “...all property lines abutting low density and medium density residential districts shall provide a minimum setback of 15 feet”; allow 30 parking spaces, where 68 parking spaces are required, 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.”; and allow a waiver of the minimum landscape requirements provided that trees and shrubs are mitigated in accordance to Hialeah Code of Ordinances § 98-2233.

Section 7: Properties located at **1201 Palm Avenue and 11 East 12 Street, Hialeah, Florida**, and legally described as follows:

Lots 16 and 17, Block 60, of AMENDED PLAT OF FIRST ADDITION TO TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 5, at Page 122, of the Public Records of Miami-Dade County, Florida

Section 8: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 9: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule, regulation, or Declaration of restrictions proffered by the developer and accepted by the City, and 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.

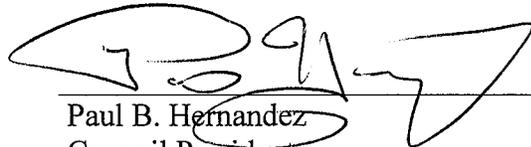
Section 10: Severability Clause.

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 11: Effective Date.

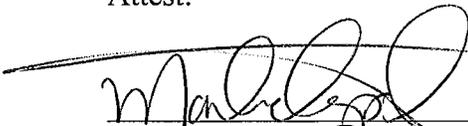
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

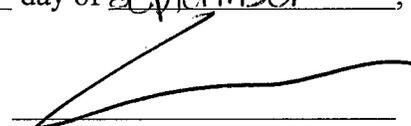
PASSED and ADOPTED this 25 day of August, 2020.


Paul B. Hernandez
Council President

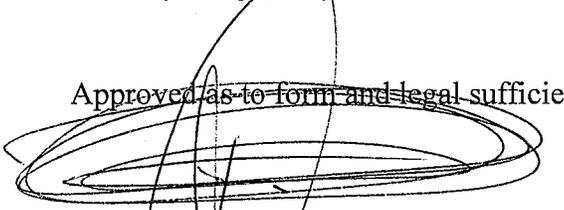
Attest:

Approved on this 3 day of September, 2020.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

~~Approved as to form and legal sufficiency:~~


Lorena E. Bravo, City Attorney

Ordinance was adopted by 4-0-3 vote with Councilmembers, Cue-Fuente, Garcia-Roves, Hernandez, and Tundidor, voting "Yes" and with Council Vice President De la Rosa, Council Member Perez and Council Member Zogby absent.