

ORDINANCE NO. 2018-007

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A FRONT SETBACK OF 5 FEET WHERE 10 FEET IS REQUIRED; ALLOW 100% OF UNITS TO HAVE LESS THEN 850 SQUARE FEET WHERE 850 SQUARE FEET IS REQUIRED; ALLOW A 13.5% PERVIOUS AREA, WHERE 30% IS REQUIRED AND ALLOW 13 PARKING SPACES, WHERE 34 PARKING SPACES ARE REQUIRED, TO ALLOW THE CONSTRUCTION OF A MIXED USE BUILDING; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630. (e)(1), 98-1630.2, 98-2056(b)(1) AND 98-2189(16)(a) and (b); PROPERTY ZONED C-1 (COMMERCIAL) WITHIN AREA 1 OF THE NEIGHBORHOOD BUSINESS DISTRICT. **PROPERTY LOCATED AT 4260 PALM AVENUE, HIALEAH FLORIDA.** 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 December 13, 2017 recommended approval of this ordinance; and

WHEREAS, the applicant has proffered a Declaration of Restrictive Covenants, and has agreed to certain specific uses and limitations in connection with the property, namely: 1) that the commercial use shall be limited to professional services that do not require consistent and repetitive parking, such as medical and tax preparation services, and 2) shared parking if feasible with adjacent property owners, 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 variance permit to allow the front setback of 5 feet at the base of the building, where 10 feet is required, contra to Hialeah Code of Ordinances § 98-1630. (e)(1) that provides: “Setback requirements. The minimum setbacks shall be as follows: (1) Front setback and street side setback. For the pedestal or base of a building, a minimum setback of ten feet, built-to-line...” ; allow 100% of the units to have less than 850 square feet where 850 square feet is required, contra to § 98-1630.2 that 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 13.5% pervious area where 30% is required, contra to Hialeah Code of Ordinances that provides: “Hialeah Code contra to Hialeah Code § 98-2056(b)(1) that provides: “A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space...” ; and allow 13 parking spaces, where 34 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(16)(a) and (b) that provides: “NBD neighborhood business district. a. 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. b. Commercial uses. The parking requirements for commercial uses as designated in this section shall apply except that vocational schools and post-secondary schools shall provide one parking space for every 150 square feet of gross floor area.” Property located at 4260 Palm Avenue, Hialeah, Florida, and legally described as:

The East 220 feet of the North ½ less the West 63 feet of the East 220 feet and less the East 157 feet of the North 65 feet of Tract 27, Section 6, Township 53 South, Range 41 East, according to the Plat thereof, recorded in Plat Book 7, Page 113, of the Public Records of Miami-Dade County, Florida.

Section 2: Repeal of Ordinances in Conflict.

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

Section 3: 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 4: 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.

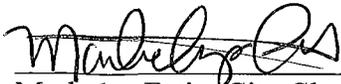
Section 5: Effective Date.

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.

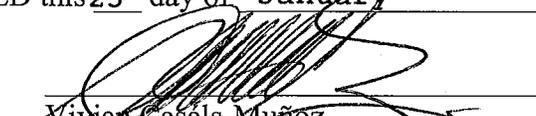
PASSED and ADOPTED this 23 day of January, 2018.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

Attest:

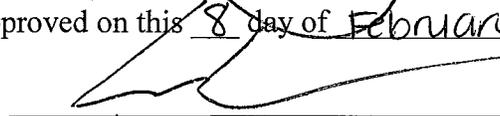


Marbelys Fatjo, City Clerk



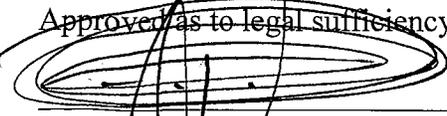
Vivian Casals-Munoz
Council President

Approved on this 8 day of February, 2018.



Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

Ordinance was adopted by a (7-0) vote with Councilmembers, Caragol, Zogby, Casals-Munoz, Cue-Fuente, Garcia-Martinez, Lozano and Hernandez voting "Yes".