

ORDINANCE NO. 2018-025

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8 TO ALLOW THE DEVELOPMENT OF THE PROPERTY WITH A 30 UNIT APARTMENT BUILDING; AND GRANTING A VARIANCE PERMIT TO ALLOW 80% OF THE UNITS WITH LESS THAN 850 SQUARE FEET, WHERE 90% OF THE UNITS ARE REQUIRED TO HAVE A MINIMUM AREA OF 850 SQUARE FEET; ALLOW FRONT AND STREET SIDE SETBACK OF 5 FEET 8 INCHES, WHERE 10 FEET IS THE MINIMUM REQUIRED FOR THE BASE OF THE BUILDING; ALLOW 2 INCHES FRONT AND SIDE SETBACKS FOR THE MIDDLE AND CAP OF THE BUILDING, WHERE 22 FEET AND 34 FEET ARE THE MINIMUM REQUIRED; ALLOW 4 FEET REAR SETBACK FOR THE MIDDLE AND CAP OF THE BUILDING, WHERE 22 FEET AND 28 FEET ARE THE MINIMUM REQUIRED; ALLOW NO PERVIOUS AREA, WHERE 20% IS THE MINIMUM REQUIRED; AND ALLOW 43 PARKING SPACES, WHERE 68 PARKING SPACES ARE REQUIRED; CONTRA TO HIALEAH CODE §§ 98-1630.2, 98-2189(7) AND (16)a, 98-1630.2, 98-1630.3(e)(1) AND (e)(2) AND 98-2197, AND CITY OF HIALEAH LANDSCAPE MANUAL § (E) UPDATED JULY 15, 2015. PROPERTY ZONED CR (COMMERCIAL RESIDENTIAL). **PROPERTY LOCATED AT 800 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 February 14, 2018, recommended approval of this ordinance; and

WHEREAS, the applicant has proffered a Declaration of Restrictions to which the City accepts that provides, among other things, that the use of the Property shall be developed within certain time frames.

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 Neighborhood District Overlay regulations.

Section 2: The below-described property is hereby granted a variance to allow 80% of the units to have less than 850 square feet, where 90% of the units are required to have a minimum area of 850 square feet, contra to Hialeah Code of ordinances § 98-1630.2 that provides: “Building uses. Retail and professional uses shall be allowed only on the ground level of any building in mixed-use buildings. Office uses shall be allowed on all levels. Residential uses shall be allowed above the ground level only. 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 front and street side setback of 5 feet 8 inches, where 10 feet is the minimum required for the base of the building, contra to § 98-1630.3(e)(1) that provides in relevant part: “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, or as provided in the urban design plan. The pedestal setback area at street level shall not be landscaped or fenced but will be treated in harmony with the sidewalk.”; allow 2 inches front and side setbacks for the middle and cap of the building, where 22 feet and 34 feet are the minimum required, contra to § 98-1630.3(e)(1) that provides in relevant part: “Setback requirements. For the tower or middle of a building, a minimum setback of 22 feet. For the cap or penthouse of a building, a minimum setback of 34 feet.”; allow 4 feet rear setback for the middle and cap of the building, where 22 feet and 28 feet are the minimum required, contra to Hialeah Code of ordinances § 98-1630.3 (e)(2) that provides” “Setback requirements. The minimum setbacks shall be as follows: For the tower or middle of a building, a minimum setback of 22 feet. For the cap or penthouse of a building, a minimum setback of 28 feet.”; allow no pervious area, where 20% is required, contra to § 98-2197 that provides in

relevant part: "Landscaping. (a) Off-street parking areas shall be landscaped according to the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular use areas, as modified and supplemented by the city landscape manual..."; The city landscape manual provides in § (E) as follows: "Tree and lawn requirements by zoning classification Table A CR minimum pervious area 20%."; "and allow 43 parking spaces, where 68 parking spaces are required, contra to Hialeah Code of ordinances § 98-2189(16)a 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."; and Hialeah Code of Ordinances § 98-2189(7) that provides: "Commercial uses, not found elsewhere in this section. One parking space for each 200 square feet of gross floor area of the floor with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area. Parking spaces under the building shall not be considered in the calculation of floor areas." Property located at **800 Palm Avenue**, Hialeah, Florida, zoned CR (Commercial Residential District), and legally described as follows:

Lots 13 and 14, Block 37, TOWN OF HIALEAH, according to the
Plat thereof recorded in Plat Book 5, Page 77, 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.

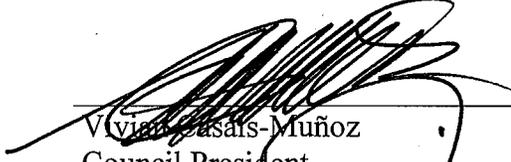
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

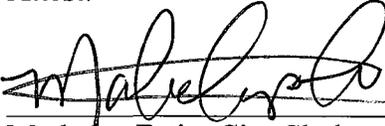
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 13 day of March, 2018.

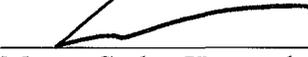
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Muñoz
Council President

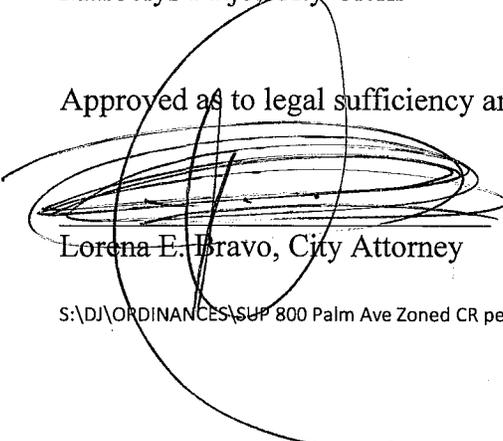
Attest:


Marbelys Fatjo, City Clerk

Approved on this 19 day of March, 2018.


Mayor Carlos Hernandez

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Caragol, Zogby, Casáls-Munoz, García-Martinez and Hernandez voting "Yes" with Lozano not present and Cue-Fuente being absent.