

**ORDINANCE NO. 2018-027**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW THE REDEVELOPMENT OF THE PROPERTY WITH A 145 UNIT, 5 STORY APARTMENT BUILDING WITH 93 UNITS (64.13%) HAVING LESS THAN 850 SQUARE FEET, WHERE 131 UNITS (90%) ARE REQUIRED WITH 850 SQUARE FEET; AND ALLOW RESIDENTIAL USES AT THE GROUND LEVEL, WHERE RESIDENTIAL USES ARE ALLOWED ONLY ABOVE GROUND LEVEL; ALLOW A BUILDING FRONTAGE OF 62% AT THE BASE OF THE BUILDING, WHERE 100% IS REQUIRED; ALLOW A FRONT SETBACK FOR THE MIDDLE OF THE BUILDING OF 10 FEET, WHERE 22 FEET IS THE MINIMUM REQUIRED; ALLOW FRONT SETBACK FOR THE CAP OF THE BUILDING OF 10 FEET, WHERE 34 FEET IS THE MINIMUM REQUIRED; AND ALLOW 287 PARKING SPACES, WHERE 327 PARKING SPACES ARE REQUIRED. ZONED M-1 (INDUSTRIAL DISTRICT), LOCATED WITHIN THE NEIGHBORHOOD BUSINESS DISTRICT GATEWAYS; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.2, 98-1630.3(d) AND (e)1, AND 2189 (16)a. **PROPERTY LOCATED AT 1050 EAST 9 STREET, 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 March 14, 2018 recommended approval of this ordinance; and

**WHEREAS,** the developer has offered a declaration of restrictions, to which the city accepts pursuant to § 98-1630.9 requiring site plan review, demolition, and a construction

schedule; and

**WHEREAS**, Hialeah Code of Ordinances § 98-1630 provides for precedence within the neighborhood district gateway over other land use and zoning regulations in the City in conflict.

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 the redevelopment of the property with a 145 unit, 5 story apartment building with 93 units (64.13%) having less than 850 square feet, where 131 units (90%) with 850 square feet are required, and allow residential uses at the ground level, where residential uses are allowed only above ground level, contra to Hialeah Code of Ordinances § 98-1630.2 that provides: "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 a building frontage of 62% at the base of the building, where 100% is required, contra to § 98-1630.3(d) that provides: "*Building frontage*. Any building that fronts an existing or proposed street shall provide building frontage of 100 percent,..."; allow a front setback for the middle of the building of 10 feet, where 22 feet is the minimum required, and allow front setback for the cap of the building of 10 feet, where 34 feet is the minimum required contra to § 98-1630.3(e)(1) that provides in relevant part: "For the tower or middle of a building, a minimum setback of 22 feet.", and "For the cap or penthouse of a building, a minimum setback of 34 feet."; allow 287 parking spaces, where 327 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."; Property located at 1050 East 9 Street Hialeah, Florida and legally described as follows:

The South 300 feet of the North 335 feet of that portion of the NE ¼ of the SE ¼ of Section 17, Township 53 South, Range 41 East,

lying West of Seaboard Airline Railway, lying, being and situated in Miami-Dade County, Florida, LESS the West 30 feet thereof, which has been deeded to the City of Hialeah for Street purposes and which constitutes the East one-half of 10<sup>th</sup> Avenue in said City and Less that portion described as follows:

The external area formed by a 25.00 foot radius arc concave to the Southeast, tangent to the line that is 35.00 feet South of and parallel to the North line of the SE ¼ of said section 17 and tangent to the line that is 30.00 feet East of and parallel to the West line of the NE ¼ and the SE ¼ of said Section 17, and LESS and EXCEPT the West 211.94 feet of the North 285.00 feet of the NE ¼ of SE ¼ of Section 17, Township 53 South, Range 41 East.

Real Property Tax Folio No. 04-3117-000-0171

**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 10 day of April, 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.

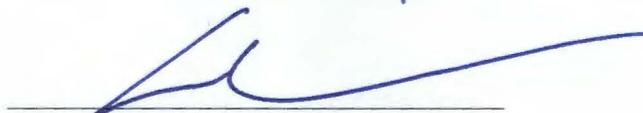
  
Vivian Casals-Muñoz  
Council President

Attest:

Approved on this 16 day of April, 2018.



Marbelys Fatjo, City Clerk



Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

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

  
Lorena E. Bravo, City Attorney