

ORDINANCE NO. 2018-030

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A RESIDENTIAL DEVELOPMENT WITHOUT A VERTICAL MIX OF USES; ALLOW 12.5% OF THE RESIDENTIAL UNITS TO HAVE FLOOR AREAS OF LESS THAN 850 SQUARE FEET, WHERE 10% IS THE MAXIMUM ALLOWED; ALLOW A BUILDING FRONTAGE OF 79.1%, WHERE 100% IS REQUIRED AT THE BASE OF THE BUILDING; ALLOW A BASE HEIGHT OF 45 FEET, WHERE 40 FEET IS THE MAXIMUM ALLOWED; ALLOW A STREET SIDE SETBACK OF 1.75 FEET, WHERE 10 FEET ARE REQUIRED; ALLOW A PERVIOUS AREA OF 14.2%, WHERE 30% IS THE MINIMUM REQUIRED; AND ALLOW 50 PARKING SPACES, WHERE 54 PARKING SPACES ARE REQUIRED; PROPERTY ZONED C-2 (LIBERAL COMMERCIAL DISTRICT) WITHIN AREA 1 OF THE NEIGHBORHOOD BUSINESS DISTRICT OVERLAY. **PROPERTY LOCATED AT 2160 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 March 28, 2018, recommended approval of this ordinance; and

WHEREAS, the developer has proffered a declaration of restrictive covenants, to which the City has accepted, to provide: that the building permit be obtained within one year from the approval of this ordinance, a construction schedule with a completion date within two years, and a parking plan that includes the number of parking spaces allotted each tenant.

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 a residential development without a vertical mix of uses, contra to Hialeah Code of Ordinances 98-1627(3); allow 12.5% of the residential units to have floor areas of less than 850 square feet, where 10% is the maximum allowed, 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 a building frontage of 79.1%, where 100% is required at the base of the building, 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, at the base...; allow a base height of 45 feet, where 40 feet is the maximum allowed, contra to § 98-1630.3(b) that provides: "...The maximum height of the base or pedestal is 40 feet, except for the first 50 feet of a lot abutting a single-family residential district or area where the maximum height of the base shall be 25 feet and two stories." ; allow a street side setback of 1.75 feet, where 10 feet are required, contra to Hialeah Code of Ordinances § 98-1630.3(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 a pervious area of 14.2%, 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..."; and allow 50 parking spaces, where 54 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.”

Section 2: Property located at **2160 Palm Avenue, Hialeah, Florida**, zoned C-2 (liberal commercial district) within area 1 of the Neighborhood Business District Overlay, and legally described as follows:

Lots 17 through 22, inclusive, in Block 144, of Tenth Addition to the Town of Hialeah, a Subdivision in the SW ¼ of Section 7, Township 53 South, Range 41 East, and other lands, according to the Plat thereof, as recorded in Plat Book 8, at Page 100, of the Public Records of Miami-Dade County, Florida. Also that certain strip of land shown as an alley of the original plat of said tenth addition, being the 12 foot strip extending North and South through said Block 144, bounded on the north by the north line of said Block 144; on the South by the North line of Florida East Coast Railway Right-of-way; on the West by the East line of Lot 18 of said Block 144; on the East by the West lines of Lots 19 to 22 inclusive of said block 144, said alley lying between lot 18 and said lots 19 to 22 inclusive, all in said block 144, and being in 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.

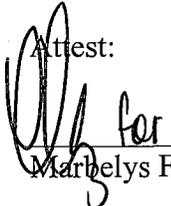
Section 6: Effective Date.

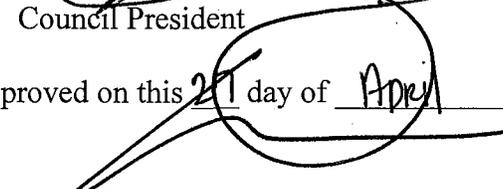
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 24 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:

Marbelys Fatjo, City Clerk

Approved on this 21 day of April, 2018.

Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a (4-1-1) vote with Councilmembers, Caragol, Zogby, Lozano, Garcia-Martinez and Casáls-Muñoz voting "Yes" and Councilman Hernandez voting "No". Councilwoman Cue-Fuente absent