

**ORDINANCE NO. 2017-027**

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) AND RO (RESIDENTIAL OFFICE DISTRICT) TO C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT) AND GRANTING A SPECIAL USE PERMIT (SUP) TO EXTEND THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT REGULATIONS (NBD) PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8; AND GRANTING A VARIANCE PERMIT TO ALLOW A FRONT SETBACK OF 15.75 FEET WHERE 22 FEET ARE REQUIRED ON THE TOWER OF THE MIDDLE BUILDING OF A SEVEN-STORY APARTMENT BUILDING; CONTRA TO HIALEAH CODE OF ORDINANCES § 98-1630.3(e)1. **PROPERTY LOCATED AT 1440-1450-1460 WEST 68<sup>TH</sup> 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 April 12, 2017 recommended approval of this ordinance; and

**WHEREAS**, a properly executed unity of title shall be recorded of public record in Miami-Dade County, Florida, so as to join the below-described properties to construct the seven story apartment building.

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 rezoned from R-1 (one family district) and RO (residential office district) to C-2 (liberal retail commercial).

**Section 2:** The below described property is hereby granted a Special Use Permit (SUP) to extend the Neighborhood Business Overlay District regulations (NBD) pursuant to Hialeah Code of Ordinances § 98-1630.8.

**Section 3:** The below described property is hereby granted a variance permit to allow a front setback of 15.75 feet where 22 feet are required on the tower of the middle building of the

seven-story apartment building to be constructed contra to Hialeah Code of Ordinances § 98-1630.3(e)1 that in pertinent part provides: “Front setback... For the tower or middle of a building, a minimum setback of 22 feet.” Property located at 1440, 1450, and 1460 West 68th Street, Hialeah, Florida, and legally described as follows:

Lots 3, 4 and 5, in Block 22, FIRST ADDITION TO WESTHAVEN HEIGHTS, according to the Plat thereof, as recorded in Plat Book 65, at Page 42, of the Public Records of Miami-Dade County, Florida.

**Section 4: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5: 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 6: 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 7: 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.

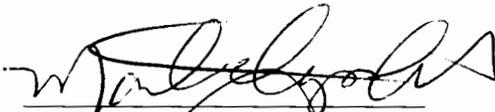
PASSED and ADOPTED this 9 day of May, 2017.

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

  
Katharine E. Cue-Fuente  
Council Vice President

Attest:

Approved on this 16 day of May, 2017.

  
Marbelys Fatjo, City Clerk

  
Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a (5-0-2) vote with Councilmembers, Caragol, Hernandez, Cue-Fuente, Lozano and Casáls-Muñoz voting "Yes". Council President Gonzalez and Councilmember Garcia-Martinez absent.