

ORDINANCE NO. 2017-031

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT REGULATIONS PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8; AND GRANTING A VARIANCE PERMIT TO ALLOW 359 PARKING SPACES WHERE 392 ARE REQUIRED; WAIVE BUILDING MASS, FRONTAGE, AND SETBACK REQUIREMENTS; AND ALLOW A TEMPORARY WAIVER OF PLAT; CONTRA TO HIALEAH CODE OF ORDINANCES §§ 10-4(c), 98-1630.3(c)(d) and (e); AND 98-2189(16)(a); PROPERTY ZONED R-3-5 (MULTI FAMILY DISTRICT); **PROPERTY LOCATED AT 7925-7927-7929-7931-7933 WEST 2 COURT, 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 26, 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, 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 special use permit (SUP) to allow the expansion of the Neighborhood Business Overlay District regulations, as the property is adjacent to a major expressway, pursuant to Hialeah Code of Ordinances § 98-1630.8.

Section 2: The below-described property is hereby granted an eighteen month temporary waiver of plat, pursuant to Hialeah Code of Ordinances § 10-4(c) that provides: “Waiver of Plat. *Temporary waiver of plat.* A temporary waiver of plat is of a limited time duration and may be

granted only conditioned on obtaining an approved plat within a reasonable time agreed to by the city.”

Section 3: The below-described property is hereby granted a variance permit to allow 359 parking spaces where 392 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(16)(a) that provides: “*NBD neighborhood business district. 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 a variance permit waiving building mass, frontage, and setback requirements contra to Hialeah Code of Ordinances §§ 98-1630.3(c)(d) and (e) that provide: “Development standards. (c) *Building mass.* A building shall be defined a delineated base or pedestal, middle or tower and cap or penthouse. The building mass shall provide a segmented, reduced mass as the building reaches its full height, from a greater mass at the base to a lesser mass in the middle to smaller mass at the cap or penthouse. (d) *Building frontage.* Any building that fronts an existing or proposed street shall provide building frontage of 100 percent, at the base; a minimum of 60 percent building frontage for the middle; and a minimum of 40 percent building frontage for the cap or penthouse, except that building frontages may be modified by GMAC if compatibility with adjacent buildings would allow for consideration of different building frontage ratios. (e) *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. 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. (2) Interior side setback and interior rear setback. For the pedestal or base of a building, there is no minimum setback requirement, except that all property lines abutting low density and medium density residential districts shall provide a minimum setback of 15 feet. 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.” Property located at **7925-7927-7929-7931-7933 WEST**

2 COURT, Hialeah, Florida, and legally described as follows:

Parcel One:

The West ½ of the West ½ of Section 30, Township 52 South, Range 41 East, Less the South 4,792.01 feet thereof, and less the West 1,055.51 feet thereof. Said lands lying, being in and situate in Miami-Dade County, Florida.

Parcel Two:

The East 165 feet of the West 1055.51 feet of the West ½ of the West ½ of Section 30, Township 52 South, Range 41 East, less the South 4,926.02 feet thereof. Said lands lying, being in and situate in 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: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city business tax receipt license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and parking variance.

Section 7: Severability Clause.

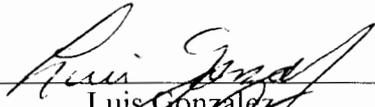
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

Section 8: 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 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.

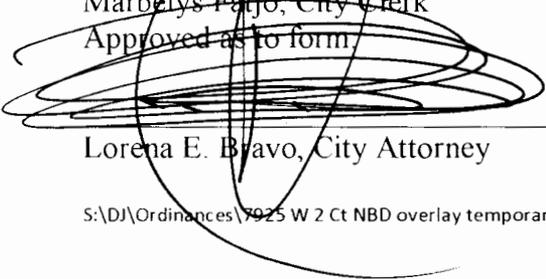


Luis Gonzalez
Council President

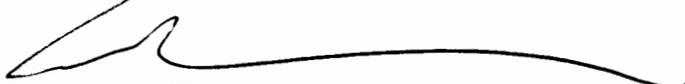
Attest:

Approved on this 30 day of May, 2017.



Marbelys Fatjo, City Clerk
Approved as to form


Lorena E. Bravo, City Attorney



Mayor Carlos Hernandez