

ORDINANCE NO. 2017-096

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; GRANTING A VARIANCE PERMIT TO ALLOW 24% RESIDENTIAL UNITS WITH AN AREA LESS THAN 850 SQUARE FEET, WHERE 10% IS THE MAXIMUM ALLOWED; ALLOW 953 PARKING SPACES, WHERE 1058 PARKING SPACES ARE REQUIRED; ALLOW A BUILDING HEIGHT OF 97.5 FEET, WHERE 95 FEET IS THE MAXIMUM ALLOWED; ALLOW A FRONT SETBACK OF 23 FEET FOR THE CAP OF THE BUILDING, WHERE 34 FEET IS THE MINIMUM REQUIRED; AND ALLOW A STREET SIDE SETBACK OF 22 FEET FOR THE CAP OF THE BUILDING, WHERE 34 FEET IS THE MINIMUM REQUIRED; CONTRA TO HIALEAH CODE §§ 98-2189(7) AND (16)a, AND § 98-1630.2, 98-1630.3(b) AND (e)(1). PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT). **PROPERTY LOCATED AT 1100 EAST 41 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 November 15, 2017, 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 limited as follows:

- a) Approval of the special use permit shall be subject to compliance with the City of Hialeah's concurrency requirements for connection to water and sewer infrastructure; and
- b) Approval of the SUP shall be subject to the issuance of a building permit within 18 months of said approval by the Hialeah City Council; and
- c) Parking of at least 90% of what is required for the residential component shall be

provided onsite such that 2 parking spaces for each residential unit shall be provided.

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 24% residential units with an area less than 850 square feet, where 10% is the maximum allowed, 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 953 parking spaces, where 1058 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.”; allow a building height of 97.5 feet, where 95 feet is the maximum allowed, contra to Hialeah Code of ordinances § 98-1630.3(b) that provides: “Height. Building height is determined by equal proportion between the building height and the width of the street surface, including dedicated swale areas and sidewalks...Increased building height up to a maximum of 95 feet and nine stories shall be based on height incentives, site plan review of the physical site and its relation to surrounding properties, and building height diagrams provided in the urban design plan for the geographic

areas of the NBD overlay district.”; allow a front setback of 23 feet for the cap of the building, where 34 feet is the minimum required, and allow a street side setback of 22 feet for the cap of the building, where 34 feet is the minimum required, contra to § 98-1630. 3(e)(1) that provides: “Front setback and street side setback...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. Property is located at **1100 EAST 41 STREET**, Hialeah, Florida, zoned M-1 (Industrial District), and legally described as follows:

Tract A of Resnick Property, according to the Plat thereof, as recorded in Plat Book 61, at Page 71, of the Public Records of Miami-Dade County, Florida. Said parcel having Folio No: 04-3105-012-0010.

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.

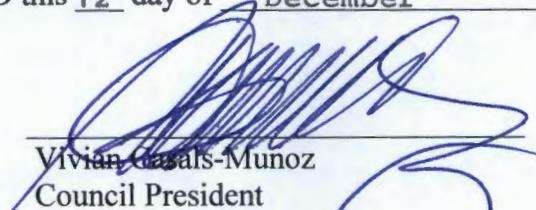
Section 6: Effective Date.

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 12 day of December, 2017.

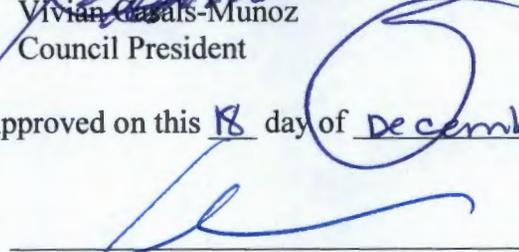
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 168.041
PRIOR TO FINAL READING.


Vivian Casals-Munoz
Council President

Attest:

Approved on this 18 day of December, 2017.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

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