

ORDINANCE NO. 2016-36

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO EXTEND THE NEIGHBORHOOD BUSINESS DISTRICT (NBD) OVERLAY ON PROPERTY LOCATED AT AN ACTIVITY NODE AREA PURSUANT TO HIALEAH CODE §98-1630.8; AND GRANTING A VARIANCE PERMIT TO ALLOW A BUILDING HEIGHT OF 96.33 FEET, WHERE 95 FEET IS THE MAXIMUM ALLOWED, AND TO ALLOW 15.24 % OF THE RESIDENTIAL UNITS TO HAVE A FLOOR AREA OF 660 SQUARE FEET, WHERE A MAXIMUM OF TEN PERCENT OF RESIDENTIAL UNITS MAY HAVE A MINIMUM FLOOR AREA OF 600 SQUARE FEET; CONTRA TO HIALEAH CODE §§ 98-1630.3 (b) AND 98-1630.2. **PROPERTY IS A VACANT PARCEL LYING ON THE NORTH SIDE OF EAST 2ND STREET AND THE SOUTH SIDE OF EAST 3RD STREET, BETWEEN EAST 1ST AVENUE AND EAST 2ND AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF 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 May 11, 2016 recommended approval of this ordinance.

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 extend the Neighborhood Business District (NBD) overlay on property located at an activity node area pursuant to Hialeah Code §98-1630.8.

Section 2: The below-described property is hereby granted a variance permit to allow a building height of 96.33 feet, where 95 feet is the maximum allowed, and to allow 15.24 % of the residential units to have a floor area of 660 square feet, where a maximum of ten percent of residential units may have a minimum floor area of 600 square feet; contra to Hialeah Code §§ 98-1630.3 (b) and 98-1630.2, which provide in pertinent part: “*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. The maximum height, without height incentives, is 55 feet and five stories. The minimum height of a story or floor is 12 feet for nonresidential spaces as measured from the finished floor to the finished ceiling. The minimum height of a story or floor is nine feet for residential spaces as measured from the finished floor to the finished ceiling. 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.’ and “Retail 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.”, respectively. Property is a vacant parcel lying on the North side of East 2nd Street and the South side of East 3rd Street, between East 1st Avenue and East 2nd Avenue, Hialeah, Florida, and legally described as follows:

LOTS 4, 5, 6, 7, 8, 18, 19, 20 AND 22 OF BLOCK 5, OF
“TOWN OF HIALEAH”, ACCORDING TO THE PLAT
THEREOF, AS RECORDED IN PLAT BOOK 5, AT
PAGE 77, OF THE PUBLIC RECORDS OF MIAMI-
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.

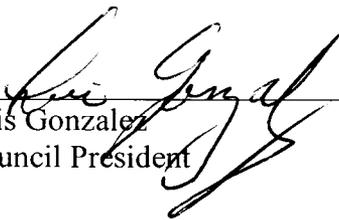
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 14 day of June, 2016.

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

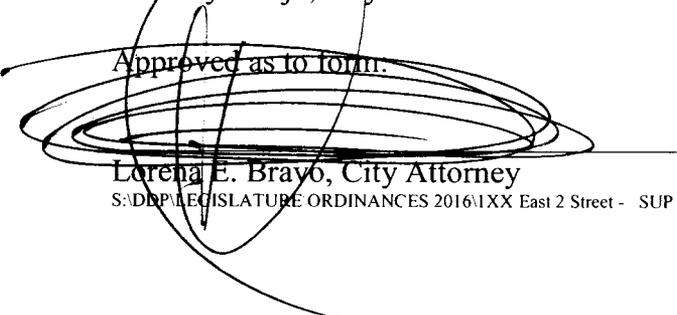
Attest:


Marbelys Fatjo, City Clerk

Approved on this 20 day of June, 2016.


Mayor Carlos Hernandez

Approved as to form:


Lorena E. Brayo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Casáls-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, Caragol, and Lozano voting "Yes". Council Vice-President Cue-Fuente absent.