

ORDINANCE NO. 2018-054

ORDINANCE REZONING FROM R-1 (ONE FAMILY RESIDENTIAL DISTRICT) TO R-3-5 (MULTIPLE FAMILY DISTRICT); AND GRANTING A SPECIAL USE PERMIT (SUP) PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8 TO ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT FOR THE CONSTRUCTION OF A NEW 35-UNIT MULTIFAMILY RESIDENTIAL BUILDING; AND GRANTING A VARIANCE PERMIT TO ALLOW ONLY RESIDENTIAL USES, WHERE A VERTICAL MIX OF USES IS REQUIRED; ALLOW ALL RESIDENTIAL UNITS TO HAVE AN AREA LESS THAN 850 SQUARE FEET, WHERE ONLY 10% OF THE UNITS MAY HAVE A FLOOR AREA OF LESS THAN 850 SQUARE FEET; ALLOW FRONT SETBACK OF 5 FEET, WHERE 10 FEET ARE REQUIRED; ALLOW EAST AND NORTH SIDE SETBACKS OF 10 FEET, WHERE 15 FEET ARE REQUIRED; ALLOW A PERVIOUS AREA OF 16.8%, WHERE 30% IS REQUIRED; AND ALLOW 40 PARKING SPACES, WHERE 79 PARKING SPACES ARE REQUIRED; ALL CONTRA TO §§ 98-1630.2, 98-1630.3(e)(1) AND 98-1630.3(e)(2) 98-2056(b)(1) AND 98-2189(19)b. **PROPERTY LOCATED AT 701 EAST 4TH AVENUE AND 421 EAST 7TH STREET, 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 23, 2018 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a declaration of restrictive covenants: (1) providing for a management plan addressing parking allocation and controls for on-site internal

parking, as well as, providing for the mitigation of parking impacts within the neighboring residential properties; and (2) to provide for a time certain for site-plan approval, and for completion of construction, 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) pursuant to Hialeah code of ordinances § 98-1630.8 to allow the expansion of the Neighborhood Business Overlay District.

Section 2: The below described property is hereby rezoned from R-1 (One Family Residential District) to R-3-5 (Multiple Family District);

Section 3: The below described property is hereby granted a variance permit to allow only residential uses, where a vertical mix of uses is required, contra to Hialeah Code of Ordinances § 98-1630.2 that provides in relevant part: “Residential uses shall be allowed above the ground level only.”; to allow all residential units to have an area less than 850 square feet, where only 10% of the units may have a floor area of less than 850 square feet, contra to Hialeah Code of Ordinances § 98-1630.2 that provides in relevant part: “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.”; to allow front setback of 5 feet, where 10 feet are required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(1) that provides in relevant part: “Front setback and street side setback. For the pedestal or base of a building, a minimum setback of ten feet...”; to allow east and north side setbacks of 10 feet, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(2) that provides in relevant part:“... all property lines abutting low density and medium density residential districts shall provide a minimum setback of 15 feet.”; to allow a pervious area of 16.8%, where 30% is 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 to allow 40 parking spaces, where 79 parking spaces are required, contra to Hialeah Code of Ordinances § Ordinances 98-2189(19)b. that provides: "Medium and high density. Two parking spaces for one or two bedrooms, and one-half parking space for each additional bedroom." Property located at 701 East 4th Avenue and 421 East 7th Street, Hialeah, Florida, and legally described as:

Lots 16, 17, 18, 19 and 20, Block 2, of BOUGAINVILLEA PARK,
according to the Plat thereof, as recorded in Plat Book 9, at Page
140, 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.

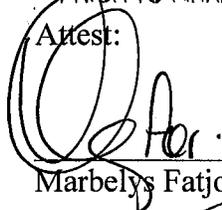
PASSED and ADOPTED this 26 day of June, 2018.

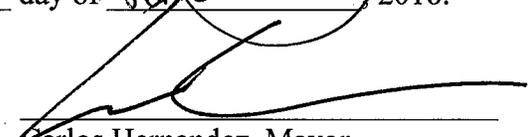
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Munoz
Council President

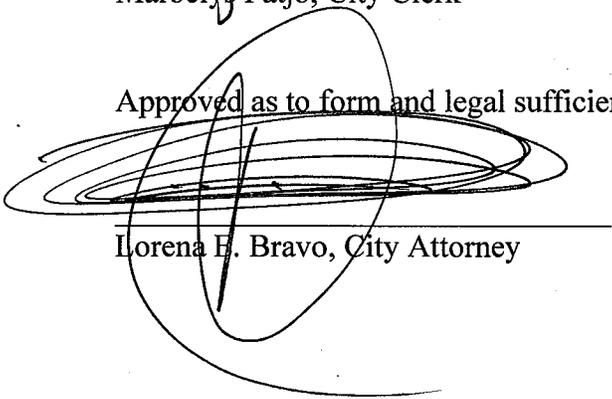
Attest:

Approved on this 20 day of June 2018.


Marbelys Fatjo, City Clerk


Carlos Hernandez, Mayor

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

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