

ORDINANCE NO. 2018-107

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS TO A PROPERTY LOCATED IN AN ACTIVITY NODE PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8 FOR THE SITTING OF A RESIDENTIAL CARE AND TREATMENT FACILITY WITH 38 BEDS ON THE THIRD FLOOR; AND GRANTING A VARIANCE PERMIT TO ALLOW 80% OF THE RESIDENTIAL UNITS WITH LESS THAN 850 SQUARE FEET, WHERE A MAXIMUM OF 10% OF THE UNITS CAN HAVE A MINIMUM AREA OF 850 SQUARE FEET; ALLOW FRONT SETBACK OF 7 FEET, WHERE 10 FEET BUILT TO LINE IS THE MINIMUM REQUIRED; AND ALLOW 196 PARKING SPACES, WHERE 408 PARKING SPACES ARE REQUIRED; CONTRA TO HIALEAH CODE §§ 98-1630.2, 98-2189(7) AND (16)a., AND 98-1630.3(e)(1). PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT). **PROPERTY LOCATED AT 7000 WEST 12 AVENUE, 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 August 22, 2018, recommended approval of this ordinance; and

WHEREAS, the developer has proffered a Declaration of Restrictive Covenants, 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) 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 permit to allow 80% of the residential units to have less than 850 square feet, where a maximum of 10% of the units can have a minimum area of 850 square feet, 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.”; to allow front setback of 7 feet, where 10 feet built to line is the minimum required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(1) that provides in relevant part: “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.”; and to allow 196 parking spaces, where 408 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 contra to 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.” Property located at 7000 West 12 Avenue, Hialeah, Florida, zoned CR (Commercial Residential District), and as legally described in Exhibit “A”.

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 25 day of September, 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-Muñoz
Council President

Attest:

Approved on this 1 day of October, 2018.

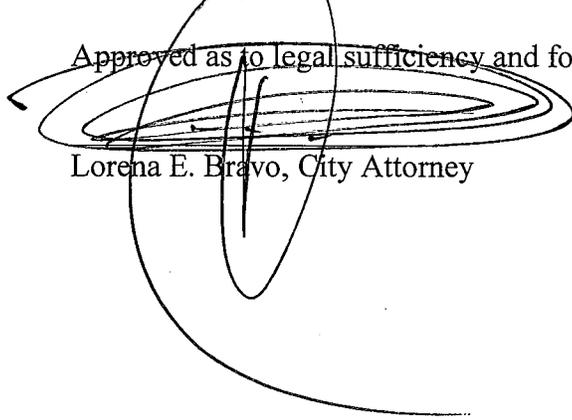


Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Zogby, Lozano, Casals-Munoz, Hernandez, Caragol, and Cuenca voting "Yes" and Garcia-Martinez absent.