ORDINANCE NO. 2014-09

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 33. NBD NEIGHBORHOOD BUSINESS DISTRICT, OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING THE PROVISIONS CONCERNING THE PURPOSE, PRECEDENCE OVER OTHER LAND USE AND ZONING REGULATIONS SURFACE PARKING AND PARKING REQUIREMENTS AND HEIGHT AND DENSITY INCENTIVES AND MISCELLANEOUS PROVISIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its regular meeting of January 8, 2014 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific intent and purpose of this ordinance is provide increased points or incentives for affordable housing, bus passenger shelters, artwork displays towards the height of buildings; provide density points or incentives regarding signage; provide greater flexibility for surface parking using pavers, stamped asphalt or other distinct pavement materials, allow NBD district on property having a CBD land use classification and revise and clarify the precedence of the NBD overlay district with respect to other zoning and overlay districts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 33, NBD Neighborhood Business District, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 33. NBD NEIGHBORHOOD BUSINESS DISTRICT

Sec. 98-1627. Purpose.

The purpose of the NBD neighborhood business district is to provide mixed residential, retail, office and/or service-oriented uses that promote and encourage pedestrian access and regular use. The criteria and incentives provided herein do not apply to single-use buildings, but such criteria and incentives may apply to mixed use buildings following the guidelines provided in the NBD district urban design plan that satisfy each of the following requirements:

(1) The property is located within an activity node within the NBD overlay district;

(2) The property has a land use classification of commercial, medium density residential, ~~or~~ high density residential <u>or central business district (CBD)</u>; and

(3) A vertical mix of uses.

* * *

Sec. 98-1630. Precedence over other land use and zoning regulations.

To the extent that nay conflict or difference may arise between the criteria of this district and the criteria of the C-1, C-2 and C-3

commercial zoning districts, CR, CBD mixed use districts, multiple family residential zoning districts and any overlay zoning district of a lesser maximum density or lesser intensity, the requirements of the NBD overlay zoning district shall prevail. The NBD zoning district regulations take precedence only if the property owner develops the property according to the expanded uses that are available in the NBD district. This section does not affect a property owner from developing its property according to the current zoning regulations of the zoning district designation for the property.

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Sec. 98-1630.3 Development standards.

* * *

(e) *Setback requirements.* The minimum setbacks shall be as follows:

* * *

(4) Surface parking. To the extent that is it is reasonably practical, ~~N~~no surface parking or loading areas shall be allowed on either a front setback or a side setback. Where surface parking is unavoidable, as in the example of retrofitting an existing site, the parking pavement shall be improved with stamped asphalt, brick pavers or similar distinct pavement.

(f) *Parking requirements.* For parking requirements, see parking requirements provided in section 98-2189(22). In connection with an application or request to utilize the NBD zoning regulations, a parking demand study and analysis prepared by a registered traffic engineer shall be provided.

Sec. 98-1630.4. Height incentives.

(a) *Elements and assigned points.* The following elements have been assigned incentive points based on the importance of the element, with the most points given to the highest priority

(1) ~~2.0~~ 3.0 points—Diverse residential unit types, including a minimum of 20 percent affordable housing.

(2) 2.0 points—bus passenger shelters.

(3) 1.0 point—For each piece of permanent art work display at street level and/or visible from the street, including, but not limited to, sculptures, murals, building accents and artistically designed sidewalks.

(4) 1.0 point—Diverse residential unit types, including a minimum of ten percent affordable housing. [renumber accordingly]

* * *

~~(11) 0.25 point—Art work display or fountains at street level and visible from the street.~~

~~(12)~~ (13) 0.25 point—Enhanced outdoor furniture, including, but not limited to, benches, lighting, lighting fixtures and trash and garbage containers.

* * *

Sec. 98-1630.5 Density incentives.

(a) *Elements and assigned points.* The following elements have been assigned incentive points based on the importance of the element, with the most points given to the highest priority element and the least number of points given to the lowest priority element"

(1) Height incentive points. Each point assigned as a height incentive shall count as a density incentive point but only 50 percent of the point value assigned under the height incentives.

* * *

(5) 6 points—Improved storefront and development signage. Submittal of a pattern or regulations book to be distributed to all tenants, which include standards for enhanced individual storefront signage and channel lettering that is coordinated with the signage of the entire development (monument signs only).

[subsequent subsections to be renumbered accordingly]

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Sec. 98-1630.6. Building design concept requirements.

* * *

(e) *Exterior colors, materials and details.*

* * *

(2) The color palette should integrate the classic base colors including, but not limited to, ~~warm each~~ earth tones such as gray, tan, ochre, beige and terracotta. Roses, pinks, plums, blues and violet shades of color should be generally avoided.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: 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 4: **Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

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 11 day of February, 2014.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 14 day of February, 2014.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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