

ORDINANCE NO. 2019-105

ORDINANCE 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; AND GRANTING A VARIANCE PERMIT TO ALLOW A SINGLE USE BUILDING, WHERE A MIXED OF USE IS REQUIRED; ALLOW ALL RESIDENTIAL UNITS TO HAVE AN AREA OF 625 SQUARE FEET, WHERE UNITS SHALL HAVE A MINIMUM OF 850 SQUARE FEET AND ONLY 10% OF THE UNITS MAY HAVE A FLOOR AREA OF 600 SQUARE FEET; ALLOW 47% BUILDING FRONTAGE ON EAST 1 AVENUE, WHERE 100% IS REQUIRED; ALLOW FRONT SETBACK OF 5 FEET, AND 14.4 FEET, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW STREET SIDE SETBACKS OF 3 FEET, 5 FEET, AND 6.25 FEET, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW A 5.83 FOOT INTERIOR SIDE SETBACK, WHERE 15 FEET ARE REQUIRED; ALLOW SURFACE PARKING ON THE STREET SIDE FRONT SETBACK, WHERE NO SURFACE PARKING IS ALLOWED; AND ALLOW 34 PARKING SPACES, WHERE 63 PARKING SPACES ARE REQUIRED; ALL CONTRA TO §§ 98-1627, 98-1630.2, 98-1630.3(d), 98-1630.3(e)(1), 98-1630.3(e)(2), 98-1630.3(4) AND 98-2189(19)a. **PROPERTY LOCATED AT 100 EAST 9 STREET, HIALEAH, FLORIDA;** ZONED CR (COMMERCIAL RESIDENTIAL DISTRICT). 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 October 2, 2019 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) 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 granted a variance permit to allow a single use building, where a mixed of use is required, contra to Hialeah Code of Ordinances § 98-1627 that provides in relevant part: “The criteria and incentives provided herein do not apply to single-use buildings,...”; allow all residential units to have an area of 625 square feet, where units shall have a minimum of 850 square feet and only 10% of the units may have a floor area of 600 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.”; allow 47% building frontage on east 1 avenue, where 100% is required, contra to Hialeah Code of Ordinances § Sec. 98-1630.3(d) that provides in relevant part: “Building frontage. Any building that fronts an existing or proposed street shall provide building frontage of 100 percent, at the base...”; allow front setback of 5 feet; and 14.4 feet, where 10 feet built-to-line are required; and allow 3 feet, 5 feet and 6.25 street side setbacks, where 10 feet built-to-line is 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, built-to-line, or as provided in the urban design plan.”; allow a 5.83 foot interior side setback, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(2) that provides: “Interior side setback and interior rear setback. For the pedestal or base of a building, there is no minimum setback requirement, except that all property lines abutting low density and medium

density residential districts shall provide a minimum setback of 15 feet.”; allow surface parking on the street side front setback, where no surface parking is allowed, contra to Hialeah Code of Ordinances § 98-1630.3(4) that provides: “*Surface parking*. To the extent that is it is reasonably practical, no surface parking or loading areas shall be allowed on either a front setback or a side setback.”; and allow 34 parking spaces, where 63 parking spaces are required, contra to Hialeah Code of Ordinances § Ordinances 98-2189(19)a. that provides: “*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.”

Property located at 100 East 9 Street, Hialeah, Florida, and legally described as:

Lots 1, 2, and 3, in Block 35, of TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 5, 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.

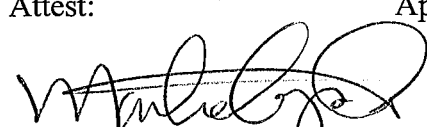
PASSED and ADOPTED this 12 day of November, 2019.

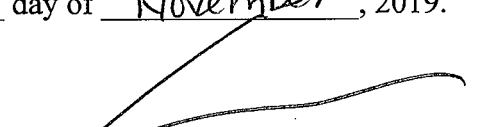
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casats-Munoz
Council President

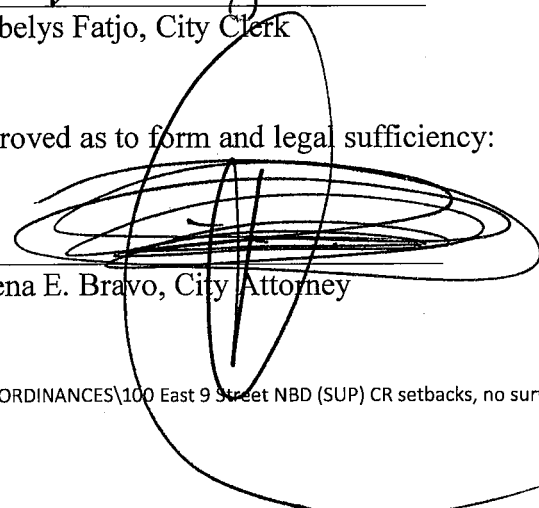
Attest:

Approved on this 20 day of November, 2019.


Marbelys Fatjo, City Clerk


Carlos Hernandez, Mayor

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

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Ordinance was adopted by a 6-0-1 vote with Councilm and Cue-Fuente voting "Yes" and with Councilmember Perez not present during roll call.