

ORDINANCE NO. 2019-108

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 USE IS REQUIRED; ALLOW ALL RESIDENTIAL UNITS TO HAVE AN AREA OF 670 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 36% BUILDING FRONTAGE, WHERE 100% IS REQUIRED; ALLOW FRONT SETBACK OF 12.16 FEET, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW WEST AND REAR SIDE SETBACKS OF 10 FEET, WHERE 15 FEET ARE REQUIRED; ALLOW SURFACE PARKING ON THE FRONT AND EAST SIDE SETBACKS, WHERE NO SURFACE PARKING IS ALLOWED; ALLOW A PERVIOUS AREA OF 19%, WHERE 30% IS REQUIRED; AND ALLOW 31 PARKING SPACES, WHERE 54 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), 98-2056(b)(1), 98-1630.3(4), AND 98-2189(19)a. **PROPERTY LOCATED AT 440 EAST 27 STREET, HIALEAH, FLORIDA; ZONED R-3 (MULTIPLE-FAMILY 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 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 670 square feet, where 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 36% building frontage, 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 12.16 feet, where 10 feet built-to-line 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, built-to-line, or as provided in the urban design plan.”; allow west and rear 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.”; allow a pervious area of 19%, 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...” ; allow surface parking on the front and east side

setbacks, 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 31 parking spaces, where 54 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 440 East 27 Street, Hialeah, Florida, and legally described as:

Lots 9, 10 and 11, Block 37-B, AMENDED PLAT OF AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, according to the Plat thereof, as recorded in Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida, together with the Northerly ½ of the vacated alley abutting to the South of said Lots 9, 10 and 11.

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.

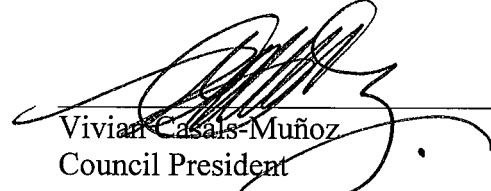
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

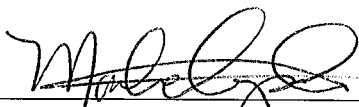
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



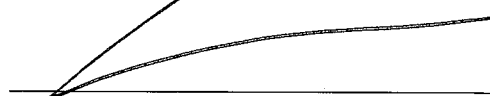
Vivian Casals-Muñoz
Council President

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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