

ORDINANCE NO. 2021-007

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS DISTRICT OVERLAY AT AN ACTIVITY NODE FRONTING THE HIALEAH METRORAIL STATION FOR A MULTIFAMILY 90 RESIDENTIAL UNIT BUILDING PURSUANT TO §§ 98-1630.8 AND 98-161 HIALEAH CODE OF ORDINANCES; AND GRANTING A VARIANCE PERMIT TO ALLOW A SINGLE USE MULTIFAMILY RESIDENTIAL BUILDING, WHERE A VERTICAL MIX OF USES IS REQUIRED; ALLOW 36 UNITS WITH LESS THAN 850 SQUARE FEET, WHERE ONLY 9 UNITS MAY HAVE A MINIMUM OF 600 SQUARE FEET; ALLOW FRONT SETBACKS FOR BUILDINGS OF 6.75 FEET ALONG EAST 21 STREET, 2.10 FEET ALONG EAST 1 AVENUE, AND 2.10 FEET AND 15 FEET ALONG CURTISS DRIVE, WHERE FRONT SETBACKS OF 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW FRONT SETBACK FOR TERRACES ON THE GROUND FLOOR AND BALCONIES ABOVE THE GROUND FLOOR OF 2 FEET ALONG EAST 21 STREET, EAST 1 AVENUE, AND CURTISS DRIVE, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW 125 PARKING SPACES WHERE 203 ARE REQUIRED; AND ALLOW 12.4% PERVIOUS AREA, WHERE 30% IS REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.1, 98-1630.2, 98-1630.3(e)(1), 98-2189(16)a. AND 98-2056(b)(1). **PROPERTY LOCATED AT 102 EAST 21 STREET, HIALEAH, ZONED CBD (CENTRAL BUSINESS 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 November 18, 2020, recommended approval of this ordinance; and

WHEREAS, the developer has proffered a Declaration of Restrictions, 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 and 98-161 to allow the expansion of the NBD (Neighborhood Business District) regulations.

Section 2: The below-described property is hereby granted a variance permit to allow a single use multifamily residential building, where a vertical mix of uses is required to allow only residential uses, where residential and commercial uses are required, contra to Hialeah Code of Ordinances § 98-1630.1 that as relevant provides: “No building or land shall be used and no building shall be hereinafter erected, constructed, reconstructed or structurally altered that is designed, arranged or intended to be used or occupied for any purpose, unless it provides residential use and one or more of the principal commercial uses...”; allow 36 units with less than 850 square feet, where only 9 units may have a minimum of 600 square feet, contra to Hialeah Code of Ordinances § 98-1630.2 that as relevant provides: “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.”; allow front setbacks for buildings of 6.75 feet along East 21 Street, 2.10 feet along East 1 Avenue, 2.10 feet and 15 feet along Curtiss Drive and allow front setback for terraces on the ground floor and balconies above the ground floor of 2 feet along East 21 Street, East 1 Avenue, and Curtiss Drive, where 10 feet built-to-line are required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(1) that as relevant provides: “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 125 parking spaces, where 203 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 allow 12.4% pervious area, 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, which space may include recreation areas, swimming pools, and setback areas.” Property located at 102 East 21 Street, Hialeah, Florida, zoned CBD (Central Business District), and legally described as follows:

Lots 11 through 23 inclusive, block 129, HIALEAH THIRD ADDITION, according to the plat thereof, as recorded in Plat Book 7, Page 86, of the Public Records of Miami-Dade County, Florida.

Folio No: 04-3107-018-2630

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.

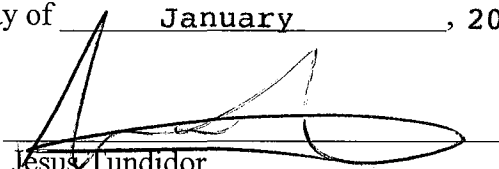
Section 5: Severability Clause.

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.

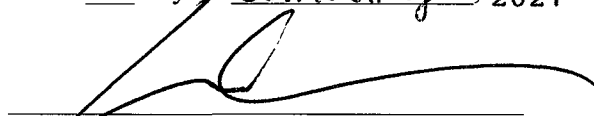
PASSED and ADOPTED this 12 day of January, 2021

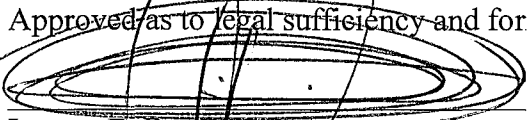

Jesus Tundidor
Council President

Attest:

Approved on this 20 day of January, 2021


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to legal sufficiency and for

Lorena E. Bravo, City Attorney

Ordinance was adopted by 4-0-3 vote with Councilmembers, De la Rosa, Garcia-Roves, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente, Council Vice President Perez and Council Member Hernandez absent.

S:\DJ\ORDINANCES\102 East 27 Street GBD variances NBD overlay.docx

THE FOREGOING ORDINANCE
OF THE CITY OF TAMPA
PUBLISHED IN THE
WITH THE JOURNAL OF
FLORIDA STATUTES
PRIOR TO FINAL PUBLISHING.