

ORDINANCE NO. 2021-008

ORDINANCE REZONING THE PROPERTY FROM R-2 (ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT) TO CBD (CENTRAL BUSINESS DISTRICT); 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 MIXED-USE BUILDING INCLUDING 12 RESIDENTIAL UNITS AND 2,710 SQUARE FEET OF COMMERCIAL AREA; PURSUANT TO §§ 98-1630.8, AND 98-161 HIALEAH CODE OF ORDINANCES; AND GRANTING A VARIANCE PERMIT TO ALLOW 12 RESIDENTIAL UNITS WITH LESS THAN 850 SQUARE FEET WHERE ONLY 1 UNIT MAY HAVE A MINIMUM OF 600 SQUARE FEET; ALLOW A 50 FOOT HIGH BUILDING PEDESTAL, WHERE 40 FEET IS THE MAXIMUM ALLOWED; ALLOW FRONT SETBACKS FOR BUILDING OF 4.5 FEET ALONG EAST 21 STREET AND 5 FEET AND 6 FEET ALONG EAST 1 AVENUE, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW FRONT SETBACK FOR STAIRCASE AND ENTRANCE HALLWAY OF 1-FOOT ALONG EAST 1 AVENUE, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW FRONT SETBACKS OF 3.83 FEET FOR BUILDING WALLS ABOVE THE GROUND FLOOR, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW 25 PARKING SPACES, WHERE 38 PARKING SPACES ARE REQUIRED; AND ALLOW 8% PERVIOUS AREA, WHERE 30% IS REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.2, 98-1630.3(b), 98-1630.3(e)(1), 98-2189(16) a. AND b. AND 98-2056(b)(1). **PROPERTY LOCATED AT XX EAST 21 STREET, HIALEAH, ZONED R-2 (ONE- AND TWO-FAMILY 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 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) Overlay at an activity node fronting the Hialeah Metrorail Station for a mixed-use building including 12 residential units and 2,710 square feet of commercial area.

Section 2: The below described property is hereby rezoned from R-2 (One-And Two-Family District) to CBD (Central Business District). Property located at XX East 21 Street, Hialeah, Florida, 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: 04-3107-018-2660

Section 3: The above-described property is hereby granted a variance permit to allow 12 residential units with less than 850 square feet, where only 1 unit 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 a 50 foot high building pedestal, where 40 feet is the maximum allowed, contra to Hialeah Code of Ordinances § 98-1630.3(b) that as relevant provides: “*Height*... The maximum height of the base or pedestal is 40 feet...”; allow front setbacks for building of 4.5 feet along East 21 Street and 5 feet and 6 feet along East 1 Avenue, where 10 feet built-to-line are required; allow front setback for staircase and entrance hallway of 1-foot along East 1 Avenue, where 10 feet built-to-line are required, and allow front setback of 3.83 feet for building wall above the ground floor, 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 25 parking spaces, where 38 parking spaces

are required, contra to Hialeah Code of Ordinances § 98-2189(16) a. and b. 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. *Commercial uses.* The parking requirements for commercial uses as designated in this section shall apply except that vocational schools and post-secondary schools shall provide one parking space for every 150 square feet of gross floor area.”; and allow 8% 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.

Section 4: Repeal of Ordinances in Conflict.

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

Section 5: 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 6: 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 7: Effective Date.

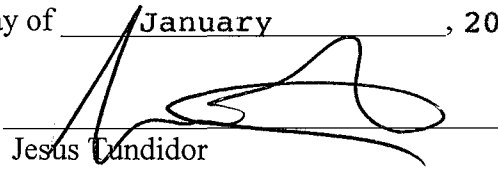
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature

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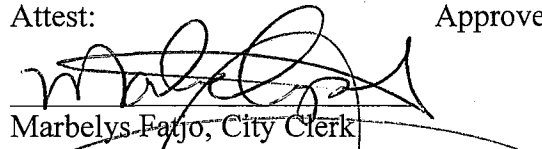
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is withheld or if the City Council overrides the Mayor's veto.

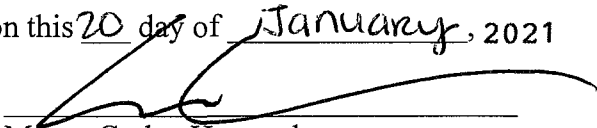
PASSED and ADOPTED this 12 day of January, 2021

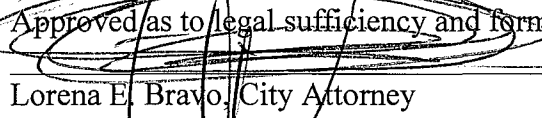

Jesus Tundidor
Council President

Attest:


Marbelys Fajó, City Clerk

Approved on this 20 day of January, 2021


Mayor Carlos Hernandez


Approved as to legal sufficiency and form
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.

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THE FOREGOING ORDINANCE
OF THE CITY OF TAMPAH WAS
PUBLISHED IN THE TAMPAH
WITH THE ORDINANCE
FLORIDA STATUTES, 2021
PRIOR TO FINAL PUBLISHING.