

**ORDINANCE NO. 2021-028**

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS DISTRICT OVERLAY PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8; AND GRANTING A VARIANCE PERMIT TO ALLOW A SINGLE USE, MULTIFAMILY RESIDENTIAL BUILDING, WHERE A VERTICAL MIX OF USES IS REQUIRED; ALLOW RESIDENTIAL USE ON THE GROUND FLOOR, WHERE RESIDENTIAL USES ARE ALLOWED ABOVE THE GROUND LEVEL ONLY; ALLOW ALL UNITS WITH AREA OF 600 SQUARE FEET, WHERE AREA OF 850 SQUARE FEET IS THE MINIMUM REQUIRED AND ONLY 10% OF THE UNITS MAY HAVE AN AREA OF 600 SQUARE FEET; ALLOW 15 FEET FRONT SETBACK, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW REAR SETBACK OF 10 FEET AND INTERIOR EAST SIDE SETBACK OF 7 FEET, WHERE 15 FEET ARE REQUIRED; ALLOW SURFACE PARKING ON THE FRONT SETBACK, WHERE SURFACE PARKING IS NOT ALLOWED ON FRONT SETBACK; ALLOW 19 PARKING SPACES, WHERE 34 PARKING SPACES ARE REQUIRED; AND ALLOW 23.9% PERVIOUS AREA, WHERE 30% IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.1, 98-1630.2, 98-1630.3(e)(1), 98-1630.3(e)(4), 98-2189(16)a., AND 98-2056(b)(1). **PROPERTY LOCATED AT 241 EAST 6 STREET, HIALEAH, FLORIDA; ZONED R-3-D (MULTIFAMILY 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 March 3, 2021 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 to allow the expansion of the NBD (Neighborhood Business District) regulations.

**Section 2:** The below-described property is hereby granted a variance to allow a single use, multifamily residential building, where a vertical mix of uses is 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 residential use on the ground floor, where residential uses are allowed above the ground level only, contra to Hialeah Code of Ordinances § 98-1630.2 that as relevant provides: “Residential uses shall be allowed above the ground level only.”; allow all units with area of 600 square feet, where area of 850 square feet is the minimum required, except for 10% of the units may have an area of 600 square feet, contra to Hialeah Code of Ordinances § 98.1630.2 that as relevant provides: “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 on one bedroom units.”; allow 15 feet front setback 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 rear setback of 10 feet and interior east side setback of 7 feet, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-1630.3(e)(2) that as relevant 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 front setback, where surface parking is not allowed on front setback, contra to Hialeah Code of Ordinances § 98-1630.3(e)(4) that provides: “Surface parking. To the extent that it is reasonably practical, 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.”; allow 19 parking spaces where 34 parking spaces are required, contra to Hialeah Code of Ordinances § 98-2189(16)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.”; allow 23.9% pervious area, where 30% is the minimum 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 241 East 6 Street, Hialeah, zoned R-3-D (Multifamily District) and legally described as follows:

Lots 19 and 20, Block 22 of FOURTH ADDITION TO HIALEAH,  
according to the Plat thereof, as recorded in Plat Book 7, at Page 83,  
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.

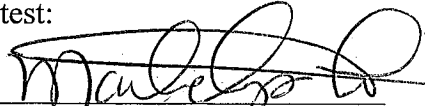
**Section 6: Effective Date.**

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.

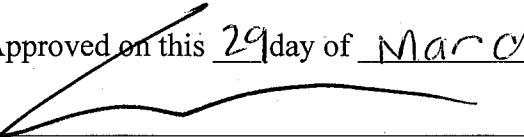
PASSED and ADOPTED this 23 day of March, 2021:

  
Jesus Tundidor  
Council President

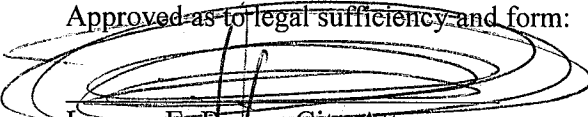
Attest:

  
Marbelys Fatjo, City Clerk

Approved on this 29 day of March, 2021.

  
Mayor Carlos Hernandez  
Ordinance was adopted by 7-0 vote with Councilmembers, Cue-Fuente, De la Rosa, Garcia-Roves, Hernandez, Perez, Tundidor, and Zogby voting "Yes".

Approved as to legal sufficiency and form:

  
Lorena E. Bravo, City Attorney

S:\DJORDINANCES\241 E 6 St R-3-D allow expansion of NBD and variances.docx

THE FOREGOING ORDINANCE  
OF THE CITY OF MEEH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE SECTION 218.31  
PRIOR TO FINAL HEADING.