

**ORDINANCE NO. 2021-048**

ORDINANCE REZONING FROM R-1 (ONE-FAMILY DISTRICT) AND RO (RESIDENTIAL OFFICE) TO R-3-3 (MULTIFAMILY DISTRICT); 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 RESIDENTIAL USE ON THE GROUND FLOOR, WHERE RESIDENTIAL USES ARE ALLOWED ABOVE THE GROUND LEVEL ONLY; ALLOW ALL RESIDENTIAL UNITS WITH AREA OF 660 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 FOR THE CORNER PORTION OF THE BUILDING, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW 47 PARKING SPACES, WHERE 63 PARKING SPACES ARE REQUIRED; AND ALLOW 21.9% PERVIOUS AREA, WHERE 30% IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.2, 98-1630.3(e)(1), 98-2189(16)a., AND 98-2056(b)(1). **PROPERTY LOCATED AT 665-673 EAST 49 STREET AND FOLIO NO. 04-2132-003-1010, HIALEAH, ZONED R-1, (ONE-FAMILY DISTRICT) AND RO (RESIDENTIAL OFFICE).** 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 April 14, 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 rezoned from R-1 (One-Family District) and RO (Residential Office) to R-3-3 (Multifamily District).

**Section 2:** The below-described property is hereby granted a Special Use Permit (SUP) to allow the expansion of the Neighborhood Business District Overlay, pursuant to Hialeah code of ordinances § 98-1630.8.

**Section 3:** The below-described property is hereby granted a variance permit to 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 residential units with area of 660 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 for the corner portion of the building, 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 47 parking spaces where 63 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 21.9% 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 665-673 East 49 Street and Folio No. 04-2132-003-1010, Hialeah, zoned R-1 (One-Family District) and RO (Residential Office) and legally described as follows:

Lots 14, 15 and 16, less the South 5 feet of Block 7 of LE JEUNE PARK, according to the Plat thereof, as recorded in Plat Book 45, at Page 63, of the Public Records of Miami-Dade County, Florida.

**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.

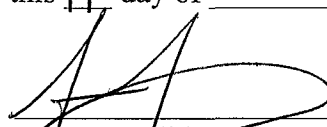
**Section 6: Severability Clause.**

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

PASSED and ADOPTED this 11 day of May, 2021.

  
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Jesus Tundidor  
Council President

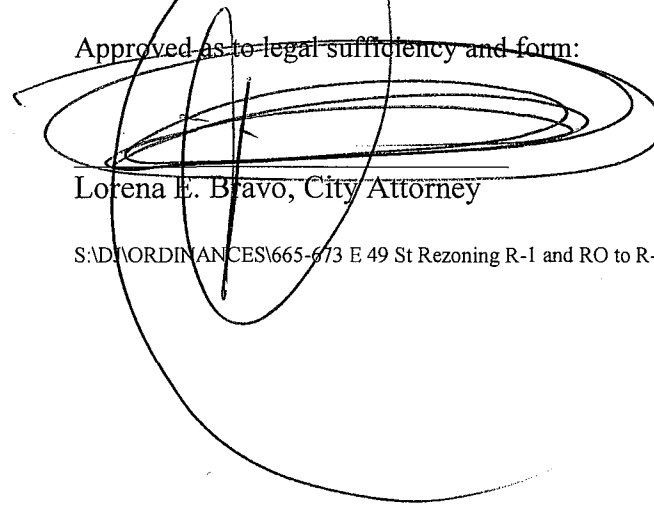
Attest:

Approved on this 21 day of May, 2021.

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to legal sufficiency and form:

  
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Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, De la Rosa, Garcia-Roves, Hernandez, Perez, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente absent.