

ORDINANCE NO. 2021-073

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW ONLY RESIDENTIAL USES WHERE A MIXED USE IS REQUIRED; ALLOW RESIDENTIAL USE ON THE GROUND FLOOR, WHERE RESIDENTIAL USES ARE ALLOWED ABOVE THE GROUND LEVEL ONLY; ALLOW ALL RESIDENTIAL UNITS WITH AN AREA OF APPROXIMATELY 646 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 5.66 FEET FRONT SETBACK FOR THE MAIN BUILDING, 2.66 FEET FOR BALCONIES ABOVE THE GROUND FLOOR FRONTING PALM AVENUE, ALLOW FRONT SETBACK OF 4.25 FEET FOR THE MAIN BUILDING, AND 1.25 FEET FOR BALCONIES ABOVE THE GROUND FLOOR FRONTING EAST 46 STREET, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW 38 PARKING SPACES, WHERE 67.5 PARKING SPACES ARE REQUIRED; ALLOW 15.3% 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 4597-4599 PALM AVENUE, HIALEAH, ZONED R-3-5 (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 May 12, 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 variance to allow only residential uses where a mixed use is required; 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 646 square feet, where area of 850 square feet is the

minimum required, where only 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 square feet for studios on one bedroom units.”; allow 5.66 feet front setback for the main building, 2.66 feet for balconies above the ground floor fronting Palm Avenue, allow front setback of 4.25 feet for the main building, and 1.25 feet for balconies above the ground floor fronting East 46 Street, 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 38 parking spaces where 67.5 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 15.3% 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 4597-4599 Palm Avenue, Hialeah, zoned R-3-5 (Multiple-Family District) and legally described in attached Exhibit “A”.

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.

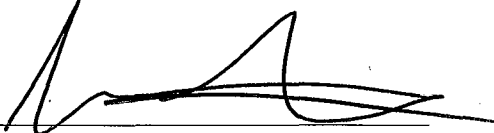
Section 5: Severability Clause.

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 10 day of August, 2021.



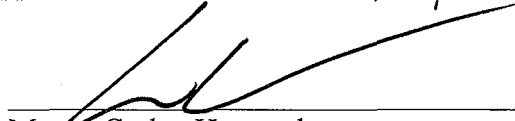
Jesus Tundidor
Council President

Attest:



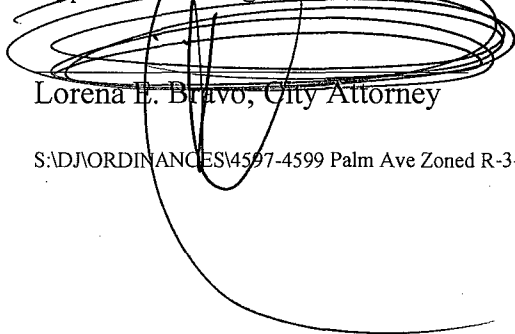
Marbelys Fatjo, City Clerk

Approved on this 23 day of August, 2021.



Mayor Carlos Hernandez

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION:

4597 PALM AVENUE, HIALEAH, FLORIDA 33012

TRACT F, REVISED PLAT OF FEATHERSTONE SPORTS ADDITION TO THE CITY OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA TOGETHER WITH A PORTION OF EAST 45TH PLACE, HIALEAH, FLORIDA DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHEAST CORNER OF THE SAID TRACT F, THENCE NORTHERLY ALONG A LINE FORMED BY THE NORTHERLY EXTENSION OF THE EAST LINE OF THE SAID TRACT F, 9.00 FEET; THENCE WESTERLY AND PARALLEL TO THE NORTH LINE OF THE SAID TRACT F, 30.00 FEET; THENCE SOUTHERLY AND PARALLEL TO THE EASTER LINE, 9.00 FEET TO THE NORTH OF THE SAID TRACT F; THENCE EASTERLY ALONG THE NORTH LINE OF THE SAID TRACT F, 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 12,870.00 SQUARE FEET, MORE OR LESS, BY CALCULATIONS.

4597 PALM AVENUE, HIALEAH, FLORIDA 33012

LOTS 1, 2 & 3, FEATHERSTONE SPORTS ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGE 11 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

CONTAINING: 10,558.00 SQUARE FEET, MORE OR LESS, BY CALCULATIONS.