

ORDINANCE NO. 2021-101

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 SINGLE USE, WHERE MIXED USE IS REQUIRED; ALLOW 55% OF THE UNITS WITH AREA OF 600 SQUARE FEET, WHERE ONLY 10% OF THE UNITS MAY HAVE AN AREA OF 600 SQUARE FEET; WAIVE BUILDING MASS REQUIREMENT AND SETBACK REQUIREMENTS FOR THE TOWER AND CAP OF THE BUILDING; ALLOW 196 PARKING SPACES; WHERE 342 PARKING SPACES ARE REQUIRED; AND ALLOW PERVIOUS AREA OF LESS THAN 30%, WHERE 30% IS THE MINIMUM REQUIRED. PROPERTY LOCATED AT **150 EAST 1 AVENUE, HIALEAH, ZONED CBD (CENTRAL BUSINESS DISTRICT)**; CONTRA TO HIALEAH CODE OF ORDINANCES §§, 98-1630.1, 98-1630.2, 98-1630.3(c), 98-1630.3(e)(1) AND (2), 98-2189(16)a., AND THE CITY OF HIALEAH LANDSCAPE MANUAL DATE JULY 9, 2015, "TABLE A, MINIMUM PERVIOUS AREA, CBD." 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 September 8, 2021, recommended approval of this ordinance; and

WHEREAS, this approval is conditioned on the development identified in the Site Plan composed by Robert K. Morisette and dated August 2, 2021 being built.

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 Neighborhood District Overlay regulations.

Section 2: The below-described property is hereby granted a variance to permit variance permit to allow single use, where mixed use 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 55% of the units with area of 600

square feet, 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 feet for studios or one bedroom units.”; waive building mass requirement and setback requirements for the tower and cap of the building contra to Hialeah Code of Ordinances § 98-1630.3(c) that provides: “*Building mass*. A building shall be defined a delineated base or pedestal, middle or tower and cap or penthouse. The building mass shall provide a segmented, reduced mass as the building reaches its full height, from a greater mass at the base to a lesser mass in the middle to smaller mass at the cap or penthouse.”, and Hialeah Code of Ordinances § 98-1630.3 (e)(1) and (2) that as relevant provide: “(1) Front setback and street side setback. ... For the tower or middle of a building, a minimum setback of 22 feet. For the cap or penthouse of a building, a minimum setback of 34 feet., and (2) Interior side setback and interior rear setback. ... For the tower or middle of a building, a minimum setback of 22 feet. For the cap or penthouse of a building, a minimum setback of 28 feet.”; allow 196 parking spaces; where 342 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 pervious area of less than 30%, where 30% is the minimum required, contra to City of Hialeah Landscape Manual dated July 9, 2015, that as relevant provides: “Table A, Minimum Pervious Area, CBD, Percent of Net lot Area, 20%.”; provided that this approval is conditioned on the development identified in the Site Plan composed by Robert K. Morisette and dated August 2, 2021 being built. Property located at 150 East 1 Avenue, Hialeah, zoned CBD (Central Business District), and legally described as follows:

All of Blocks 1, 6 and Lots 13 through 16, Block 9, TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 5, at Page 77, of the Public Records of Miami-Dade County, Florida, together with that portion of East 2nd Street lying between said Blocks 1 and 6. LESS portions dedicated for right-of-way.

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.

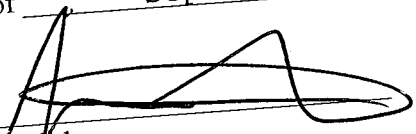
Section 5: Severability Clause.

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.

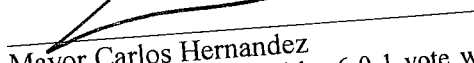
Section 6: Effective Date.

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.

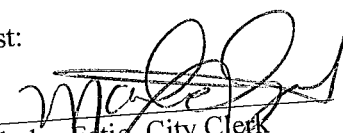
PASSED and ADOPTED this 28 day of September, 2021.


Jesus Tundidor
Council President

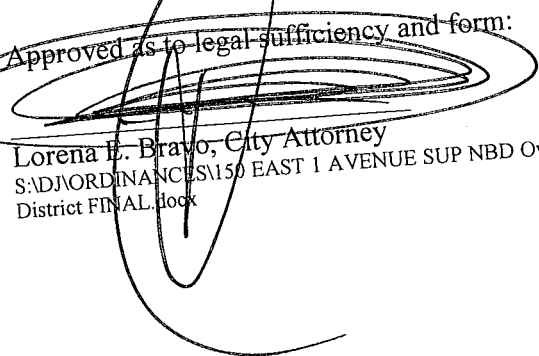
Approved on this 7 day of October, 2021.


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

Attest:


Marbelys Fajó, City Clerk

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney
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