

ORDINANCE NO. 2022-009

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-161 AND ALLOW THE EXPANSION OF THE NEIGHBORHOOD BUSINESS DISTRICT OVERLAY PURSUANT TO HIALEAH CODE OF ORDINANCES 98-1630.8; AND ALLOW A VARIANCE PERMIT TO ALLOW ONLY RESIDENTIAL USES, WHERE MIXED USE IS REQUIRED; ALLOW RESIDENTIAL USE ON THE GROUND FLOOR, WHERE RESIDENTIAL USE IS ALLOWED ABOVE GROUND FLOOR LEVEL; ALLOW ALL RESIDENTIAL UNITS WITH AREA RANGING FROM 505 SQUARE FEET TO 517 SQUARE FEET, WHERE 850 SQUARE FEET IS THE MINIMUM REQUIRED AND ONLY 10% OF THE UNITS MAY HAVE AN AREA OF 600 SQUARE FEET; ALLOW STREET SIDE SETBACK OF 19.58 FEET, WHERE 10 FEET BUILT TO LINE ARE REQUIRED; ALLOW 1.83 FEET SIDE SETBACK WHERE 15 FEET ARE REQUIRED; ALLOW 10 PARKING SPACES, WHERE 21 PARKING SPACES ARE REQUIRED; ALLOW 19.58% 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)(2), 98-2189(16)a. AND 98-2056(b)(1). **PROPERTY LOCATED AT 444 WEST 17 STREET, HIALEAH, ZONED R-3-2 (MULTI-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 January 10, 2022 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 § 98-161 and allow the expansion of the Neighborhood Business District Overlay pursuant to Hialeah Code of Ordinances § 98-1630.8.

Section 2: The below-described property is hereby granted a variance to allow only residential uses, 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 residential use on the ground floor, where residential use is allowed above floor level, 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 ranging from 505 square feet to 517 square feet, where 850 square feet is the minimum required and 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 on one bedroom units.”; allow street side setback of 19.58 feet, where 10-foot built-to-line is 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...”; allow 1.83 feet side setback, where 15 feet are required, contra to Hialeah Code of Ordinances § 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 10 parking spaces, where 21 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 19.58% 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 444 West 17 Street, Hialeah, zoned R-3-2 (Multiple-Family District) and legally described as follows:

The North 100 feet of Lot 4, of GLADEVILLE, according to the Plat thereof, as recorded in Plat Book 7, at Page 45, of the Public Records of Miami-Dade County, Florida; less the West 12.5 feet and less the North 30 feet 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.

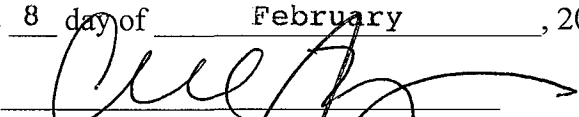
Section 5: Severability Clause.

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 8 day of February, 2022.



Carl Zogby
Council President

Approved on this 20 day of February, 2022.

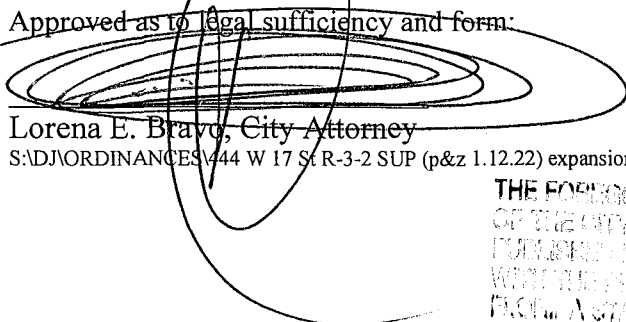
Mayor Esteban Bovo, Jr.

Ordinance was adopted by 7-0 with
Councilmembers Calvo, Casals-Muñoz,
Garcia-Roves, Perez, Rodriguez, Tundidor,
and Zogby voting "Yes."

Attest:


Marbelys Fatjo, City Clerk

Approved as to legal sufficiency and form:


Lorena E. Bravo, City Attorney

S:\DJORDINANCES\444 W 17 St R-3-2 SUP (p&z 1.12.22) expansion of NBD.uocx

THE FOLLOWING ORDINANCE
OF THE CITY OF WILMINGTON
PUBLISHED IN A PRELIMINARY
FORM IN THE OFFICE OF
THE CITY ATTORNEY 188.041
PRIOR TO FINAL READING.