

ORDINANCE NO. 2022-055

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW THE EXPANSION OF THE NBD (NEIGHBORHOOD BUSINESS DISTRICT) OVERLAY FOR THE DEVELOPMENT OF A 27-UNIT MULTIFAMILY BUILDING, PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-1630.8; GRANTING 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 ONLY; ALLOW 18 RESIDENTIAL UNITS WITH AN AREA OF 595 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 7 FEET FRONT SETBACK ON EAST 7 AVENUE, FOR ENCROACHMENT OF BALCONIES ABOVE THE GROUND FLOOR, WHERE 10 FEET BUILT-TO-LINE ARE REQUIRED; ALLOW 32 PARKING SPACES, WHERE 61 PARKING SPACES ARE REQUIRED; AND ALLOW 29.6% 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), 98-2189(16)a., AND 98-2056(b)(1); **PROPERTY LOCATED AT 40 EAST 10 AVENUE, HIALEAH, ZONED C-2 (LIBERAL RETAIL COMMERCIAL 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 April 13, 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 § 98-1630.8 to allow the expansion of NBD (Neighborhood Business District) overlay for the development of a 27-unit multifamily building.

Section 2: The below-described property is hereby granted a variance permit to allow only residential uses where mixed used 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 ground floor only, contra to Hialeah Code of Ordinances § 98-1630.1 that as relevant provides: “Residential uses shall be allowed above the ground level only.”; allow 18 residential units with an area of 595 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 7 feet front setback on East 7 Avenue, for encroachment of balconies above the ground floor, 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 32 parking spaces, where 61 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 29.6% 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 40 East 10 Avenue, Hialeah, zoned C-2 (Liberal Retail Commercial District) and legally described as follows:

A parcel in the SW ¼ of the SE ¼ of Section 17, Township 53 South, Range 41 East, most particularly described as follows:

Commence at the SE corner of the SW ¼ of the SE ¼ of said Section 17; thence go West along the South line of said Section 17, for a distance of 60 feet, to a point; thence go N 00° 27' 04" W, along the West line of East 10th Avenue, Hialeah, Florida, for a distance of 160 feet, to the POINT OF BEGINNING; thence continue N 00° 27' 04" W for a distance of 151.43 feet, to a point; thence go N 89° 58' 20" W along the South line of East 1st Street, Hialeah, Florida, for a distance of 154.53 feet, to a point; thence go S 00° 27' 04" E for a distance of 151.50 feet, to a point; thence go East for a distance of 154.53 feet to the POINT OF BEGINNING; lying and being in the City of Hialeah, 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.

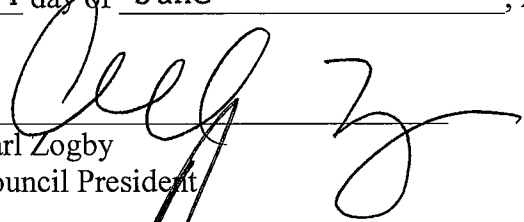
Section 5: Severability Clause.

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 14 day of June, 2022.



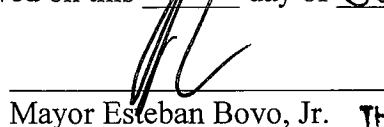
Carl Zogby
Council President

Attest:



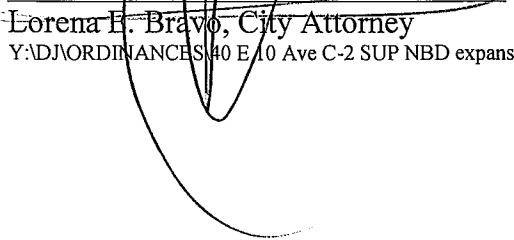
Marbelys Fatjo, City Clerk

Approved on this 27 day of June, 2022.



Mayor Esteban Bovo, Jr.

Approved as to form and legal sufficiency:



Lorena H. Bravo, City Attorney

Y:\DJ\ORDINANCES\40 E 10 Ave C-2 SUP NBD expansion 27 unit multifamily building (p&z 4.13.22).docx

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 118.041 PRIOR TO FINAL READING.

Ordinance was adopted by 6-0-1 vote with Councilmembers Calvo, Garcia-Roves, Casáls-Muñoz, Rodriguez, Tundidor, and Zogby voting "Yes" and with Council Vice President Perez absent.