

ORDINANCE NO. 07-011

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, OF THE CODE OF ORDINANCES BY ADDING A NEW DIVISION, DIVISION 33 ENTITLED "NBD NEIGHBORHOOD BUSINESS DISTRICT", TO PROVIDE A PURPOSE; DEFINITIONS; DEFINE FIVE GEOGRAPHIC AREAS AND ACTIVITY NODE AREAS WITHIN AND OUTSIDE THE GEOGRAPHIC AREAS FOR NBD DISTRICT DEVELOPMENT; PROVIDE FOR PERMITTED USES, LIMITATIONS AND PROHIBITED COMMERCIAL USES; PROVIDE DEVELOPMENT STANDARDS; BUILDING USES; HEIGHT INCENTIVES; DENSITY INCENTIVES; BUILDING DESIGN CONCEPT REQUIREMENTS; ORDER OF PRECEDENCE AND REFERENCE TO URBAN DESIGN PLAN FOR THE NBD DISTRICT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of January 10, 2007 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose of this ordinance is to adopt regulations, goals and objectives for an overlay zoning district to allow for increased densities based on urban design incentives and pedestrian-oriented development in activity node areas within designated Neighborhood Business Districts in the City of Hialeah.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new division, Division 33 entitled "NBD Neighborhood Business District", to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 33. NBD NEIGHBORHOOD BUSINESS DISTRICT

Sec. 98- . Purpose.

The purpose of the NBD neighborhood business district is to provide mixed residential, retail, office and/or service-oriented uses that promote and encourage pedestrian access and regular use. The criteria and incentives provided herein do not apply to single-use buildings, but such criteria and incentives may apply to mixed used buildings following the guidelines provided in the NBD district urban design plan that satisfy the each of the following requirements: (1) The property is located within an activity node within the NBD overlay district; (2) The property has a land use classification of commercial, industrial, medium density residential or high density residential; and (3) A vertical mix of uses.

Sec. 98- . Definitions.

The following words, terms and phrases, when used in

this division, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

Activity node area describes an area located at the intersection of section lines or major thoroughfares, with high vehicular traffic or in the vicinity of public transit routes or corridors.

Affordable housing means housing wherein the monthly rent or monthly mortgage payment, including taxes and insurance, does not exceed 30 percent of an amount representing the percentage of area median income limits adjusted for family size for the household of very low income, low income and moderate income persons.

Mixed-use building describes a building containing a mix of residential, commercial and/or office uses. Residential uses are only allowed as part of a mixed use of residential uses or retail commercial, office or service-oriented uses.

Neighborhood street means a local, slow movement right-of-way that predominately consists of frontage for single-family residences.

Overlay district describes a geographic area or district that provide common zoning regulations under a unified purpose that supersede or supplement existing zoning regulations. The overlay district often provides zoning incentives and waivers to encourage responsible development in areas targeted for redevelopment.

Sec. 98- . Geographic area and exclusion.

The NBD overlay district shall comprise of five geographic areas:

Area 1 comprises of properties fronting Palm Avenue, having 49 Street as its northern boundary and having the Florida East Coast Railroad tracks located on 21 Street as its southern boundary.

Area 2 comprises of properties fronting East 4 Avenue, having 49 Street as its northern boundary and having the Florida East Coast Railroad tracks located on 21 Street as

its southern boundary.

Area 3 comprises an area having SE 8 Street as its northern boundary, East Okeechobee Road and S.R. 112 as its southern boundary, SE 11 Avenue as its eastern boundary and East 4 Avenue as its western boundary.

Area 4 comprises of properties located on the east side of West 16 Avenue, having West 37 Street as its northern boundary, West Okeechobee Road as its southern boundary, and West 15 Avenue as its eastern boundary.

Area 5 comprises of properties on the north and south sides of East 9 Street, between East 4 Avenue and East 8 Avenue.

The NBD overlay district shall not include the area known as the Hialeah Racetrack, which comprises of a parcel of land bounded by East 21 Street to the south, East 32 Street to the north, Palm Avenue to the west and East 4 Avenue to the east.

Sec. 98- . Precedence over other land use and zoning regulations.

To the extent that any conflict or difference may arise between the criteria of this district and the criteria of the C-1, C-2 and C-3 commercial zoning districts, M-1, M-2 and M-3 industrial zoning districts, and multiple family residential zoning districts, the requirements of the NBD overlay zoning district shall prevail.

Sec. 98- . Permitted uses, limitations and prohibited commercial uses.

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 as follows:

(a) Principal uses and structures:

(1) Multiple family dwellings.

- (2) Hotels and residential apartment hotels but excluding rooming houses and motels.
- (3) Child care centers.
- (4) Public-owned and/or operated neighborhood centers, auditoriums, libraries, museums, art galleries and similar uses; recreation buildings and facilities, parks and playgrounds.
- (5) Retail establishments: Food stores, supermarkets, grocery stores, bakeries; cigar sales and hand-manufacturing stores in connection with retail sales; flower shops; leather goods; shoes; luggage; antique stores; art stores; gift shops; jewelry except pawn shops; china; ceramics; book stores (except adult book, adult video stores and other adult entertainment) and newsstands; music stores; drugstores; general home furniture and appliance stores for television, radio and other electronic equipment; computer sales and service; lock and key shops; office furniture and supplies; floor covering; sporting goods; bicycles; paint and wallpaper, photographic studios and camera sales, equipment and film; music tapes, CD, DVD and record sales; video stores; optical stores; and hardware stores. Repair and incidental assembly are permitted as accessory uses, but not as principal uses. With the exception of antique stores, the sale or offer for sale of second-merchandise shall be prohibited.
- (6) Service establishments including barber and beauty shops, dressmaking, tailoring, shoe repair, interior decorator, photocopying, blueprinting, publishing, photographic and engraving establishments, self-service laundries, Laundromats and dry cleaning establishments where dry cleaning is performed off-premises or where hazardous materials and flammable solvents are not stored or used on premises.
- (7) Restaurants and cafes. Outdoor dining or seating for restaurants and cafes may be permitted only

until 11:00 p.m.

- (8) Office for business and professional purposes; and post offices.
- (9) Publicly owned or operated parks or recreational/cultural facilities.
- (10) Public or private schools, vocational providing training and skills in a site that is compatible to the surrounding area; karate studios, dance, aerobics and health/exercise studios.
- (11) Medical and dental offices.
- (12) Structures and other uses required for governmental operations.
- (13) Banquet halls, cultural facilities, museums and community-service and social organizations.
- (14) Package liquor stores (without drive-in facilities) subject to a minimum floor area of 2,000 square feet in a location where minimum parking requirements must be satisfied onsite.

(b) Prohibited commercial uses:

(1) All uses that are first permitted in the C-3 zoning district, which are identified in paragraphs 98-1156(a)(2) through (6) hereof.

(2) Mechanical and manual carwashes.

(3) Automotive uses first permitted in the C-1 zoning district, which are identified in subsections 98-1066(4) and (5).

(4) Automotive and marine uses first permitted in the C-2 zoning district, which are identified in subsections 98-1111(23) through (31).

(5) Adult entertainment activities and businesses.

(6) Funeral homes, funeral viewing services and

cemeteries and all related activities.

(7) Hospitals and residential care and treatment facilities.

(8) Motels.

(9) Billiard or pool parlors.

(10) Nightclubs, lounges, cabarets, discotheques and other similar establishments.

(11) Industrial uses.

(12) Any other activity or use that is incompatible with residential uses and/or that if allowed, would have an adverse or negative effect on the health, safety and welfare of the residents such as the use, collection or disposal of hazardous materials, products, processes or waste, or activities that create excessive dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other such impacts.

Sec. 98- . Building uses.

Retail uses shall be allowed only on the ground level of any building in mixed-use buildings. Office uses shall be allowed on all levels. Residential uses shall be allowed above the ground level only. 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.

Sec. 98- . Development standards.

(a) Residential density. Maximum density without incentives is 32 units per net acre. Increased residential density in mixed use developments up to a maximum of 70 units per net acre shall be based on density incentives as provided herein.

(b) Height. Building height is determined by equal proportion between the building height and the width of the street surface, including dedicated swale areas and sidewalks. The maximum height, without height

incentives, is 55 feet and five stories. The minimum height of a story or floor is 12 feet for nonresidential spaces as measured from the finished floor to the finished ceiling. The minimum height of a story or floor is 9 feet for residential spaces as measured from the finished floor to the finished ceiling. Increased building height up to a maximum of 95 feet and nine stories shall be based on height incentives, site plan review of the physical site and its relation to surrounding properties, and building height diagrams provided in the urban design plan for the geographic areas of the NBD overlay district. Each mezzanine floor, to the extent permitted, shall be counted individually as a story. The maximum height of the base or pedestal is 40 feet, except for the first 50 feet of a lot abutting a single-family residential district or area where the maximum height of the base shall be 25 feet and two stories.

(c) *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.

(d) *Building frontage.* Any building that fronts an existing or proposed street shall provide building frontage of 100 percent, at the base; a minimum of 60 percent building frontage for the middle; and a minimum of 40 percent building frontage for the cap or penthouse, except that building frontages may be modified by GMAC if compatibility with adjacent buildings would allow for consideration of different building frontage ratios.

(e) *Setback requirements.* The minimum setbacks shall be as follows:

(1) *Front setback and street side setback.* For the pedestal or base of a building, a minimum setback of 10 feet, built-to-line, or as provided in the urban design plan. The pedestal setback area at street level shall not be landscaped or fenced but will be treated in harmony with the sidewalk. 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.

(2) 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. 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.

(3) Parking garages. Parking garages shall not front or face neighborhood streets or minor arterials unless screened with residential, office or retail uses having a minimum depth of 40 feet from the property line fronting the street. Parking garages fronting major arterials or thoroughfares shall contain a façade with a ratio of 70 percent as solid and 30 percent as void and provide applied architectural expression.

(4) Surface parking. No surface parking or loading areas shall be allowed on either a front setback or a side setback.

(f) *Parking requirements.* For parking requirements, see parking requirements provided in section 98-2189(22).

Sec. 98- . Height incentives.

(a) *Elements and assigned points.* The following elements have been assigned incentive points based on the importance of the element, with the most points given to the highest priority element and the least number of points given to the lowest priority element:

- (1) 2.0 points---diverse residential unit types, including a minimum of 20 percent affordable housing.
- (2) 1.0 point--diverse residential unit types, including a minimum of 10 percent affordable housing.
- (3) 1.0 point—First and ground level floor providing 100 percent pedestrian-oriented retail uses.

excluding entrance lobby area. Pedestrian-oriented retail uses include outdoor seating areas and commercial uses with attractive merchandise window displays and non-repetitive storefronts.

- (4) 1.0 point---Corner accents such as towers and/or other architectural features to emphasize the hierarchy of the different ground floor uses and to avoid lengthy façade repetitions.
- (5) 1.0 point---Redevelopment of a degraded, contaminated or blighted site or trailer park.
- (6) 0.5 point---diverse residential unit types, including a minimum of five percent affordable housing.
- (7) 0.5 point---Improved entrance and lobby areas for dwelling units in the upper floors, including high-quality materials such as granite, marble or natural stone.
- (8) 0.5 point---Parking facilities located at the rear of the building out of street view.
- (9) 0.5 point---Parking garage wrapped by linear building on the upper floors.
- (10) 0.25 point---Public open spaces such as colonnades, plazas or plazoletas.
- (11) 0.25 point---Art work display or fountains at street level and visible from the street.
- (12) 0.25 point---Enhanced outdoor furniture, including, but not limited to, benches, lighting, lighting fixtures and trash and garbage containers.

(b) Calculation of total elements or points that correspond to allowable increase in height and number of floors.

The total number of assigned points of the height incentives, as identified and shown in the site plan, when

added together, shall correspond to the allowable number of increased stories, up to a maximum of 95 feet and nine stories, that exceed that maximum of 55 feet and five stories permitted without height incentives and subject to site plan review of the physical site and its relation to the surrounding properties. The height of buildings situated in Area 2 shall not exceed a maximum of 65 feet and six stories or exceed the maximum height as provided in the Urban Design Plan in other designated areas. Decimals shall be rounded to the nearest tenth.

<u>Total points.</u>	<u>Number of additional stories</u>
<u>One point</u>	<u>One story</u>
<u>Two points</u>	<u>Two stories</u>
<u>Three points</u>	<u>Three stories</u>
<u>Four points</u>	<u>Four stories</u>

Sec. 98- . Density incentives.

(a) Elements and assigned points. The following elements have been assigned incentive points based on the importance of the element, with the most points given to the highest priority element and the least number of points given to the lowest priority element:

(1) Height incentive points. Each point assigned as a height incentive shall count as a density incentive point but only 50 percent of the point value assigned under the height incentives.

(2) 12 points---Redevelopment of more than one entire city block in the NDB overlay district in compliance with all the design and incentive criteria with no variances needed.

(3) 10 points---Redevelopment of one entire city block in the NDB overlay district in compliance with all the design and incentive criteria with no variances needed.

(4) 8 points---Redevelopment of a corner site in an activity node area in the NDB overlay district in compliance with all the design and incentive criteria with no variances needed.

(5) 2.5 points---Surplus oversized parking spaces exceeding minimum parking requirements in an amount that represents at least 20 percent of the minimum number of required parking spaces.

(6) 2.0 points--Surplus parking spaces exceeding minimum parking requirements in an amount that represents at least 20 percent of the minimum number of required parking spaces.

(7) 1.0 point---Amenities such as swimming pools, fitness centers, recreation rooms and/or playgrounds.

(8) 0.50 point---80 percent of the dwelling units and 80 percent of the individual office spaces are greater than 1,000 square feet in floor area.

(b) Calculation of total elements or points that correspond to allowable increase in residential density.

The total number of assigned points of the density incentives, as identified and shown in the site plan, when added together, shall correspond to the allowable number of higher residential density, up to 70 residential units per net acre, that exceed that maximum of 32 residential units permitted without density incentives and subject to site plan review of the physical site and its relation to the surrounding properties. Decimals shall be rounded to the nearest tenth.

<u>Total points.</u>	<u>Number of residential units per net acre.</u>
<u>12 points</u>	<u>67 to 70 units per net acre.</u>
<u>10 points</u>	<u>56 to 66 units per net acre.</u>
<u>8 points</u>	<u>48 to 55 units per net acre.</u>
<u>6 points</u>	<u>40 to 47 units per net acre.</u>
<u>4 points</u>	<u>33 to 39 units per net acre</u>

(c) Notwithstanding the foregoing, density limitations for Area 2 NBD district shall be no greater than 60 units per net acre based on a minimum of 10 points.

Sec. 98- . Building design concept requirements.

(a) Architectural expression. Each development plan shall be an original, unique design featuring the location and enhancing the status of the site.

(b) Integration with existing developments. Each infill development plan shall be harmonious and compatible with existing adjacent development. The plan shall provide written analysis and a detail urban graphic design to support this requirement.

(c) Building character and mass. The building shall present a varied skyline with strong forms at the corners such as towers, domes and rotundas. The mass of the building shall strongly define a base, middle and cap. The building shall provide and accentuate pedestrian entrances.

(d) Windows. The building shall provide recessed windows, inset from the face of the building, to create visual relief and shadow lines. Clear glass is required for all retail storefronts and the use of smoked, reflective or black glass is prohibited. Use of reflective glazing on windows shall be limited to third story or higher stories.

(e) Exterior colors, materials and details.

(1) Surface parking lots shall be paved with brick pavers or stamped asphalt. Use of plain asphalt is limited to parking areas that are not readily visible from street view. Vehicular approaches should be paved with stamped asphalt or concrete, brick pavers or similar material in a color different from gray or black.

(2) The color palette should integrate the classic base colors including, but not limited to, warm earth tones such as tan, ochre, beige and terracotta. Roses, pinks, plums, blues and violet shades of color should be generally avoided.

(3) Vibrant accents may be used in limited quantities at appropriate locations. Accents should comprise of high quality materials.

(4) Large expanse of flat exterior cement plaster walls fronting rights-of-way are discouraged. Where large amount of mass or wall area are required, such expanse should be interrupted by changes in plane, reveals or decorative details.

(5) High quality materials such as granite, marble or natural stone are encouraged for architectural details and accents wherever appropriate. A more generous use of high quality materials and architectural details are required for lobbies, public entrances and the ground floor fronting streets.

(6) Roof tiles should be of high quality. Different shades and finishes of tiles that promote variety and individuality to buildings within an overall compatible palette of materials are required.

(f) *Integration of signage, lighting and artwork.* Signs, graphics and lighting for the building should be conceived as an integral part of the architectural design of the building.

(g) *Screening of mechanical units and service areas.* All mechanical units shall be screened from public view, preferably with cohesive design elements such as roof forms that complement with overall design. When roof decks with mechanical units are visible from adjacent developments, such roof decks should be screened and painted to match the finish of the roof material. Service areas shall be substantially screened from view from the street. Chain link fences, fences and/or gates are prohibited. Commercial loading areas, recycling areas, and trash and garbage containers shall be located away from residential units.

(h) *Underground utilities.* All new and existing utilities including, but not limited to, utilities required for electric power, distribution, telephone, communication, street lighting and television service shall be installed underground, including existing utilities on the rights-of-way adjacent to the development, where feasible.

Sec. 98- . Design and development standards.

Development guidelines shall conform to an urban design plan that will be adopted by the city in conjunction with the adoption of the NBD district regulations.

Sec. 98- . Limited expansion of NBD overlay district regulations subject to special use permit.

NBD overlay district regulations may extend, subject to a grant of a special use permit by ordinance, to properties that are activity node areas, having a land use classification of commercial, medium density residential, high density residential or industrial, situated on a corner with a minimum site area of 20,000 square feet and with a minimum street frontage of 200 feet facing at least one right-of-way. The limited expansion of the NBD overlay district regulations shall not apply to any activity node areas within the Hialeah Racetrack as described hereinabove.

Sec. 98- . Site plan review and demolition and construction schedule.

In order to avoid real estate speculation and delay, it is required, as part of site plan review and approval, that the property owner provide a time schedule that identifies a date for demolition of existing structures, if anticipated, a date for issuance of the building permit for new construction or remodeling and a completion date for the construction specified in the site plan. The time schedule shall be based on reasonable projections that demonstrate the property owner's intent to immediately develop the property according to NBD overlay district regulations for occupancy.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by 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 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

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.

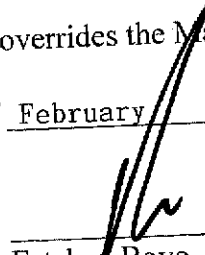
Section 6: Effective Date.

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 13th day of February, 2007.

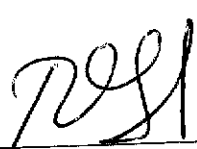
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



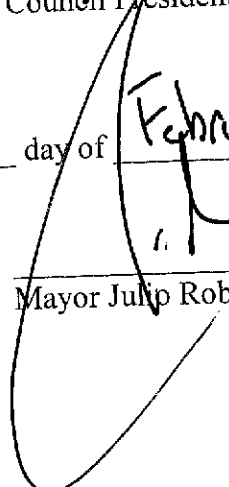
Esteban Bovo
Council President

Attest:

Approved on this 15 day of February, 2007.

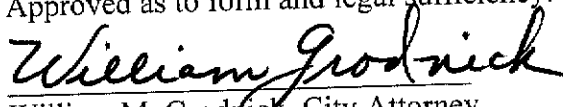


Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 5-1-0 vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Hernandez, and Yedra voting "Yes", Councilmember Miel voting "No" and Councilmember Gonzalez absent.