

ORDINANCE NO. 2018-005

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO R-2 (ONE AND TWO FAMILY RESIDENTIAL DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW FOR THE REPLATTING OF THE PROPERTY INTO TWO SUBSTANDARD LOTS: THE CORNER LOT WITH A FRONTAGE OF APPROXIMATELY 39.75 FEET, WHERE 75 FEET ARE REQUIRED; A TOTAL AREA OF APPROXIMATELY 4,265 SQUARE FEET, WHERE 7,500 SQUARE FEET ARE REQUIRED, LOT COVERAGE OF 32% WHERE 30% IS THE MAXIMUM ALLOWED; 14.16 FEET STREET SIDE SETBACK, WHERE 15 FEET ARE REQUIRED; NO INTERIOR EAST SIDE SETBACK, WHERE 7.5 FEET IS THE MINIMUM REQUIRED; AND FOR THE INTERIOR LOT ALLOW A TOTAL AREA OF APPROXIMATELY 4,265 SQUARE FEET WHERE 7,500 SQUARE FEET ARE REQUIRED; 41% WHERE 30% IS THE MAXIMUM ALLOWED; NO INTERIOR WEST SIDE SETBACK FOR INTERIOR LOT, WHERE 7.5 FEET ARE REQUIRED, INTERIOR EAST SIDE SETBACK OF 5 FEET 1 INCH, WHERE 7.5 FEET ARE REQUIRED; INTERIOR LOT FRONTAGE OF APPROXIMATELY 31 FEET, WHERE 75 FEET ARE REQUIRED; AND ALLOW A TEMPORARY WAIVER OF PLAT PROVIDED FINAL PLAT APPROVAL IS OBTAINED IN 18 MONTHS, ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-544, 98-546, AND 98-2056(b)(2); AND HIALEAH LAND DEVELOPMENT CODE § 10-4(c). **PROPERTY LOCATED AT 808 EAST 32 STREET, HIALEAH FLORIDA.** REPEALING ALL 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 December 13, 2017 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a Declaration of Restrictive Covenants to, among other things, ensure the completion of the home within 18 months following the date of approval of the final site plan, 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 an eighteen month temporary waiver of plat, pursuant to Land Development Code § 10-4(c) that provides: “Waiver of Plat. *Temporary waiver of plat.* A temporary waiver of plat is of limited time duration and may be granted only conditioned on obtaining an approved plat within a reasonable time agreed to by the city.”

Section 2. The below-described property is hereby rezoned from R-1 (one family district) to R-2 (one and two family residential district); and is granted a variance permit on two substandard lots to allow for the replatting of the property into two substandard lots: the corner lot with a frontage of approximately 39.75 feet, where 75 feet are required, contra to Hialeah Code of Ordinances § 98-544 that provides “...lots shall have an average width of at least 75 feet...”; a total area of approximately 4,265 square feet, where 7,500 square feet are required, contra to Hialeah Code of Ordinances § 98-544 that provides: “The minimum building site in the R-2 one- and two-family residential district shall be one lot or parcel of land containing at least 7,500 square feet of area for each one-family or two-family residence”; lot coverage of 32% where 30% is the maximum is allowed, contra to Hialeah Code of Ordinances § 98-2056(b)(2) that provides: “Residential density and open space requirements. A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure.”; 14.16 feet street side setback, where 15 feet are required, contra to Hialeah Code of

Ordinances § 98-546 that provides: "...in the R-2 one and two family residential district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less than 7½ feet in width."; for a corner lot, the side yard parallel to the abutting street shall be not less than 15 feet.; no interior east side setback, where 7.5 feet is the minimum required, contra to Hialeah Code of Ordinances § 98-546 that provides: "...in the R-2 one and two family residential district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less than 7½ feet in width."; and for the interior lot allow a total area of approximately 4,265 square feet, where 7,500 square feet are required, contra to Hialeah Code of Ordinances § 98-544 that provides: "The minimum building site in the R-2 one-and two-family residential district shall be one lot or parcel of land containing at least 7,500 square feet of area for each one-family or two-family residence"; lot coverage of 41% where 30% is the maximum allowed, contra to Hialeah Code of Ordinances § 98-2056(b)(2) that provides: "Residential density and open space requirements. A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure."; no interior west side setback, where 7.5 feet are required, contra to Hialeah Code of Ordinances § 98-546 that provides: "...in the R-2 one and two family residential district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less than 7½ feet in width."; interior east side setback of 5 feet 1 inch, where 7.5 feet are required, contra to Hialeah Code of Ordinances § 98-546 that provides: "...in the R-2 one and two family residential district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less than 7½ feet in width."; interior lot frontage of approximately 31 feet where 75 feet are

required, contra to Hialeah Code of Ordinances § 98-544 that provides: "...lots shall have an average width of at last 75 feet...". Property located at **808 East 32 Street, Hialeah, Florida**, and legally described as follows:

Lot 2 and the East ½ of Lot 1, in Block 72-B, of the Amended Plat of the Amended Plat of the THIRTEENTH ADDITION TO HIALEAH, according to the Plat thereof, as recorded in Plat Book 34, at Page 26, of the Public Records of 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.

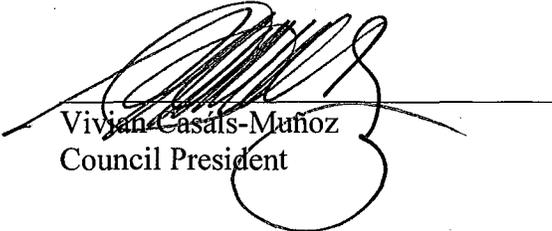
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 23 day of January, 2018.

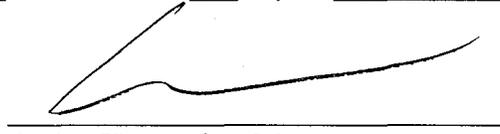
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 183.041
PRIOR TO FINAL READING.


Vivian Casals-Munoz
Council President

Attest:

Approved on this 8 day of February, 2018.


Marbelys Fatjo, City Clerk


Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

Ordinance was adopted by a (7-0) vote with Councilmembers, Caragol, Zogby, Casals-Munoz, Cue-Fuente, Garcia-Martinez, Lozano and Hernandez voting "Yes".


Lorena E. Brave, City Attorney

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Report of Scrivener's Error- Ordinance No. 18-05 approved during City Council meeting on January 23, 2018, was approved with the words "Lot coverage" having been omitted from the title as follows: 41% WHERE 30%. This Ordinance is being amended to reflect: LOT COVERAGE OF 41% WHERE 30%.

Report of Scrivener's Error- Ordinance No. 18-005 approved during City Council meeting on January 23, 2018, was approved with the incorrect square feet and completion period. This Ordinance is being amended to reflect the correct square footage and completion period. "The reference to 5,471 square feet for the corner lot" and "Whereas, the developer has proffered a Declaration of Restrictive Covenants to, among other things, ensures the completion of the home within 24 months following the date of approval of the final site plan approval within 18 months, to which the City accepts."