

ORDINANCE NO. 2018-024

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A RESIDENTIAL USE ON THE GROUND LEVEL, WHERE ONLY NONRESIDENTIAL USES ARE PERMITTED, FOR CONSTRUCTION OF A DUPLEX ON A SUBSTANDARD LOT WITH A FRONTAGE OF 50 FEET, WHERE 75 FEET ARE REQUIRED (46%, OF 100%); AN AREA OF 6,750 FEET, WHERE 7,500 FEET ARE REQUIRED; A FRONT SETBACK OF 6.5 FEET, WHERE 0 FEET IS REQUIRED AT THE GROUND LEVEL; AND ALLOW A 5 FOOT 1 INCH EAST SIDE SETBACK, WHERE 10 FEET 1 INCH ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-348(a), 98-972(3)a., 98-976(1), (2)(b.) AND (4). **PROPERTY LOCATED AT 33 WEST 3RD STREET, HIALEAH, FLORIDA.** PROPERTY ZONED CBD (CENTRAL BUSINESS DISTRICT). 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 February 14, 2018, recommended approval of this ordinance, subject to elimination of balconies on the second floor, and window openings minimized where not essential for functionality.

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 variance to permit to allow for construction of a duplex on a substandard lot, a residential use on the ground level, where only nonresidential uses are permitted, contra to Hialeah Code of Ordinances § 98-972(3)a. that provides: “Building uses: a. Nonresidential uses shall be permitted on the ground level of any structure within the district.”; an area of 6,750 feet, where 7,500 feet are required;

contra to Hialeah Code of Ordinances § 98-348(a) that provides for a residential use in relevant part: “All lots in R-1 one-family districts and R-2 one- and two-family residential districts shall have at least 7,500 square feet in area.”; a frontage of 50 feet, where 75 feet are required, (46%, of 100%), contra to Hialeah Code of Ordinances § 98-976(4) that provides: “Building frontage: A building frontage of 100 percent is required along the lot front.”; a front setback of 6.5 feet, where 0 feet is required at the ground level.”, contra to Hialeah Code of Ordinances § 98-976(1) that provides: “Front and side street setbacks: There shall be no front and side street setbacks at ground level.” ; and allow a 5 foot 1 inch east side setback, where 10 feet 1 inch are required, contra to Hialeah Code of Ordinances § 98-976(2)(b.) that provides: “Interior side and rear lot line setbacks: For residential buildings or residential portions of buildings, any point on a wall containing windows shall be set back from interior side or rear lot lines a minimum of ten feet one inch. For residential building walls containing no windows, there shall be no setback.”

Property located at **33 West 3rd Street, Hialeah, Florida**, and legally described as follows:

Lot 17, Block 8, Town of Hialeah, according to the Plat thereof as recorded in Plat Book 5, Page(s) 77, of the Public Records of Miami-Dade County, Florida.

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 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 4: 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 5: 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 13 day of March, 2018.

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



Vivian Casals-Munoz
Council President

Attest:

Approved on this 19 day of March, 2018.

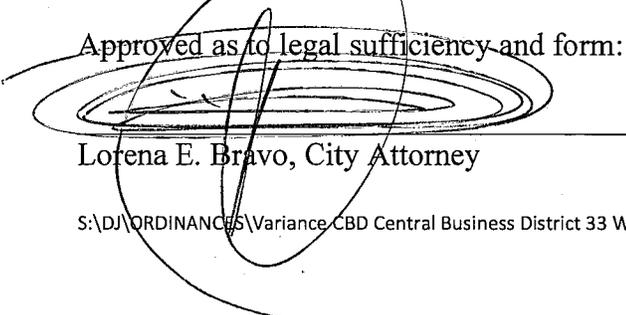


Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to legal sufficiency and form:



Lolena E. Bravo, City Attorney

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Caragol, Zogby, Casals-Munoz, Garcia-Martinez and Hernandez voting "Yes" with Lozano not present and Cue-Fuente being absent.