

ORDINANCE NO. 2017-044

ORDINANCE REZONING PROPERTY FROM R-2 (ONE AND TWO FAMILY RESIDENTIAL DISTRICT) TO R-3-3 (MULTIPLE FAMILY DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW LOT COVERAGE OF 32.4 PERCENT, WHERE A MAXIMUM OF 30 PERCENT IS ALLOWED; A PERVIOUS AREA OF 20.68 PERCENT, WHERE 30 PERCENT IS REQUIRED; ALLOW A FRONT SETBACK OF 10.59 FEET, WHERE 25 FEET ARE REQUIRED; NORTH SIDE SETBACK OF 7 FEET, WHERE 10 FEET ARE REQUIRED; AND REAR SETBACK OF 9.98 FEET, WHERE 20 FEET ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2056(b)(1) AND (2), 98-589, 98-590, AND 98-591; **PROPERTY LOCATED AT 2400 WEST 5th WAY, HIALEAH, FLORIDA.** PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of June 14, 2017 recommended approval of this ordinance.

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 rezoned from R-2 (one and two family residential district) to R-3-3 (Multiple Family District); and is granted a variance permit to allow lot coverage of 32.4 percent, where a maximum of 30 percent is allowed, contra to Hialeah Code §98-2056(b)(2) that provides: “A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure”; a pervious area

of 20.68 percent, where 30 percent is required, contra to Hialeah Code § 98-2056(b)(1) that provides: "A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space..."; allow a front setback of 10.59 feet, where 25 feet are required, contra to Hialeah Code of Ordinances § 98-589 that provides: "there shall be a 25-foot front yard..." ; north side setback of 7 feet, where 10 feet are required, contra to § 98-590 that provides: "...there shall be side yards, and the width of each shall not be less than ten feet." ; and rear setback of 9.98 feet, where 20 feet are required, contra to § 98-591 that provides: "...there shall be a 20-foot rear yard setback."; Property located at **2400 West 5th Way, Hialeah, Florida**, and legally described as follows:

Lots 11, 12, 13 and 14 in Block 18 of Plat of Seminola City Section No. 2, according to the Plat thereof, Book 9, Page 154, 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.**

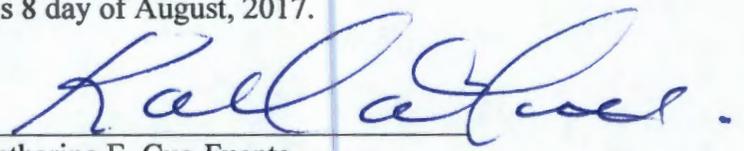
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

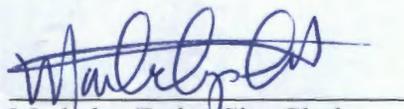
PASSED and ADOPTED this 8 day of August, 2017.

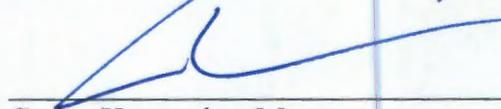
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Katharine E. Cue-Fuente  
Council Vice President

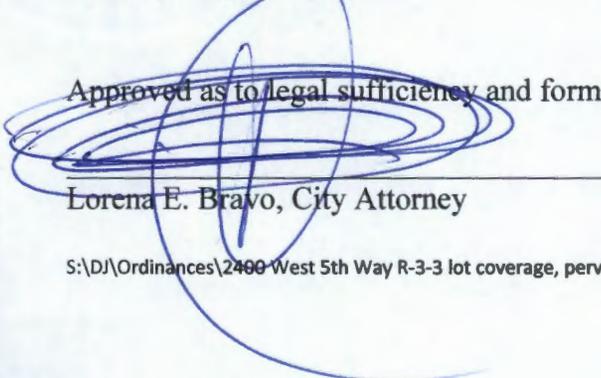
Attest:

Approved on this 21 day of August, 2017.

  
Marbelys Fatjo, City Clerk

  
Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a (5-0-2) vote with Councilmembers, Lozano, Hernandez, Cue-Fuente, Garcia-Martinez and Casals-Muñoz voting "Yes". Councilmember Caragol and Council President Gonzalez absent.