

ORDINANCE NO. 2017-048

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO RO (RESIDENTIAL OFFICE DISTRICT) AS DEPICTED ON THE SITE PLAN DATED MAY 18, 2017 PREPARED BY FRANCISCO A. BENITEZ, A.I.A., ARCHITECT, PURSUANT TO HIALEAH CODE OF ORDINANCES § 98-784 TO ALLOW CONVERSION OF A SINGLE FAMILY HOME INTO A RESIDENTIAL OFFICE BUILDING; AND GRANTING A VARIANCE PERMIT TO ALLOW 5 PARKING SPACES, WHERE 7 ARE REQUIRED; A HANDICAPPED PARKING SPACE IN THE FRONT OF THE PROPERTY WHERE IT IS ONLY ALLOWED IN THE REAR; A REAR SETBACK OF 41.9 FEET, WHERE 45 ARE REQUIRED; A CORNER SIDE SETBACK OF 7.8 FEET, WHERE 10 FEET ARE REQUIRED; LOT AREA OF 6,248 SQUARE FEET, WHERE 7,500 SQUARE FEET ARE REQUIRED; AND A LOT WIDTH OF 62.10 FEET, WHERE 75 FEET ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-781(2) AND (4), 98-782, 98-779 AND 98-2189(7); **PROPERTY LOCATED AT 4915 EAST 2<sup>ND</sup> AVENUE, 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 June 28, 2017 recommended approval of this ordinance; and

**WHEREAS,** the developer has proffered a Declaration of Restrictive covenants to, among other things, limit the business in the property to the insurance business, and ensure adequate parking by limiting the number of employees to three per shift, to ameliorate the impacts to the surrounding residential properties.

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-1 (one family district) to RO (residential office district) as depicted on the site plan dated 5-18-17 prepared by Francisco A. Benitez, A.I.A., architect, to allow conversion of a single family home into a residential office building pursuant to Hialeah Code of Ordinances § 98-784; and is granted a variance permit to allow 5 parking spaces, where 7 are required and a handicapped parking space in the front of the property, where it is only allowed in the rear, contra to Hialeah Code of Ordinances §§ 98-782 and 98-2189(7) that provide: “Parking. In the *RO* residential office district, the minimum parking requirements shall be the same as commercial districts. All parking shall be located in the rear of the property. Parking located in the front of the property shall only be provided by the grant of a variance permit.”; and “*Commercial uses, not found elsewhere in this section.* One parking space for each 200 square feet of gross floor area of the floor with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area. Parking spaces under the building shall not be considered in the calculation of floor areas.”; to allow a rear setback of 41.9 feet, where 45 are required, contra to Hialeah Code of Ordinances § 98-781(2) that provides: “*Rear setback.* There shall be a minimum rear setback of 45 feet from the property line.”; a corner side setback of 7.8 feet, where 10 feet are required, contra to Hialeah Code of Ordinances § 98-781(4) that provides: “*Side (corner) setback.* There shall be a minimum corner side setback of ten feet from the property line.”; and to allow a lot area of 6,248 square feet, where 7,500 square feet are required, and a lot width of 62.10 feet, where 75 feet are required, contra to Hialeah Code of Ordinances § 98-779 that provides: “Minimum lot area. In the *RO* residential office district, the minimum lot area shall be

7,500 square feet with an average minimum depth of 100 feet and an average minimum width of 75 feet.”; Property located at 4915 EAST 2<sup>ND</sup> AVENUE, Hialeah, Florida, and legally described as follows:

Lot 17, less the South Five Feet, of BRADLEY MANOR 4<sup>TH</sup> ADDITION, according to the Plat thereof, as recorded in Plat Book 58, at Page 26, 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.**

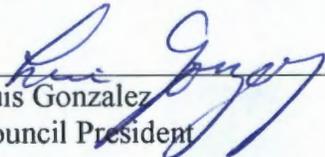
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

**Section 4: 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.

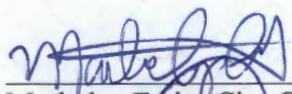
PASSED and ADOPTED this 22 day of August, 2017.

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

  
Luis Gonzalez  
Council President

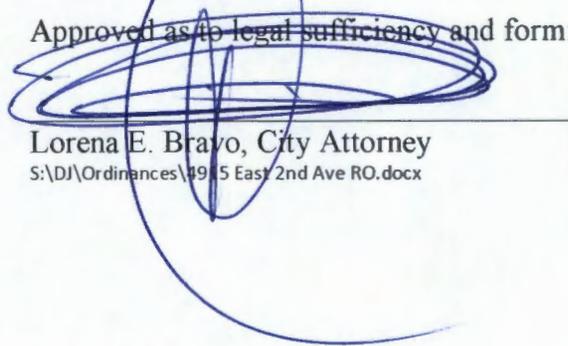
Attest:

Approved on this 25 day of August, 2017.

  
Marbelys Fatjo, City Clerk

  
Carlos Hernandez, Mayor

Approved as to legal sufficiency and form:

  
Lorena E. Bravo, City Attorney

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Ordinance was adopted by a (5-0-2) vote with Councilmembers, Lozano, Gonzalez, Hernandez, Cue-Fuente and Garcia-Martine voting "Yes". Councilmember Casáls-Muñoz not present and Councilmember Caragol absent.