

ORDINANCE NO. 2017-089

ORDINANCE REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 2016-61 (OCTOBER 4, 2016), THAT GRANTED A VARIANCE PERMIT; AND APPROVING THE REZONING FROM R-2 (ONE AND TWO FAMILY RESIDENTIAL DISTRICT) TO R-3-5 (MULTIPLE FAMILY DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW A FRONT SETBACK OF 5 FEET, WHERE 25 FEET ARE REQUIRED; ALLOW AN INTERIOR SIDE SETBACK OF 9.16 FEET, WHERE 10 FEET ARE REQUIRED; ALLOW A STREET SIDE SETBACK OF 5.66 FEET, WHERE 15 FEET ARE REQUIRED; ALLOW A REAR SIDE SETBACK OF 7.5 FEET, WHERE 20 FEET ARE REQUIRED; ALLOW A PERVIOUS AREA OF 21.4%, WHERE 30% IS REQUIRED; AND ALLOW 32.5% LOT COVERAGE, WHERE 30% IS REQUIRED; ALL CONTRA TO §§ 98-589, 98-590, 98-591, 98-2056(b)(1) AND (B)(2). **PROPERTY LOCATED AT 2070 EAST 6TH AVENUE, HIALEAH, FLORIDA**; REPEALING ALL ORDINANCES OR PARTS OF 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 October 25, 2017 recommended approval of this ordinance; and

WHEREAS, pursuant to Hialeah, Florida Ord. 2016-61 (October 4, 2016), the Mayor and the City Council granted a variance permit to allow the construction of two duplexes on two separate lots; and

WHEREAS, petitioner wishes to remove the variances to construct a multi-family development on the entire 13,550 foot parcel that is more consistent with the neighborhood.

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

Section 1: Hialeah, Florida Ord. 2016-61 (October 4, 2016) is hereby repealed and rescinded in its entirety.

Section 2: The below described property is hereby rezoned from R-2 (One and Two Family Residential District) to R-3-5 (Multiple Family District).

Section 3: The below describe property is hereby granted a variance permit to allow a front setback of 5 feet, where 25 feet are required, contra to Hialeah Code of Ordinances § 98-589 that provides: “Sec. 98-589. - Front yard required. In the R-3 multiple-family district, there shall be a 25-foot front yard required,...”; allow an interior side setback of 9.16 feet, where 10 feet are required, contra to Hialeah Code of Ordinances § 98-590 that provides: “Sec. 98-590. - Side yard required. In the R-3 multiple-family district, there shall be side yards, and the width of each shall not be less than ten feet.”; allow a street side setback of 5.66 feet, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-590 that provides: “Sec. 98-590. - Side yard required. In the R-3 multiple-family district, ... For a corner lot, the side yard parallel abutting the street shall be not less than 15 feet.; allow a rear side setback of 7.5 feet, where 20 feet are required, contra to § 98-591 that provides: “Sec. 98-591. - Rear yard required. In the R-3 multiple-family district, there shall be a 20-foot rear yard setback.”; allow a pervious area of 21.4%, where 30% is required, contra to § 98-2056(b)(1) that provides: “Sec. 98-2056. - Residential density and open space requirements. (b) The net area of a parcel shall be that area, expressed in acres or fractions of an acre, of land zoned for residential use less rights-of-way for streets and thoroughfares. In addition, every residential development except R-1 and R-4 and R-3 when developed as R-4 shall comply with the following open space and lot coverage requirements: (1) A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space, which space may include recreation areas, swimming pools, and setback areas.”; and allow 32.5% lot coverage, where 30% is required, contra to § 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.” Property located at 2070 East 6th Avenue, Hialeah, Florida, and legally described as:

Lots 11 & 12, Block 12B, of SIX ADDITION TO THE
TOWN OF HIALEAH, according to the Plat thereof, as
recorded in Plat Book 8, Page 54, of the Public Records
of Miami-Dade County, Florida.

Section 4: Repeal of Ordinances in Conflict.

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

Section 5: 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 6: Severability Clause.

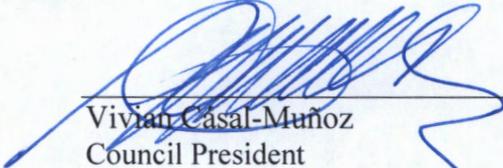
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

Section 7: 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.

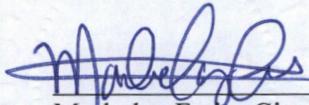
PASSED and ADOPTED this 28 day of November, 2017.

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

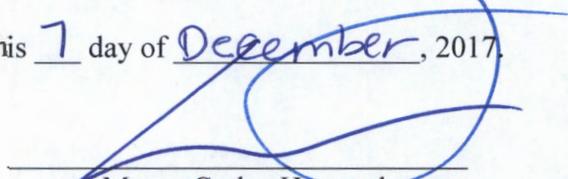


Vivian Casal-Muñoz
Council President

Approved on this 7 day of December, 2017.

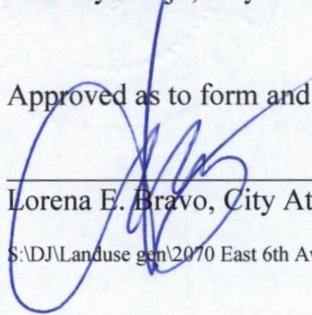


Marbelys Fajó, City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



Lorena E. Bravo, City Attorney

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