

ORDINANCE NO. 2016-29

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO R-3-3 (MULTIPLE FAMILY DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW A FRONT YARD SETBACK OF 11 FEET FOR BALCONIES, WHERE 25 FEET ARE REQUIRED, TO ALLOW A FRONT YARD SETBACK OF 15 FEET FOR THE BUILDING, WHERE 25 FEET ARE REQUIRED, AND TO ALLOW 43% OF THE NET RESIDENTIAL LAND AREA TO BE COVERED WITH OPEN PARKING AREAS, VEHICULAR DRIVES AND ACCESSORY SERVICE STRUCTURES, WHERE A MAXIMUM OF 40% IS ALLOWED, CONTRA TO HIALEAH CODE §§ 98-589 AND 98-2056(b) (3). **PROPERTY LOCATED AT 3500 WEST 9 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 March 23, 2016 recommended denial of this ordinance;

WHEREAS, having taking into consideration the testimony from interested residents and the Applicant, on April 26, 2016, the Hialeah City Council voted to override the Planning and Zoning Board's recommendation of denial; and

WHEREAS, based on substantial competent evidence presented at the hearing, including the Applicant's testimony, presentation and all supporting documents submitted to the City Council, the petition or application for rezoning, radius maps, site plans, surveys, sketches, charts, drawings, photographs and landscaping plans submitted with or in connection with the petition or application, and the principal planner's report.

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 R-1 (One Family District) to R-3-3 (Multiple Family District).

Section 2: The below-described property is hereby granted a variance permit to allow a front yard setback of 11 feet for balconies, where 25 feet are required, to allow a front yard setback of 15 feet for the building, where 25 feet are required, and to allow 43% of the net residential land area to be covered with open parking areas, vehicular drives and accessory service structures, where a maximum of 40% is allowed, contra to Hialeah Code §§ 98-589 and 98-2056(b) (3), which provide in pertinent part: “In the R-3 multiple-family district, there shall be a 25-foot front yard required, unless a lesser distance is established by the existence of two or more structures, at a lesser distance, but in no case shall the front yard be less than 15 feet.”, and “A maximum of 40 percent of the net residential land area may be covered with open parking areas, vehicular drives, accessory and service structures and devices.”, respectively. Property located at 3500 West 9 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 LESS THE NORTH 264 FEET, LESS THE SOUTH 300 FEET, LESS THE EAST AND WEST 30 FEET AND LESS THE NORTH 25 FEET FOR ROAD RIGHT OF WAY PURPOSES, IN SECTION 12, TOWNSHIP 53, RANGE 40 EAST; LYING AND BEING IN THE CITY OF HIALEAH, MIAMI-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.

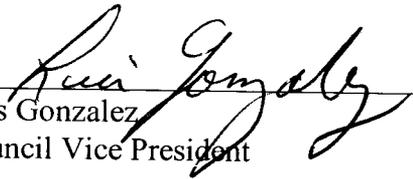
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 24 day of May, 2016.

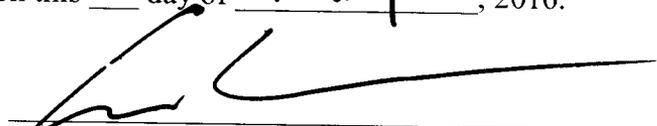
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.


Luis Gonzalez
Council Vice President

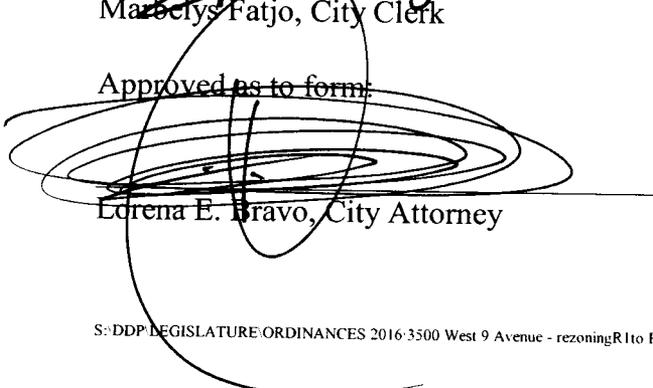
Attest:

Approved on this 27 day of May, 2016.


Maribelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form:


Edrena E. Bravo, City Attorney

Ordinance was adopted by a (5-1-0) vote with Councilmembers, Caragol, Lozano, Gonzalez, Cue-Fuente, and Casals-Muñoz voting "Yes", Councilmember Hernandez voting "No", and Councilmember Garcia-Martinez recorded her vote as "Yes" after the item was approved, being that she was not present during roll call.